



Institut suisse de droit comparé
Schweizerisches Institut für Rechtsvergleichung
Istituto svizzero di diritto comparato
Swiss Institute of Comparative Law

E-Avis ISDC 2023

LEGAL FRAMEWORKS GOVERNING EMBLEMS, SIGNS AND SYMBOLS CONNECTED WITH THE PROTECTION OF HEALTHCARE PROVIDERS

**Australia, Brazil, Canada, Colombia, Democratic Republic of the Congo, Egypt,
El Salvador, France, Germany, India, Iraq, Lebanon, Lithuania, Mexico, Philippines,
Poland, South Africa, Spain, Sweden, United Kingdom, United States, Yemen**

Current to: 01.06.2023

Please refer to as: S. Stacy / M. Wouters / N. Assaf / E. Bujak / J. Curran / K. El Chazli / I. Fausch / J. Fournier /
R. Polanco Lazo / C. Viennet / H. Westermark

Legal opinion on Legal Frameworks Governing Emblems, Signs and Symbols Connected with the Protection of
Healthcare Providers, current to: 01.06.2023
E-Avis ISDC 2023, available on www.isdc.ch.

This text may be downloaded for personal research purposes only. The Swiss Institute of Comparative Law does not accept liability for any other use of the text. Any additional reproduction for other purposes, whether in hard copy or electronically, requires the consent of the Institute.

E-Avis ISDC

Série de publications électroniques d'avis de droit de l'ISDC / Elektronische Publikationsreihe von Gutachten des SIR / Serie di pubblicazioni elettroniche di pareri dell'Istituto svizzero di diritto comparato / Series of Electronic Publications of Legal Opinions of the SICL

TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
I. INTRODUCTION	5
II. METHODOLOGY	7
III. ANALYSIS	9
1. The Rules and Regulations on Distinctive Emblems.....	9
1.1. The Ratification of the Geneva Conventions and Additional Protocols.....	9
1.2. The Domestic Laws, Regulations or Legal Frameworks Governing the Distinctive Emblems.....	11
1.3. Case Law.....	20
1.4. Procedures Related to Obtaining the Right to Use Distinctive Emblems.....	22
2. Common Healthcare Signs and Symbols (other than the Distinctive Emblems).....	26
2.1. Introduction.....	26
2.2. The Road Signs Convention (CRS).....	27
2.3. Other Signs and Symbols.....	30
2.4. General Findings.....	31
2.5. Hospitals.....	31
2.6. Ambulances.....	32
2.7. Pharmacies.....	34
2.8. Mision Medica - Colombia.....	36
IV. CONCLUSIONS	38
ANNEX A - DIAGNOSTIC QUESTIONNAIRE	43
ANNEX B - INSTRUCTIONS -	45

EXECUTIVE SUMMARY

This report is compiled by the Swiss Institute of Comparative Law (SICL) at the request of the Federal Department of Foreign Affairs (FDFA). It is part of FDFA's broader effort to assist the International Committee of the Red Cross (ICRC) to: (i) discover the degree to which the rules governing the red cross, red crescent and red crystal emblems, as set forth in the Geneva Conventions and the Additional Protocols (distinctive emblems), have been incorporated into domestic law and practice, and (ii) gain further insight into both the existence of, and legal framework(s) governing, commonly-used symbols of healthcare (other than the distinctive emblems) in a country, regional or international setting.

The SICL report surveys the rules and practices of twenty-three countries – of disparate geographical profiles and with different experiences with armed conflict – on commonly-used symbols of healthcare (including the distinctive emblems).

Methodology: A diagnostic questionnaire was prepared and applied by the various SICL contributors to the studied countries in an effort to target the most relevant information and to normalize the research process across disparate jurisdictions/contributors. The consistency in approach also helped researchers to navigate challenges (e.g., difficulty locating information, time constraints, lack of familiarity with a particular system or set of laws, etc.) in a uniform way.

Findings: With respect to domestic legislation relating to the distinctive emblems and the use and governance of symbols representing the provision of healthcare (other than the distinctive emblems), the following observations were made:

- **Domestic legal frameworks related to the distinctive emblems**
 - Many countries have a legal framework governing the distinctive emblems, such as a specific law on the emblems or a broader law that devotes particular attention to the subject.
 - Not all countries have comprehensive regimes dealing with the distinctive emblems, but nearly all countries have rules protecting against their misuse/abuse.
 - Certain legal frameworks make it more likely that misuse/abuse of the distinctive emblems goes unpunished. In particular:
 - Where there are piecemeal provisions addressing the emblems;
 - where there is only one provision, and it is narrowly framed to address misuse related to the area of law in which it is found (e.g., if the singular provision views misuse only in the realm of trademark or military law); and/or
 - where there is confusion about which administrative (or executive) agencies are responsible for governing the distinctive emblems' appropriate use.
 - The legal mechanisms aimed at deterring misuse are sometimes spread across various areas of the law (civil, intellectual property, criminal and military law).
 - There are many circumstances under which distinctive emblem misuse might arise (e.g., in times of peace/conflict, in a commercial/military setting, or in a one-time/systematic manner), making the variety in placement of the laws unsurprising.
 - The scattering of the relevant provisions is not necessarily problematic, but it is worth considering – on a case-by-case basis – whether there are practical impacts on achieving the desired enforcement goals.
 - It is uncommon to find legal instruments detailing how the authorization to display the distinctive emblems can be obtained and how to present those emblems. Even countries that have a seemingly comprehensive framework to prevent misuse and abuse do not provide readily available information about how to obtain authorization in situations where the use of the emblems is allowed by international law.

- **Other signs and symbols of healthcare and law(s) regulating their use:**

- A wide variety of signs and symbols of healthcare can be found on road signs, ambulances, hospitals and pharmacies.
 - Certain symbols (or stylized versions thereof) had cross-border appeal (e.g., the caduceus, the cup of Hygeia, the rod of Asclepius, the 'H' symbol for hospitals, the star of life, the green pharmacy symbol, a symbol of a heart and all manner of crosses or 'plus signs').
 - Very few symbols were prominent in multiple countries.
- The proper use of other healthcare symbols was largely determined by domestic trademark law.
 - Where the government or a professional medical society owned the mark, there was a greater possibility that the sign/symbol would be prolific (and would crowd out other symbols) in the jurisdiction. This was often the case with respect to the star of life emblem (on ambulances) and the green cross (on pharmacies).

