

# THE CONTRIBUTION OF INTERNATIONAL ORGANIZATIONS IN MULTINATIONAL OPERATIONS TO THE PREVENTION OF ARMED CONFLICTS AND COMPLIANCE WITH THE RULES OF INTERNATIONAL HUMANITARIAN LAW

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**Abstract:** *The promotion of international humanitarian law is one of the main objectives of the external security policy, by assuming the commitment to ensuring the protection of an international system based on rules, which have the role of contributing to stability, respect for universal human rights and strengthening the rule of law. In this context, it became necessary to harmonize the legal instruments in the military field for the new categories of missions, which include clear criteria for the use of military force and which guarantee compliance with the objectives of national defense, without contravening to international law and treaties.*

**Keywords:** *international organizations, international humanitarian law, armed conflict, military operations, conventions.*

## **Introduction**

By codifying a field regulated until the first half of the 20th century by international customs, the conventions marked the emergence of humanitarian law aimed at the protection of victims, as well as the law of war aimed at regulating the behavior of combatants during an armed conflict.

In the middle of the 19th century, there was progress in the field of human rights, in the sense that they were submitted for analysis at the international level. The first legal norms with an international character aimed at: limiting the effects of war, combating human trafficking or protecting ethnic and religious minorities.

The appearance of new types of armed conflicts and new categories of combatants determined an acceleration of the process of codification of international humanitarian law norms.

The continued concern of the international community for non-compliance with the provisions of international humanitarian law

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instruments contributed to the development of mechanisms to sanction their violation.

Following the Teheran Conference in 1968, the field of international humanitarian law entered the UN's sphere of concern as a result of the problems related to the application of inhumane treatment to prisoners during the armed conflicts carried out at that time, the assassination of civilians and the use of chemical and biological weapons, including napalm.<sup>1</sup>

The responsibility for the application of international humanitarian law treaties included in the Hague and Geneva conventions implies the fulfillment of the obligation to adopt legal and administrative regulations in the internal legal order of the states to ensure their effective application, and failure to fulfill the assumed obligations will attract the liability of the states.

It is important to pursue the further development of international humanitarian law, so that it is correlated with new types of conflicts, as well as ensuring the application and compliance of the rules already existing in the field in order to prevent and eliminate the causes of violations of its norms.

### **1. Legitimacy of the application of international conventions and the participation of states in crisis response and peacekeeping operations**

States, through the institutions and authorities with attributions in the field, have the obligation to implement the rules of international humanitarian law, an obligation that emerges from the commitments assumed following the ratification or accession to international conventions.

The application of international humanitarian law is carried out in accordance with the security strategies or military doctrines of the states and is based on a complex set of measures to know, disseminate and respect customary and conventional norms.<sup>2</sup>

Over time, many difficulties have been encountered in terms of compliance and implementation of the norms of international humanitarian law, the military conflicts in Bosnia Herzegovina, Kosovo, Iraq or Afghanistan being examples in this regard.

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<sup>1</sup>International Conference of Human Rights, 22 April-13 Mai 1968, Teheran, available at <https://www.un.org/en/conferences/human-rights/teheran1968>, accessed on 02.05.2023.

<sup>2</sup> I. Dragoman, D. Ungureanu, *Tratat de drept internațional umanitar*, Universul Juridic Publishing House, Bucharest, 2008, p.484.

However, there have been instances where international provisions have provided the normative framework for the protection of civilians, prisoners of war and the wounded, or limited the use of weapons and contributed to the accountability of those found guilty of crimes against humanity.

For the implementation of international humanitarian law conventions, states are compelled to take various measures, such as the adoption of laws, orders, instructions or military regulations, with the aim of ensuring that the respective conventions are respected, an aspect that is also regulated in art. 80 of Additional Protocol I of 1977.