The **findings** relating to the **specific areas searched** (i.e., hospitals, ambulances, pharmacies and road signs) are as follows:

- **Hospitals:** It was very rare for a given symbol to dominate within a country. Rather, hospitals usually had a mixture of symbols, particularly when there was a high percentage of private providers. Exceptions included Brazil (which has a common symbol for its public hospitals) and England (where National Health Services (NHS) logo, the lozenge, is often used on NHS facilities).
- **Ambulances:** The 'star of life' was frequently observed in countries across the world. Ambulance standards incentivizing use (and, more rarely, governmental dictates requiring use) were found in a number of countries, including India, the Philippines, Poland, South Africa, Sweden and the US.
- **Pharmacies:** The green cross is often observed, and its use is sometimes incentivized by pharmaceutical societies owning the mark (and requiring its use) or through health decrees (e.g., in France). The bowl of Hygiea is also observed, though with less frequency than the green cross. As with hospitals, countries' private providers' logos sometimes dominate the pharmacy landscape.
- **Road Signs:** Many countries in the study had signed and/or ratified the Vienna Convention on Road Signs and Signals (CRS).
 - The CRS prescribes either a white 'H' to represent hospitals or a hospital bed accompanied by a distinctive emblem. Eight countries showed evidence of using the 'H' (some of which were non-CRS signatories), including South Africa, Canada, the US, Colombia, France and the Philippines. Five countries used the hospital bed.
 - The CRS prescribes a display of one of the distinctive emblems to signal first-aid stations. Such signs were seen in many (14) countries.
- **Recurrent Observances of the Distinctive Emblems:** Though searches relating to ambulances, hospitals, pharmacies and road signs were geared toward locating 'other signs and symbols', the distinctive emblems frequently were displayed (or even prescribed by treaty (i.e., the CRS) or domestic law) on ambulances, hospitals and, as noted, on road signs.
- **Additional signs and symbols:**
 - Many additional and interesting signs and symbols were located.
 - The *Mision Medica* symbol of Colombia is notable as it aims to perform a protective function in "areas of armed conflict", which clearly is in tension with the roles to be performed by the distinctive emblems according to International Humanitarian Law. No similar symbols were identified in the other countries.

I. INTRODUCTION

The purpose of distinctive symbols of healthcare during times of armed conflict¹ is to have a visible expression of the protection that is due under International Humanitarian Law (IHL) in relation to certain vulnerable parties, including those people, facilities and transports that provide medical services to the wounded and sick.² As a result, the red cross, red crescent and red crystal (as well as the red lion and sun) (the “distinctive emblems”) are a central component of IHL’s cornerstone treaties, the Geneva Conventions (GCs)³ and the Additional Protocols (APs)⁴.

The GCs and the APs have established a detailed, well-publicized and transparent legal schema for the distinctive emblems, particularly with respect to the protective function(s) provided by the emblems in settings of armed conflict. This legal infrastructure details the proper and improper uses of the distinctive emblems, including rules regarding who may display them, as well as the circumstances under which the emblems must not be shown.⁵

Relatedly, there are also rules and guidelines governing the use of the emblems in peacetime, which aim, in significant part, at retaining the potency of the distinctive emblems for protected persons in armed conflict situations (e.g., by narrowly circumscribing those who are authorized to display the emblems in peacetime). Such rules often relate to what the International Committee of the Red Cross

¹ “An international armed conflict occurs when one or more States have recourse to armed force against another State, regardless of the reasons or the intensity of this confrontation. No formal declaration of war or recognition of the situation is required. The existence of an international armed conflict, and as a consequence, the possibility to apply International Humanitarian Law to this situation, depends on what actually happens on the ground. It is based on factual conditions. Apart from regular, inter-state armed conflicts, Additional Protocol I extends the definition of international armed conflicts to include armed conflicts in which peoples are fighting against colonial domination, alien occupation or racist regimes in the exercise of their right to self-determination (Wars of national liberation).” Definition of international armed conflict in *How does law protect in war?* Available at: <https://casebook.icrc.org/a-to-z/glossary/international-armed-conflict> (30.08.2023). By contrast, ‘peacetime’ is considered to amount to all situations below the threshold of “armed conflict” under international humanitarian law, such as internal strife for instance.

² Despite medical providers being protected under IHL by virtue of their function, in practice, there is a need for clear identification of such providers in times of armed conflict. See Rule 30 of customary international humanitarian law. Available at: <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule30> (15.09.2023).

³ References to ‘the Geneva Conventions’ or ‘GCs’ are meant to include: Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. Geneva, 12 August 1949 (**GC I**); Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea. Geneva, 12 August 1949 (**GC II**); Convention (III) relative to the Treatment of Prisoners of War. Geneva, 12 August 1949 (**GC III**); and Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949 (**GC IV**).

⁴ References to ‘the Additional Protocols’ or the ‘APs’ are meant to include: Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts, 8 June 1977 (**AP I**); Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts, 8 June 1977 (**AP II**); and Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem, 8 December 2005 (**AP III**).

⁵ In at least two scenarios, the distinctive emblems can also be used as a protective device in peacetime: (i) for “medical services and religious personnel of States’ armed forces” and (ii) for “NS medical units and transports, whose assignment to medical duties in the event of an armed conflict has been decided, [and that] may already display the emblem as a protective device in peacetime, with the authorities’ consent.” ICRC, *Study on the Use of the Emblems: Operation and Commercial and Other Non-Operational Issues*, 2009, at 28.

(ICRC) refers to as ‘indicative’ use of the emblems (i.e., a display of the emblem that signifies the link between the person or object displaying it and the ICRC, National Red Cross and Red Crescent Societies (NS) and the International Federation of Red Cross and Red Crescent Societies (collectively, the “Movement”)).⁶ The Movement parties work to disseminate these rules and offer their interpretations of them.

Despite the soundness of the distinctive emblems’ framework, questions remain about the extent to which countries are properly implementing and interpreting the rules governing the emblems. Some of these questions stem from observations concerning the use of the emblems. There is, for example, evidence that some parties do not choose to display the emblems during times of armed conflict when they otherwise could.⁷ Is this a result of confusion about the rules and/or an anticipation that others will not abide by them? Do these sensibilities reflect a lack of dissemination/transparency/incorporation of the rules into domestic regimes?

These are not the only questions relating to how rules related to the emblems mesh with practice, however. Consider, for example, the outsized role *civilian* medical services play in the provision of healthcare. In peacetime, the signs and symbols that civilian providers use are very often – and should be, according to IHL – something other than the distinctive emblems (herein, we shall refer to signs and symbols indicating the provision of healthcare – other than the distinctive emblems – as “other signs and symbols” or “OSS”). If a conflict were to arise, IHL would likely call for the substitution of these symbols with the distinctive emblems. Related to the application of the rules, one might ask whether the domestic legal frameworks of countries have adequately envisaged and incorporated the particulars of this type of transition (i.e., from OSS to the distinctive emblems) and, if so, whether there is a reasonable certainty that civilian medical providers are aware of the rules. At a purely practical level, one might wonder about the extent of OSS use and the possible relevance/utility provided by OSS (in particular, a widely recognized OSS) in a conflict setting.⁸

It is the aim of this report – which represents the first segment of a two-phase project conducted among the Swiss Institute of Comparative Law (SICL), the Swiss Federal Department of Foreign Affairs (FDFA) and the International Committee of the Red Cross (ICRC) – to begin addressing some of the questions related to the governance and use of the distinctive emblems. In connection with this first phase, the SICL, at the request of the FDFA, and with input from the ICRC, has surveyed twenty-three countries with the specific aims of: (i) discovering the degree to which the rules governing the distinctive emblems have been incorporated, implemented, and enforced in domestic law and practice, and (ii) gaining further insight into both the existence of, and legal framework(s) governing, commonly used OSS in a country, regional or international setting.⁹

⁶ ICRC, *Study on the Use of the Emblems: Operation and Commercial and Other Non-Operational Issues*, 2009, at 23 *et seq.*

⁷ Consider, for example, the coverage of medical personnel in the US Department of Defense Law of War Manual (2015). Section 4.13 thereof provides “*The recent practice of the United States has not been to employ persons as auxiliary medical personnel. Rather, the U.S. armed forces have employed military medical and religious personnel. In addition, the U.S. armed forces have given members of the armed forces additional training in combat medicine but have not designated them as military medical personnel or as auxiliary medical personnel. Thus, such personnel have not worn the distinctive emblem while engaging in medical duties, and they may be made the object of attack by the enemy.*”

⁸ Certainly, there are questions about the extent to which their continued use might sow confusion. However, one might also wonder about whether there is any OSS that has gained such wide-spread recognition that its use may serve a functional purpose in conflict areas.

⁹ In the next phase of the study, the ICRC will attempt to better understand the *actual use* of the protective emblems by armed forces’ medical services as well as the practical role(s) played by OSS’s and authorized civilian medical services.

The structure of this report is as follows. **Section II** will discuss the research methodology that was employed in connection with the SICL's phase of the study. In particular, the methodology section will detail the basis upon which the countries were selected, the research methods employed by the researchers, as well as any limitations/considerations that might bear upon how one interprets the findings. **Section III** will survey the extent to which the requirements of the GCs and APs are reflected in the domestic law of the studied countries and will highlight the areas of the law that are most apt to incorporate/reflect relevant provisions of those treaties. It will also briefly address the extent to which countries have established rules/procedures for allowing civilian medical providers to display a distinctive emblem in the circumstances allowed by IHL (e.g., provisions defining the authority competent to authorise the display in times of armed conflict). Section III will also discuss the use and prevalence of certain OSS on road signs, hospitals, ambulances and pharmacies, including the manner in which the (mis)use of the identified symbol(s) is(are) regulated. In particular, the signs prescribed by the Vienna Convention on Road Signs and Signals of 1968 (CRS) will be examined. So too, will healthcare symbols that have national, regional and international significance and/or recognition. **Section IV** concludes.

II. METHODOLOGY

The SICL aims to address two primary questions with this report. First, what is the extent of domestic incorporation (in the form and interpretation of statutes, rules and procedures) of the requirements of IHL, where the distinctive emblems are concerned? Second, are there readily identifiable OSS and, to the extent there are, what are the legal frameworks governing their (mis)use?

In addressing these inquiries, the SICL needed to arrive at a basis for determining which countries to study. It also needed to construct a uniform method for conducting the research. The determination about which countries to analyze was based primarily on a country's ability to both enhance the geographic diversity of the survey and aid in reflecting different profiles/experiences where armed conflict/peace are concerned. As is alluded to below, limitations relating to a lack of familiarity with a given legal regime, language capacities and a lack of accessible materials also impacted the decision. Ultimately, the SICL in consultation with the FDFA and the ICRC, selected the following countries for the study: Australia, Brazil, Canada, Colombia, Democratic Republic of Congo (DRC), El Salvador, Egypt, France, Germany, India, Iraq, Lebanon, Lithuania, Mexico, Nigeria, the Philippines, Poland, South Africa, Spain, Sweden, the United Kingdom (UK), the United States (US), and Yemen.

With regard to methodology, a diagnostic questionnaire ("Questionnaire") was prepared and used by the various SICL contributors in an effort to target the most relevant information and to normalize the research process across disparate jurisdictions/contributors.¹⁰ The Questionnaire was composed of eight general questions, some with multiple parts.¹¹ Accompanying the Questionnaire was a document aimed at streamlining the research through the provision of helpful suggestions on which databases to consult, search terms to employ, etc. ("Instructions").¹²

Substantively, the first six questions of the Questionnaire probe the degree to which domestic legal systems have adopted national legislation in implementation of IHL rules and norms relating to the use and protection of the emblems. Researchers first noted whether the studied country had signed and

¹⁰ In total, nine lawyers from the SICL participated in conducting country-level research. One external researcher was employed by the SICL to conduct research on Poland. Another external researcher was employed by the SICL to research on Yemen and Lebanon.

¹¹ See Annex A.