At the same time, another category of measures can be aimed at introducing the study of international humanitarian law into military training programs and encouraging its study by the civilian population, so that the conventions are known to both soldiers and civilians<sup>3</sup>, training of qualified personnel in order to facilitate the application of conventions<sup>4</sup>, the appointment of legal advisers to advise commanders on the application of conventions and the appropriate training of the armed forces or the dissemination of the norms of international humanitarian law through the forces with attributions in the field.

The mandate of the UN Security Council represents the main legal foundation for the conduct of peacekeeping operations, as the authority with which it is vested results from art. 24 of the Charter, by which the states give the Council the main responsibility for maintaining peace and recognize that it acts on their behalf, as well as from art. 25 in which the members of the United Nations agree to accept and implement the decisions of the Council.

On the other hand, in accordance with art. 52-54 of Chapter VIII of the UN Charter, the Security Council may also use regional peacekeeping organizations, provided that they are compatible with the objectives of the UN and accept the control of the Security Council. In this context, NATO, the OSCE and the EU can conduct peacekeeping operations through their own mandate or with the application of the Council's mandate.

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<sup>3</sup> G. Oprea, I. Suceavă, I. Cloșca, *Dreptul Internațional Umanitar-Instrumente juridice internaționale*, Regia Autonomă Monitorul Oficial, Bucharest, 2003, art. 83 of the Additional Protocol I of 1977 to the 1949 Geneva Conventions for the Protection of Victims of International Armed Conflicts, p. 419.

<sup>4</sup> *Ibidem*, art. 6, part 2 of the Additional Protocol I of 1977, p. 385.

At the same time, NATO cooperates with the EU in peace support operations. The legitimacy of military operations carried out by NATO results both from the resolutions of the UN Security Council and from the standardization process to which NATO's principles of organization and operation are subject, resulting from the fact that NATO states are parties to the same treaties of international law, yet they obey a set of common rules.

Both NATO and the EU have the competence to carry out collective defense actions based on the right to self-defense according to art. 51 of the UN Charter and based on art. 42 para. (7) of the Treaty on the European Union.

Also, the two organizations can organize joint disarmament missions, namely humanitarian and evacuation missions, military advisory and assistance missions, conflict prevention, peacekeeping and stabilization missions at the end of conflicts. These powers were assigned to the European Union through the entry into force of the Maastricht Treaty.

Such missions were carried out within the framework of the common security and defense policy, which transposed all other international commitments regarding the organization of missions, the training of military and civilian personnel, the dissemination and implementation of humanitarian law norms during international operations.

The NATO Response Force and the EU Battlegroups are considered to complement and replace each other, so rules and procedures must be compatible, including through the exchange of information aimed at the complementarity between the two response forces for the establishment of objectives in terms of joint capabilities of the two organizations.<sup>5</sup>

## **2. Measures adopted by the UN for compliance with the norms of international humanitarian law in areas of armed conflict**

The applicability of international humanitarian law to peacekeeping forces was not recognized by the UN for a long time, and the involvement of its organs in this field was insufficient, because it started from the idea that only the states participating in the missions have the obligation to respect international norms. Thus, the agreements concluded by the UN with the states that contributed troops to the missions included their

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<sup>5</sup> I. Dragoman, D. Ungureanu, *op.cit.*, p.583.

obligation to ensure the knowledge and application of international humanitarian law, without any attribution of the organization in this regard.<sup>6</sup>

The lack of clear provisions in the field made possible the violation of international humanitarian law by some peacekeeping forces, such as the disproportionate actions of the Canadian or Italian military in Somalia in 1992 or of the Belgians in Rwanda in 1994, as well as the actions carried out in Yugoslavia in 1995. The lack of UN involvement, either driven by the political interests of major global actors or caused by a failure to organize peacekeepers, resulted in the killing, wounding, torture or hostage-taking of both military personnel and civilians.

The increase in attacks on UN forces led to the adoption in 1995 of the Convention on the Security of United Nations and Associated Personnel<sup>7</sup>, which, in art. 20, provides for the applicability of international humanitarian law and UN personnel, at which point the UN assumed the obligation to ensure compliance with international norms also by the troops it controls.

Thus, the organization has assumed different roles in the implementation of international humanitarian law, in particular regarding the authorization of the use of force to limit the violation of human rights, the prohibition of the use of certain weapons or methods of war or the creation of international criminal courts to try crimes of war.

The Security Council's involvement in protecting international humanitarian law can be seen over time through the measures taken by it both during peacekeeping operations and through the coercive measures applied.

The basis for the adoption of coercive measures is provided for in art. 41 of the UN Charter which refers to measures that do not involve the use of armed force, such as the interruption of economic or diplomatic relations, but also to measures of a military nature that may include demonstrations, blockade measures or other operations carried out with the naval, air or land forces of members of the United Nations.

Coercive measures were applied by the US in the wars in Iraq and Afghanistan. Following the invasion organized by Iraq against Kuwait in

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<sup>6</sup> I. Dragoman, *Drept internațional aplicabil în operațiile de menținere a păcii*, AISM Publishinh House, Bucharest, 1996, p.85.

<sup>7</sup> Convention on the Security of United Nations and Associated Personnel of 9 December 1994, published in Monitorul Oficial no. 304 of 7 november 1997, available at <https://legislatie.just.ro/Public/DetaliiDocument/64694>, accessed on 03.05.2023.

*THE CONTRIBUTION OF INTERNATIONAL ORGANIZATIONS IN MULTINATIONAL  
OPERATIONS TO THE PREVENTION OF ARMED CONFLICTS AND COMPLIANCE  
WITH THE RULES OF INTERNATIONAL HUMANITARIAN LAW*

---

1990, which it later annexed and where it carried out acts of aggression against the civilian population, such as executions, arbitrary arrests, collective punishments, torture, looting, the UN Security Council adopted a series of resolutions.

They referred to the massacre of the civilian population and requested Iraq to allow consular representatives and Kuwaiti nationals access to the victims, to withdraw its troops from the territory of Kuwait, to organize negotiations to end the conflict, and at the same time specified the imposition of economic measures.<sup>8</sup>

Thus, in January 1991, the military operation called "Desert storm" was launched, as a result of which Kuwait was liberated, and a series of conditions were imposed on Iraq, including the return of the goods seized from Kuwait, the payment of reparations for damage caused or removal of weapons of mass destruction.

Another situation in which the UN Security Council intervened was when the conflict in Afghanistan broke out, based on the right to collective legitimate defense invoked by the US under art. 51 of the UN Charter.

At the request of the Government of Afghanistan, the United Nations Assistance Mission was established based on UNSC Resolution no. 1401 of 2002 which had as its main objectives: ensuring independence and territorial integrity, rehabilitating and reconstructing the region, restoring government institutions, combating arms and drug trafficking, as well as ensuring humanitarian assistance to maintain security and respect for human rights.<sup>9</sup>

Regarding the preventive measures implemented by the Security Council in the exercise of its peace support duties, by Resolution no. 1244 of 2009 regarding the international authorization of the military and civilian presence in Kosovo, it established the mandate of the presence of NATO troops to ensure public order and security until the UN takes over responsibilities.

The UN, for its part, established an interim administration to oversee the development of provisional democratic institutions with the aim that they can self-govern over time, and the population of that territory benefit from autonomy.

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<sup>8</sup> Security Council resolutions S/RES/660/661/662 (1990) Irak-Kuwait, 2-9 August 1990, available at <http://unscr.com/en/resolutions/doc/661>, accessed on 03.05.2023.

<sup>9</sup> Security Council resolution S/RES/1401(2002), The situation in Afghanistan, 28 March 2002, available at <http://unscr.com/en/resolutions/doc/1401>, accessed on 03.05.2023.