¹² See Annex B.

ratified the GCs and each of the APs. They then looked to national statutory law to determine how and to what extent the studied country had incorporated domestic legislation in support of the GCs and the APs. This included surveying, where possible, military law and practice. If there was case law interpreting the aforementioned national laws, this was briefly summarized as well. Based on the survey of laws and regulations available, and supplemented with a scan of governmental authorities responsible for relevant administrative law, the researchers then answered a few discreet questions relating to the distinctive emblems, including whether the studied country featured:

- ‘methods’ and ‘procedures’ that would make it possible to mark and recognize civilian medical staff and transports during times of conflict (as called for in Article 18 of the Additional Protocol I);
- rules allowing for the display of a distinctive emblem for vehicles used as ambulances or first aid stations exclusively assigned to providing free treatment to the wounded and sick as an exceptional measure in peacetime (as contemplated by Article 44 paragraph 4 of the Geneva Convention); and/or
- rules that contemplate using “distinctive signals” in lieu of the distinctive emblems in times of conflict.

The remaining questions aimed to provide a sense of the use of healthcare symbols (other than the distinctive emblems) that are currently prevalent in the studied countries. Two avenues of inquiry help understand OSS. First, the Questionnaire asks whether the studied country had ratified (or was a signatory to) the Convention on Road Signs. The CRS prescribes specific road signs to indicate the presence of hospitals and first aid centers and, therefore, bears directly on both the use of OSS and the underlying law governing their (mis)use.¹³ The second question tracks OSS that are prevalent in a given country, asking researchers first to identify ‘commonly used symbols’ through observed knowledge of the researcher or through a specialized google images search and then identifying/examining any law(s) governing the (mis)use of such ‘commonly used’ OSS.

While there were substantial efforts put in place to ensure a high quality of research,¹⁴ it is nevertheless important to note the factors that posed challenges to that effort. For example, researchers had difficulty gaining access to information in certain jurisdictions (e.g., Nigeria and Iraq). Sometimes this was the case because a collaborator was conducting research on a country that is not his/her home state, which can lead to inefficiencies in the searching and data-gathering process. More often, however, it was because a reliable legal research database and/or the primary materials were not widely available. This latter issue could be particularly disquieting as it left the affected researcher questioning whether s/he had located all the relevant (or current) materials.

Another limitation was time. The SICL asked its researchers to conduct approximately fifteen hours of research to obtain results in the Questionnaire. Despite the obvious downside of missing possible information, the time limit ensured consistency in the depth of research across countries. Moreover, the SICL believes that the amount of time spent on research was sufficient to locate applicable rules. As such, the results allow one to draw reasonable inferences about the accessibility/transparency of the laws, even if not every rule/procedure was, ultimately, located. Stated differently, a professional

¹³ As is noted in Section 2.2 below, the ICRC asserts that the provisions of the CRS concerning hospitals and first-aid stations are not in conformity with the Geneva Conventions’ rules on the use of the emblems. See, ICRC, *Study on the Use of the Emblems: Operation and Commercial and Other Non-Operational Issues*, 2009, at 195 *et seq.*

¹⁴ In addition to normalizing results across different countries and streamlining research through use of the Questionnaire, additional steps were taken to ensure that the SICL was optimizing its research. For example, wherever possible, a researcher who hailed from the studied state was responsible for gathering information. Failing that, the researcher needed to possess the linguistic skills and familiarity with the legal system to be eligible to conduct the research.

legal researcher's inability to locate laws, policies and procedures in the allotted time indicates that said rules and procedures either do not exist or are not readily accessible.

A final methodological issue worth noting relates to the last question of the Questionnaire, which asked the researcher to (i) identify "commonly used" healthcare symbols within a given country and (ii) examine what, if any, legal rules governed their (mis)use.¹⁵ For some jurisdictions, including Brazil, El Salvador, Iraq, Nigeria, the Philippines, Lebanon and Yemen, the ICRC provided a "preliminary scan" of signs and symbols appearing on hospitals, ambulances and road signs. For most jurisdictions, however, the SICL conducted its own search of google images and also relied on the observed use of certain signs and symbols by its researchers in the studied country. It is certainly possible that the next phase of the study to be conducted by the ICRC will reveal additional signs and symbols. Nevertheless, the SICL remains confident that there are not as-yet-undiscussed legal rules that would govern these OSS's.

III. ANALYSIS

This Section will detail the research findings described in Section II (Methodology). Mirroring the structure of the Questionnaire, the first part of this Section surveys the various legal instrument types that effectuate the incorporation of the IHL rules and principles governing the use and protection of the distinctive emblems within domestic legal frameworks. It also looks at the extent to which said frameworks have established methods and procedures to allow civilian medical providers, transports and facilities to use the distinctive emblems in a manner consistent with Article 18 of AP I and Article 44 (paragraph 4) of the first Geneva Convention. The Second part of this Section surveys the results of those questions in the Questionnaire which aimed at identifying relevant OSS and the legal regimes that govern their use.

1. The Rules and Regulations on Distinctive Emblems

1.1. The Ratification of the Geneva Conventions and Additional Protocols

All twenty-three countries covered in this study have ratified or acceded to the GCs. However, only twelve have ratified or acceded to each of the Conventions *and* the three APs: Australia, Brazil, Canada, El Salvador, France, Germany, Lithuania, Philippines, Poland, Spain, Sweden and the UK.

Regarding the countries that have not ratified all the APs, the most common scenario is the sole non-ratification of AP III of 2005 on the red crystal. For example, Colombia, DRC, Egypt, Lebanon, Nigeria, South Africa and Yemen have ratified all instruments except for AP III. However, even in these contexts, domestic law sometimes still refers to the red crystal.¹⁶

¹⁵ Certainly, these were not the only limitations of the methodology. Other aspects, related to either the Questionnaire or the idiosyncrasies of research, could have served to deter optimal comparison of country regimes. For example, researchers would occasionally have slightly different interpretations of a given question. Similarly, among the researchers there were different reporting styles, with some more expansive and others aiming for an economy of language. These, however, are common difficulties in conducting comparative analysis with many contributors.

¹⁶ E.g., in South Africa, see Section 18 of the Implementation of the Geneva Conventions Act, no. 8 of 2012. In Colombia, reference is made to the red crystal in the *Manual de Derecho Operacional para las Fuerzas Militares, Segunda edición*, 2015.

Some countries do not quite fit this profile, however. For example, Mexico ratified all instruments except for AP II. Similarly, Iraq has also not ratified AP II (nor AP III). AP II applies to non-international armed conflicts, such as between the government and rebel forces. It supplements Article 3, common to the GCs, which offers international minimum protections to persons taking no active part in hostilities related to a non-international conflict. While AP II says little about using distinctive emblems in times of non-international armed conflict (NIAC), the Protocol provides vital information about who/what may display the emblems in such a scenario.¹⁷

The situations of India and the US are also a bit unique. India has not ratified any of the APs. The US, by contrast, signed the APs but only ratified AP III. Even though the countries' decisions not to ratify AP I arguably have little to do with the distinctive emblems,¹⁸ their non-ratification has significance in the context of this study. In particular, Article 18 lays down more detailed rules than the GCs about identifying persons and objects entitled to respect and protection.¹⁹ It also calls for the creation of 'methods' and 'procedures' to make it possible to recognize civilian medical units and transports during times of conflict, a point that was specifically noted in the Questionnaire. The Annex to AP I contains further concrete regulations concerning how to identify medical personnel through identity cards, the distinctive emblems, and the distinctive signals and communications.²⁰ Therefore, the non-ratification of AP I can be of particular significance for the domestic legal framework governing the use of and protections due to distinctive emblems.

Related to the ratification of the GCs and APs, SICL country reports did not identify declarations or statements about the distinctive emblems. One exception is the US's reservation that allows the use of the distinctive emblems post-ratification if such use was lawful pre-1905.²¹ Several other countries

¹⁷ Art. 12 of AP II. See also the [commentary](#).

¹⁸ Regarding India, Srinivas Burra notes that “[t]he reasons for India’s non-accession to these treaties have not been spelt out clearly by the government.” The author proceeds to mention that “[o]ne major concern could be the API’s categorisation of self-determination movements as international armed conflicts.” Regarding AP II, the author remarks that India “was of the opinion that internal armed conflicts were law and order problems falling under the domestic jurisdiction.” About the United States, Anya Wahal argues that “the United States did not ratify AP I because of concerns that it would undermine the humanitarian laws of war and endanger civilians by elevating the legal status of terrorist groups to combatants. The United States, as well as other Western countries, did not ratify AP II because it excludes conflicts in which dissident armed groups occupy no significant territory but conduct sporadic guerrilla operations.” Srinivas Burra, Why India Should Consider Signing the APs of the Geneva Conventions, available at: <https://thewire.in/uncategorised/india-humanitarian-law-additional-protocols> (01.06.2023); Srinivas Burra, India’s Strange Position on the APs of 1977, available at: <https://www.ejiltalk.org/indias-strange-position-on-the-additional-protocols-of-1977/> (01.06.2023); Anya Wahal, On International Treaties, the United States Refuses to Play Ball, available at: <https://www.cfr.org/blog/international-treaties-united-states-refuses-play-ball> (01.06.2023).

¹⁹ Art. 18 of AP I. See also the [commentary](#).

²⁰ [Annex I](#) of AP I.

²¹ [Declaration](#) made upon ratification of the Geneva Conventions: “The United States in ratifying the Geneva Convention for the amelioration of the condition of the wounded and sick in armed forces in the field does so with the reservation that irrespective of any provision or provisions in said convention to the contrary, nothing contained therein shall make unlawful, or obligate the United States of America to make unlawful, any use or right of use within the United States of America and its territories and possessions of the Red Cross emblem, sign, insignia, or words as was lawful by reason of domestic law and a use begun prior to January 5, 1905, provided such use by pre-1905 users does not extend to the placing of the Red Cross emblem, sign, or insignia upon aircraft, vessels, vehicles, buildings or other structures, or upon the ground.”

have a similar mechanism under domestic law;²² for instance, French and Lithuanian law each contain a specific exemption for legacy use of the red crystal.²³

1.2. The Domestic Laws, Regulations or Legal Frameworks Governing the Distinctive Emblems

1.2.1. Laws Implementing the Geneva Conventions and the Rome Statute

Laws that implement the Geneva Conventions or Rome Statute²⁴ feature prominently in certain jurisdictions (in particular, common-law jurisdictions). Canada offers a good example. The Canadian *Geneva Conventions Act 1985* approves the GCs and APs and sets them out in their entirety.²⁵ That is, it mentions the emblems to the same extent as the GCs' treaty language. In line with the Rome Statute of the International Criminal Court,²⁶ the country additionally has a *Crimes against Humanity and War Crimes Act 2000*, clarifying that, among other offences, the improper use of distinctive emblems, resulting in death or serious personal injury, constitutes a war crime.²⁷

In some countries, the domestic law implementing the GCs is not a mere duplication of the treaty provisions. Rather, it may offer specific provisions that are critical to countering the abuse of emblems. For instance, the Indian *Geneva Conventions Act 1960* contains a separate chapter on the abuse of distinctive emblems.²⁸ So too does the South African *Implementation of the GCs Act 2012* and the UK's *Geneva Conventions Act 1957*.²⁹ Several other countries also have specific sections in implementing laws which penalize misuse (e.g., Australia and Nigeria) of the emblems.³⁰ In some of these countries, the provisions found in the implementing law are the primary sanctions available under domestic law.

Concerning war crimes, the Philippines, South Africa and (as previously mentioned) Canada have laws dedicated to implementing the Rome Statute (hence designating certain forms of emblem abuse as a

²² Australia, section 15 (5) Geneva Conventions Act 1957; Canada, section 4 (4) An Act to incorporate the Canadian Red Cross Society, Statutes of Canada 1909, c. 68; India, section 15 The Geneva Conventions Act, 1960; Nigeria, section 10 (6) Geneva Conventions Act 1960; Philippines, section 13 Act no. 10530 of 23 July 2012, Defining the Use and Protection of the Red Cross, Red Crescent, and Red Crystal Emblems, Providing Penalties for Violations Thereof and for Other Purposes; United Kingdom, section 6 (4) Geneva Conventions Act 1957.

²³ France, Art. L. 714-8 *Code de la propriété intellectuelle*; Lithuania, Art. 27 *Lietuvos Respublikos Lietuvos Raudonojo Kryžiaus draugijos, Raudonojo Kryžiaus, Raudonojo Pasmėnulio ir Raudonojo Kristalo emblemos ir pavadinimo įstatymas*.

²⁴ The Rome Statute established the International Criminal Court. The Court's purpose is to help put an end to the most serious crimes, including the improper use of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury, and intentional attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law.

²⁵ Geneva Conventions Act, Revised Statutes of Canada 1985, c. G-3.

²⁶ Rome Statute of the International Criminal Court of 17 July 1998.

²⁷ Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law can likewise constitute a war crime. See, the Crimes Against Humanity and War Crimes Act, Statutes of Canada 2000, c. 24.