According to Resolution no. 1244 of 2009 UNMIK's objectives were to: carry out basic civil administration functions, promote the establishment of substantial autonomous self-government in Kosovo, facilitate a political process to determine the future status of Kosovo, humanitarian coordination and disaster relief, support rebuilding key infrastructure, maintain civil order and uphold human rights.<sup>10</sup>

Like any UN action of preventive diplomacy, maintaining or establishing post-conflict peace, the UN mission in Bosnia-Herzegovina has its legitimacy in the UN Charter, and by analogy in the resolutions of the Security Council.

Based on UNSC resolution no. 713 of 1991 UN imposed an embargo on the transport of arms and military equipment to Yugoslavia, as well as a cease-fire obligation<sup>11</sup>, in order to subsequently adopt resolution no. 743 from 1992 establishing the UNPROFOR military operation, which aimed to create conditions of peace and security for the areas of the former Yugoslavia<sup>12</sup>.

By expanding the mandate of this mission, the Security Council aimed at providing humanitarian aid in the city of Sarajevo and its surrounding areas, monitoring compliance with the ban on military flights in Bosnia's airspace, the possibility of resorting to force in the event of an attack on this area, and the right to coordinate the action of UNPROFOR with that of NATO.<sup>13</sup>

However, the UN mission failed as a result of the Srebrenica massacre, and after the conclusion of the Dayton Peace Agreement in 1995,

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<sup>10</sup> Security Council resolution S/RES/1244 (1999), on the deployment of international civil and security presences in Kosovo, 10 June 1999, par. 11, available at <https://unmik-unmissions.org/united-nations-resolution-1244>, accessed on 03.05.2023.

<sup>11</sup> Security Council resolution S/RES/713 (1991), imposing a general and complete embargo on all deliveries of weapons and military equipment to Yugoslavia, 25 September 1991, available at <http://unscr.com/en/resolutions/doc/713>, accessed at 03.05.2023.

<sup>12</sup> Security Council resolution S/RES/743 (1992), on establishment of the United Nations Protection Force, 21 February, 1992, available at <http://unscr.com/en/resolutions/doc/743>, accessed at 03.05.2023.

<sup>13</sup> Security Council resolution S/RES/836 (1993), extending the mandate of the UN Protection Force and authorizing the Force to use all necessary measures in reply to bombardments against the safe areas, 4 June 1993, available at <https://digitallibrary.un.org/record/166973?ln=en>, accessed on 03.05.2023.

*THE CONTRIBUTION OF INTERNATIONAL ORGANIZATIONS IN MULTINATIONAL  
OPERATIONS TO THE PREVENTION OF ARMED CONFLICTS AND COMPLIANCE  
WITH THE RULES OF INTERNATIONAL HUMANITARIAN LAW*

the UN Security Council decided to transfer authority to NATO through Resolution no. 1031 of 1995<sup>14</sup>.

**3. NATO and EU involvement in military operations to prevent violations of international humanitarian law**

The peace support operations carried out under the auspices of NATO are based either on the resolutions of the UN Security Council or on a request for assistance formulated by a state. Considering the involvement of the organization in numerous operations outside the area of responsibility, the NATO military authorities draw up an Operations Plan in which the procedures related to the use of force, rules of engagement or those aimed at arresting people during missions are detailed.

In the situation where the national legislation could not be applied in the theaters of operations, then the organization can fulfill its duties in accordance with the Standard Operating Procedures, as well as based on the principles and norms of international humanitarian law, as a result of the commitments assumed by the participating states on mission.

One of NATO's concerns is the need to train the armed forces in this field. Considering that not all member states are parties to the same international instruments, standardization agreements (STANAG) were developed with the purpose of standardizing the application of the rules of the law of armed conflicts. The obligation to carry out NATO actions in accordance with international humanitarian law is assumed by Resolution no. 287 of 1999<sup>15</sup>.

Such standardized instructions are those for the interrogation of prisoners of war (STANAG 2033), the procedures for the detention of prisoners of war (STANAG 2044), the treatment of prisoners of war in NATO exercises (STANAG 2074) or the evaluation and exploitation of materials and documents captured by to the opponent (STANAG 2084)<sup>16</sup>.

Also, one of NATO's objectives aims to adapt policy and military structures for crisis response operations in cooperation with non-Alliance

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<sup>14</sup> Security Council resolution S/RES/1031 (1995), on implementation of the Peace Agreement for Bosnia and Herzegovina and transfer of authority from the UN Protection Force to the multinational Implementation Force, 15 December 1995, available at <https://www.nato.int/ifor/un/u951215a.htm>, accessed on 03.05.2023.

<sup>15</sup> Dispoziția SMG-122 din 2007 *DIU-3 Manual pentru instruirea personalului armatei în dreptul internațional umanitar – ofițeri, maiștri militari, subofițeri*, Ploiești, 2008, p. 204.

<sup>16</sup> NATO Standardization Agreement, available at <https://militaryleak.com/2020/10/04/nato-standardization-agreements-stanag/>, accessed on 04.05.2023.



states and other international organizations through the creation of the North Atlantic Council and the Partnership for Peace, the establishment of the Euro-Atlantic Partnership Council or the development of the European Identity for Security and Defense.

The first official NATO intervention in support of the UN was organized in 1993, under the name of the "Deny Flight" operation, at first as a surveillance mission and then to observe the no-fly zone over Bosnia-Herzegovina.

In the same year, NATO launched the "Disciplined Guard" operation with the aim of protecting the civilian population and the blue helmets soldiers in the security zone, through defensive strikes, which also included the use of air power based on Resolution no. 836 of the UN from 1993<sup>17</sup>. The end of the conflict was achieved by signing the Dayton Agreement.

For the military guarantee of the peace agreement, it was decided to create and deploy in the area a multinational implementation force/IFOR, under the leadership of the North Atlantic Council. This had the main objectives of ensuring a ceasefire, the withdrawal of forces from the separation zones, the safe withdrawal of the forces remaining outside IFOR, disarmament and control of the airspace.<sup>18</sup>

The implementation of the IFOR mission also brought some new elements in terms of collaboration with non-NATO countries, including non-European ones, and the intervention outside the organization's area of action, in the sense that it had the character of a peace support operation.

Subsequently, by UN Security Council Resolution, the SFOR mission was activated in 1996, which was authorized to continue IFOR missions in order to ensure a stable environment by deterring and preventing the resumption of hostilities, consolidating the progress made by IFOR and supporting civilian organizations.

Although some progress has been made through the SFOR and IFOR missions, stability in the region has not been fully ensured due to the non-implementation of all the political, economic and legal provisions of the peace accords. For this reason, new decisions were adopted regarding the strengthening of the existing forces through the design of transition

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<sup>17</sup> Security Council resolution S/RES/836 (1993), extending the mandate of the UN Protection Force and authorizing the Force to use all necessary measures in reply to bombardments against the safe areas, 4 June 1993, available at <http://unscr.com/en/resolutions/doc/836>, accessed on 04.05.2023.

<sup>18</sup> Peace support operations in Bosnia-Herzegovina (1995-2004), available at [https://www.nato.int/cps/en/natohq/topics\\_52122.htm](https://www.nato.int/cps/en/natohq/topics_52122.htm), accessed on 04.05.2023.

*THE CONTRIBUTION OF INTERNATIONAL ORGANIZATIONS IN MULTINATIONAL  
OPERATIONS TO THE PREVENTION OF ARMED CONFLICTS AND COMPLIANCE  
WITH THE RULES OF INTERNATIONAL HUMANITARIAN LAW*

---

strategies aimed at the gradual transfer of responsibilities to the competent institutions and local civil authorities, in parallel with the progressive reduction of the armed forces in the region.