²⁸ Sections 12-15 The Geneva Conventions Act 1960. In *Ktaer Abbas Habib Al Qutaifi ... vs Union Of India (Uoi) And Ors*, the Gujarat High Court argued on 12 October 1998 that "[t]he main objectives of the Act are to implement the provisions of the 1949 Conventions relating to the punishment for grave breaches and prevent and punish the abuse of Red cross in other emblems."

²⁹ South Africa, sections 14-18 Implementation of the Geneva Conventions Act, no. 8 of 2012; United Kingdom, sections 6 and 6A Geneva Conventions Act 1957.

³⁰ Australia, section 15 Geneva Conventions Act 1957; Nigeria, section 10 Geneva Conventions Act 1960.

war crime).³¹ In other countries, the provisions identifying emblem misuse as a war crime are included in other areas of the law; for example, in the criminal code or other criminal laws (e.g., Australia, DRC and Iraq).³²

1.2.2. Legal Instruments Regarding the National Society

It is very common for a country to have a legal instrument establishing the NS. This instrument often, but not always,³³ governs aspects of the (mis)use of the distinctive emblems. As a baseline, such a law or Decree typically determines whether the NS uses a red cross or red crescent and confers the (often exclusive) right to use the emblem to the NS.³⁴ Sometimes it is also mentioned that one of the NS's tasks is to cooperate with public authorities to protect the distinctive emblems (e.g., the UK and Brazil).³⁵ The instrument might also provide the NS with the powers necessary to issue licenses for the use of the emblems by third parties (e.g., Yemen).³⁶

Several countries feature additional details in the NS's instrument of incorporation/recognition. These tend to relate to the unlawful (peacetime) use of the NS's name and/or the distinctive emblems themselves. For those countries including such additional details (e.g., Brazil, Canada, Nigeria, Philippines and Poland), the penalties for misuse by third parties vary.³⁷

³¹ Philippines, Act no. 9851 of 27 July 2009 Defining and Penalizing Crimes Against International Humanitarian Law, Genocide and Other Crimes Against Humanity, Organizing Jurisdiction, Designating Special Courts, and for Related Purposes; South Africa, Act no.27 of 2002 to provide for a framework to ensure the effective implementation of the Rome Statute of the International Criminal Court in South Africa.

³² Australia, sections 268.44, 268.66 and 268.78 Criminal Code Act 1995; DRC, *loi n° 15/022 du 31 décembre 2015 modifiant et complétant le Décret du 30 janvier 1940 portant Code pénal*; Iraq, Art. 13 Law no. 10 of 2005 regarding the Iraqi Higher Criminal Court.

³³ This is not necessarily the case. For example, the Decree in El Salvador does not seem to cover the emblems. *Decreto Legislativo No. 2233, de fecha 10 de octubre de 1956*.

³⁴ Australia, [Charter](#) of the Australian Red Cross Society; Colombia, *ley 852 de 2003 (noviembre 20), por medio de la cual se protege y regula la misión y las actividades humanitarias de la Sociedad Nacional de la Cruz Roja Colombiana, se le brindan garantías para su ejercicio y se dictan otras disposiciones*; Egypt, *décret présidentiel n° 1925/1969 du 30 septembre 1969* (before the 1969 Decree, *décret du 9 avril 1940 relatif à l'utilisation de l'emblème du Croissant rouge ou des emblèmes assimilés à cet emblème*); Germany, *Gesetz über das Deutsche Rote Kreuz und andere freiwillige Hilfsgesellschaften im Sinne der Genfer Rotkreuz-Abkommen (DRK-Gesetz - DRKG)*; Iraq, Law no. 131 of year 1967 regarding the recognition of the Iraqi Red Crescent Society; Spain, *real decreto 415/1996, de 1 de marzo, por el que se establecen las normas de ordenación de la Cruz Roja Española*; United States, chapter 3001 of Title 36 of the U.S. Code, more specifically 36 USCA § 300106

³⁵ The United Kingdom, Royal Charter of the British Red Cross Society of 22 July 1997; Brazil, *Decreto Federal n° 8.885 de 24 de Outubro de 2016*.

³⁶ Yemen, Art. 11 *اليمني الأحمر الهلال جمعية لـ الأساسي النظام*.

³⁷ Brazil's law highlights that emblem misuse is a crime. Art. 4 *Decreto N° 2.380, de 31 de Dezembro de 1910, Regula a existência das associações da Cruz Vermelha, que se fundarem de acordo com as Convenções de Genebra de 1864 a 1900; Decreto N° 8.885, de 24 de Outubro de 2016, Aprova o Estatuto da Cruz Vermelha Brasileira*. Canada considers it an offence, potentially leading to a fine between 100 and 500 Canadian dollars (73-369 USD) or imprisonment not exceeding 1 year, or both (see Act to incorporate the Canadian Red Cross Society, Statutes of Canada 1909, c. 68). Nigerian law points out that this offence leads to a fine not exceeding 25,000 naira (roughly 5 USD) and/or imprisonment not exceeding 2 years (Section 8(b) Act of 1 January 1960 to Incorporate the Nigerian Red Cross Society). The Philippines penalizes persons violating the Philippine Red Cross Act of 2009, which protects the emblems among other things, with a fine of not less than 50,000 pesos (roughly 888 USD) and/or imprisonment not exceeding 1 year (Section 10 Act no. 10072 of 27 July 2009 Recognizing the Philippine National Red Cross). Polish law considers it a misdemeanor with a fine up to PLN 2,500 (588 USD). Polish

Interestingly, the legal instruments establishing the NS tend not to differentiate between the NS's use of the emblem as an indicative or protective device.³⁸ For the rules on when emblems can be used indicatively or protectively, reference is sometimes made very succinctly to the international conventions.³⁹ In other instances, the scenario of armed conflict is separately mentioned. For instance, the Spanish Decree refers to the use of the "identifying emblem" (*emblema identificativo*) in the event of an armed conflict, but without connecting this domestic concept to protective emblem use.⁴⁰ Still, in general, it can be said that the distinction between indicative and protective uses of distinctive emblems is not reflected in the domestic instruments establishing the NS.

In addition to the elements mentioned above, incorporating legislation may also empower a given NS to instruct Society members, staff, volunteers, and/or the general public⁴¹ on the (im)proper uses of the emblems (in particular, through subsequent guidelines issued by the NS in the form of by-laws or (internal) regulations) (e.g., India and Nigeria).⁴² Importantly, NS's documents may not always be readily available/accessible, which can hamper the spread of such information.⁴³

1.2.3. Instruments Specifically Meant to Protect the Distinctive Emblems

Multiple countries have legal instruments specifically dedicated to protecting distinctive emblems ("Emblem Laws"). Some of these instruments were put in place several decades ago, raising questions

Red Cross Act, 1964 (*Ustawa z dnia 16 listopada 1964 r. o Polskim Czerwonego Krzyża*) and Regulation of the Council of Ministers regarding the approval of the statute of the Polish Red Cross, 2011.

³⁸ Among other examples, Australia, [Charter](#) of the Australian Red Cross Society; Brazil, *Decreto Federal n° 8.885 de 24 de Outubro de 2016*; Colombia, *ley 852 de 2003 (noviembre 20)*, por medio de la cual se protege y regula la misión y las actividades humanitarias de la Sociedad Nacional de la Cruz Roja Colombiana, se le brindan garantías para su ejercicio y se dictan otras disposiciones; Germany, *Gesetz über das Deutsche Rote Kreuz und andere freiwillige Hilfsgesellschaften im Sinne der Genfer Rotkreuz-Abkommen (DRK-Gesetz - DRKG)*; Nigeria, Act of 1 January 1960 to Incorporate the Nigerian Red Cross Society; Philippines, Act no. 10072 of 27 July 2009 Recognizing the Philippine National Red Cross; United States, 36 USCA § 300106; Yemen, *اليميني الأحمر الهلال جمعية لـ الأساسي النظام*.

³⁹ E.g., in Poland, art. 13 *Ustawa z dnia 16 listopada 1964 r. o Polskim Czerwonego Krzyża*.

⁴⁰ Art. 3, para. 4 *Real decreto 415/1996, de 1 de marzo, por el que se establecen las normas de ordenación de la Cruz Roja Española*.

⁴¹ In Poland, a publicly available Red Cross Emblem Protection Guide was approved by the resolution of the Main Board of the Polish Red Cross no. 105/2013 (*Przewodnik ochrony Znaku Czerwonego Krzyża*).

⁴² For example, the Indian Red Cross Society Act of 1920, as amended, does not provide for any regulation on the emblems. Instead, the Rules for State/UT/District Branches, adopted by the Society, do make some clarifications. [Indian Red Cross Society](#), Rules for State/UT/District Branches, 2020. Regarding Nigeria, the Red Cross Society Act 1960 imposes a fine and/or imprisonment for misuse. Additionally, rule 10 of the Nigerian Red Cross Society Rules prescribes how society members must use the emblem (misuse can lead to expulsion). Statutes of the Nigerian Red Cross Society, available at: <https://redcrossnigeria.org/nrcs/nrcs-statutes.html> (05.06.2023).

⁴³ Our Polish country expert refers to various resolutions that are not publicly available: Resolution of the National Council of Representatives of the Polish Red Cross No. 54/2004 on the protection of the red cross sign and a red crescent; Resolution of the Main Board of Polish Red Cross Society No. 115/2011 on the adoption of rules concerning correct use of the red cross emblem by all Polish Red Cross' units, taking into account their application to cooperation with external entities; Resolution of the Main Board of Polish Red Cross Society No. 116/2011 on the procedure for examining applications for permission to use the red cross emblem; Resolution of the Main Board of the Polish Red Cross Society No. 64/2012 on approving the book of visual identification. The advisor on Yemeni law likewise indicated that the relevant internal regulations, to which the Yemen Red Crescent Statute alludes, are not available on the internet.

about the practical, contemporary application of some of their provisions (e.g., DRC,⁴⁴ Egypt⁴⁵ and Lebanon⁴⁶).

With respect to more recent Distinctive Emblem Laws, the Philippines stands out. Its *Red Cross and Other Emblems Act of 2013* has seemingly been influenced by the ICRC's Model Law on the Emblems.⁴⁷ The 2013 Act describes the entities that can use distinctive emblems for protective and indicative purposes. Misuse of the emblems as an "indicative device" is punishable by *arresto mayor* and/or a fine of not less than 50,000 pesos (roughly 900 USD). Misuse as a "protective device" is penalized more severely by *prisión correccional* in its medium period and a fine between 40,000 and 80,000 pesos (710 and 1,420 USD). A third category of the gravest penalties, including *reclusión perpetua*, applies to emblem abuse constituting a war crime.⁴⁸

A clear distinction between the emblems' protective and indicative use is also found in Mexico's Emblem Law of 2007. A fine equivalent to five to fifty times the general minimum daily wage is applied without prejudice to criminal law.⁴⁹ Similarly, Yemeni Law No. 43/1999 differentiates between protective and indicative uses. It nevertheless provides for a general sanction of (maximum) one year imprisonment or a fine not exceeding 100,000 rials for all types of misuse.⁵⁰ Colombia's Emblem Law 2004 is also relatively comprehensive, providing indications about who is entitled to display the distinctive emblems, for which purposes, and the acceptable manner of display. Its sanctioning mechanism distinguishes *uso indebido del emblema* (misuse) and *abuso del emblema* (perfidious use).⁵¹ El Salvador's Emblem Law 1994, amended in 2009, likewise describes the various circumstances under which the emblem can be used for indicative or protective purposes. The Law contains severe punishments of five to ten years imprisonment, which also applies to companies' executive members "even in case of simple negligence".⁵²

⁴⁴ For example, in DRC, a Decree of 1912 penalizes the undue use of distinctive emblems in times of conflict, giving rise to a maximum of 3 months of *servitude pénale* and/or a fine not exceeding 200 francs (less than 1 USD). The fine is at most 100 "francs" in times of peace. *Décret du 30.04.1912 Croix rouge ou croix de Genève – Protection*.

⁴⁵ An Egyptian law of 1940 imposes penalties of maximum 2 years and/or 10 to 200 Egyptian Pounds (0.32-6.46 USD) in times of conflict (penalties of 1 year's imprisonment at most and/or 5 to 100 Egyptian Pounds in times of peace). *Loi n° 12 du 25 mars 1940 relative à la protection du Croissant Rouge et des emblèmes ou dénominations assimilés à cet emblème*.