*In the situation of the conflict in Kosovo*, NATO organized the first armed action since its establishment, on its behalf and without the authorization of the UN Security Council, which manifested itself through air attacks on some Yugoslav military targets, a situation that determined the stagnation of the progress made in fulfilling the SFOR mission.

The North Atlantic Council's authorization of airstrikes, intended to support diplomatic efforts for the withdrawal of Yugoslav forces from Kosovo, cooperation for the cessation of violence and the return of refugees, was based on UN Security Council Resolution no. 1199 of 1998 which did not expressly provide for the possibility of launching air attacks on the region, but expressed the concern of the international community regarding the excessive use of force by the Serbian police and military units and requested the parties involved in the conflict to cease fire.<sup>19</sup>

Despite the initiation of military action in Kosovo, NATO also established the adoption of measures for the establishment of peace aimed at: the cessation of all military actions and violence, the withdrawal from Kosovo of police, military and paramilitary forces, the stationing of an international military presence in the region civil and security forces under single control and command, the repatriation of refugees, the establishment of an interim administration and the establishment of a political commitment to Kosovo based on the Rambouillet accords, in accordance with international law and the UN Charter, measures which were consistent with Council Resolution of UN Security no. 1244 of 1999.<sup>20</sup>

The conflict in Kosovo led the NATO forces present in the region to find another direction of action, namely the organization of humanitarian missions, aiming in particular at providing assistance in solving the refugee crisis. Assistance consisted of providing emergency shelters and setting up camps for refugees, as well as supporting humanitarian organizations by providing transport, distributing food and aid.

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<sup>19</sup> Security Council resolution S/RES/1199 (1998), The situation in Kosovo (FRY), 23 September 1998, available at <http://unscr.com/en/resolutions/doc/1199>, accessed on 04.05.2023.

<sup>20</sup> Security Council resolution S/RES/1244 (1999), on the deployment of international civil and security presences in Kosovo, 10 June 1999, available at <https://www.nato.int/-kosovo/docu/u990610a.htm>, accessed on 04.05.2023.

On the other hand, the political, *diplomatic and military involvement of the European Union* in ensuring security at the international level determined a heightened concern regarding the legality of the use of armed forces, through the adoption by the European Parliament of the Resolution from the year 2000 on the promotion of the Conventions from Geneva and international humanitarian law.

According to this document, the member states commit themselves as civil society, as well as the armed forces, to respect the international instruments and highlight that their application requires constant attention from the international community.<sup>21</sup>

Under the resolution, the Council of the European Union has the obligation to apply the principles and standards of international humanitarian law and to base its decisions on them in the common security and defense policy. The concepts of the European Union's common security and defense policy are based on international commitments regarding the organization of missions, the training of military and civilian personnel, the dissemination and implementation of international humanitarian law in the performance of duties in the various areas of operations.

In order to comply with the objectives assumed within the common security and defense policy, the European Union cooperates with NATO, but its competence is limited to carrying out joint actions in the field of disarmament, humanitarian and evacuation missions, advice and assistance in military matters, conflict prevention, peacekeeping, as well as post-conflict stabilization operations.

Following the changes made to the Maastricht Treaty in 2000, the European Union aimed to be able to simultaneously support several operations for which rapid reaction military and civilian capabilities are necessary, being important that its military structures become more flexible and mobile forces, able to face the threats, and the resources allocated to this objective be sufficient and used more efficiently.

To carry out peacekeeping operations, with the exception of military capabilities, the European Union contributes financial support, humanitarian aid, support for the development of institutions and good governance in developing countries, and also calls for diplomatic measures, such as dialogue or mediation.

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<sup>21</sup> DIU-3 Manual pentru instruirea personalului armatei în dreptul internațional umanitar – ofițeri, maiștri militari, subofițeri, Anexa 26, p. 204.

*THE CONTRIBUTION OF INTERNATIONAL ORGANIZATIONS IN MULTINATIONAL OPERATIONS TO THE PREVENTION OF ARMED CONFLICTS AND COMPLIANCE WITH THE RULES OF INTERNATIONAL HUMANITARIAN LAW*

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The first autonomous military operation organized by the European Union under the European security and defense policy was the Althea mission in Bosnia-Herzegovina. In 2004, the Council of the European Union adopted, on the basis of the Treaty on the European Union, the decision to organize the crisis management operation in Bosnia within the European Security and Defense Policy, the same year in which NATO decided to end the operations carried out by SFOR, and by Security Council Resolution no. 1551 of 2004 expressed its intention to support the EU's decision to establish an autonomous mission in Bosnia.<sup>22</sup>

Another military operation in which the European Union has been involved in order to prevent violations of international humanitarian law is the one in Kosovo, started with the transfer of authority from the United Nations mission. The mission currently aims to support Kosovo's institutions, judicial authorities and law enforcement bodies in their progress towards development to strengthen an independent judiciary.

Currently the objectives of the mission include: monitoring, guiding and advising Kosovo institutions; ensuring the supremacy of law and public order, if necessary, by revoking previous decisions taken by the Kosovo authorities; ensuring that terrorism, organized crime, corruption, inter-ethnic crime, economic and financial crime and other serious crimes are adequately addressed, where necessary with international assistance; ensuring that activities respect human rights and gender mainstreaming.<sup>23</sup>

Although the NATO mission in Kosovo put an end to the violence and contributed to the return of refugees to the region, it also led to violations of the norms of international humanitarian law by causing casualties among the civilian population, by destroying civilian objectives and the economic infrastructure of the state, reason for which it was necessary for NATO member states to pay more attention to the promotion of knowledge and dissemination of international humanitarian law within the armed forces participating in the missions.

The lack of military capabilities of the European Union during the Kosovo conflict determined only an involvement of economic and

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<sup>22</sup> Security Council resolution S/RES/1551 (2004), The situation in Bosnia Herzegovina, 9 July 2004, available at <http://unscr.com/en/resolutions/doc/1551>, accessed on 05.05.2023.

<sup>23</sup> Misiunea UE în Kosovo-sprrijinirea statului de drept, available at <https://eur-lex.europa.eu/RO/legal-content/summary/eu-mission-in-kosovo-upholding-the-rule-of-law.html>, accessed on 05.05.2023.

humanitarian nature in the region, given the increased dependence on the technique provided by NATO.

The successes registered by NATO in the conflicts in the former Yugoslavia represented an impetus for the European Union to take steps to increase its security and defense dimension, acquiring over time an institutional and organizational capacity to face the threats and challenges presented in the European Security Strategy.

### **Conclusions**

The dissemination and application of the norms of international humanitarian law during the conduct of military operations or armed conflicts is impossible to achieve without the support of international organizations, which have assumed an increasingly active role in this field as a result of the manifestation of the will of the states that assign them powers in this regard.

The concern of international organizations towards humanitarian law has developed relatively recently, against the background of the lack of uniform application by states of international conventions, the intensification of new categories of conflicts and the globalization of international relations. This concern is also determined by the fact that organizations are empowered to use armed force to maintain or restore peace and security worldwide, and they are also the ones that can ensure compliance with international humanitarian law by imposing the obligation of states to harmonize their national legislation with international standards.

The increase in the number of regional conflicts has caused increasingly serious consequences for the international community, which can no longer be considered internal problems of other states that trigger them, because the unlimited recourse to armed violence at the national level produces damages similar to international conflicts, and there is a risk that these extends globally, a situation in which international organizations can intervene through preventive or coercive measures to restore the internal order of states.



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*THE CONTRIBUTION OF INTERNATIONAL ORGANIZATIONS IN MULTINATIONAL OPERATIONS TO THE PREVENTION OF ARMED CONFLICTS AND COMPLIANCE WITH THE RULES OF INTERNATIONAL HUMANITARIAN LAW*

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