⁴⁶ The penalty is an arrest up to 7 days and a fine up to 10 Lebanese liras (less than 1 USD). Decree n°14657 on the use of the emblem of the red cross, the red crescent and the lion and red sun of 1 April 1949. See also the High Commissioner decision of 19 March 1941 concerning the red cross sign and the emblem of the Swiss Red Cross society.

⁴⁷ ICRC Advisory Service on International Humanitarian Law, *Model Law on the Emblems: National Legislation on the Use and Protection of the Emblem of the Red Cross, Red Crescent and Red Crystal*, available at: <https://www.rcrc-resilience-southeastasia.org/wp-content/uploads/2017/12/model-emblem-law.pdf> (27.09.2023).

⁴⁸ Act no. 10530 of 23 July 2012 Defining the Use and Protection of the Red Cross, Red Crescent, and Red Crystal Emblems, Providing Penalties for Violations Thereof and for Other Purposes.

⁴⁹ *Ley para el uso y protección de la denominación y del emblema de la Cruz Roja, publicada en el Diario Oficial de la Federación el 23 de marzo de 2007*. See also *Reglamento de la ley para el uso y protección de la denominación y del emblema de la Cruz Roja, publicado en el Diario Oficial de la Federación el 25 de marzo de 2014*.

⁵⁰ Law No. 43/1999 relative to the organization and use of the red crescent and red cross emblems and the prohibition of their misuse.

⁵¹ *Ley 875 de 2004 (enero 2), por la cual se regula el uso del emblema de la Cruz Roja y de la Media Luna Roja y otros emblemas protegidos por los Convenios de Ginebra del 12 de agosto de 1949 y sus protocolos adicionales*.

⁵² Art. 8 *Decreto N° 789 de 1994, ley de protección de emblema de la cruz roja*.

Emblem Laws, like those above, have the benefit of providing a comprehensive legal framework rather than a patchwork of regulation. Countries can also achieve this through a two-prong legal instrument that both organizes an NS and, as one of the main goals of this instrument, provides statutory protection to the emblems (herein, we will refer to this arrangement as “Multi-purpose Laws”). An example of this dynamic is seen in South Africa’s *Red Cross Society and Legal Protection of Certain Emblems Act 2007*, which interrelates with the *Implementation of the GCs Act 2012*.⁵³ Lithuania offers another example; however, its *Law on National Red Cross Society, Red Cross and Red Crescent Emblem and Designation* from 2000 does not contain clear penalties, relying on the *Criminal Code* and *Code of Administrative Offences* to this end.⁵⁴

Besides Emblem Laws and Multi-purpose Laws, Sweden offers an alternative approach. The country has a *Law on the Protection of Characteristics (kännetecken)* in International Humanitarian Law. The Law protects not only the GCs’ distinctive emblems but also the emblems related to the protection of cultural property. As such, it offers a broader application of IHL principles.⁵⁵

1.2.4. Criminal and Administrative Law

There is a high level of variance with respect to both the clarity of criminal and administrative provisions punishing misuse of the distinctive emblems, as well as the severity of punishments they envision. For instance, it is not always clear whether criminal codes are only meant to cover peacetime incidents (as seems to be the case for the US, where the federal criminal statute includes a fine or imprisonment of maximum six months, while additionally there are much more severe penalties for misuse by military personnel).⁵⁶ The same is true for administrative sanctions. For example, the *German Act on Regulatory Offences* prescribes a fine between 500 and 1,000 EUR.⁵⁷ Similarly, the *Lithuanian Code of Administrative Offences* imposes a fine of only 30 to 50 EUR (150 to 300 EUR for managers and other persons responsible for legal entities) or 50 to 90 EUR (300 to 580 EUR) for repeated misconduct.⁵⁸ One would assume these penalties are (predominantly) envisioned for peacetime use.

French law is far more detailed by comparison. It prescribes three penalties. The least severe penalty applies to the use of emblems bearing resemblance with the distinctive emblems (six months imprisonment and a fine of 7,500 EUR). Misuse of the emblems themselves can result in one year’s imprisonment and a fine of 15,000 EUR. Finally, the *Penal Code* reserves its harshest punishments (three years imprisonment and a fine of 45,000 EUR) for instances in which an individual uses the emblems (or resembling signs) to prepare or facilitate the commission of a crime or misdemeanour.⁵⁹

⁵³ The law advances an interesting legal exemption for persons using the emblems for the purposes of *bona fide* research at a recognised educational or research institution or for *bona fide* reporting in the news media. Compared to the Philippines, there is far less of a differentiation in terms of the penalties that apply, depending on the scenario. Sections 6-10 *Red Cross Society and Legal Protection of Certain Emblems Act 2007*; sections 14-18 *Implementation of the Geneva Conventions Act*, no. 8 of 2012.

⁵⁴ Art. 27 *Lietuvos Respublikos Lietuvos Raudonojo Kryžiaus draugijos, Raudonojo Kryžiaus, Raudonojo Pasmėnlio ir Raudonojo Kristalo emblemos ir pavadinimo įstatymas*.

⁵⁵ The unauthorized use of the emblems may lead to a fine or imprisonment for a maximum of 6 months; the law specifies that in minor cases, there should be no liability. *Lag (2014:812) om skydd för kännetecken i den internationella humanitära rätten*.

⁵⁶ 18 U.S. Code § 706 and § 706a; 10 USCA § 950 (p) and (t); *Manual for Military Commissions* (2019).

⁵⁷ Sections 17 and 125 *Gesetz über Ordnungswidrigkeiten (OWiG)*.

⁵⁸ Art. 523 *Lietuvos Respublikos administracinių nusižengimų kodeksas*.

⁵⁹ Art. 433-14 – 433-16 *Code pénal*. Additional sanctions are provided for emblem abuse that constitutes a war crime, resulting in 20 to 30 years of imprisonment. Art. 461-12 and 461-29 *Code pénal*; *Ministère des Armées, Manuel de droit des opérations militaires, 2022*.

In contrast, in some countries, the criminal law's provisions are specifically tailored to times of conflict, which might imply that sanctions for peacetime violations can be found elsewhere (such as in an Act implementing the GCs or an Emblem Law). While the Lithuanian *Code of Administrative Offences* applies in peacetime, the *Criminal Code* contains an additional provision for unlawful emblem use during an armed conflict, punishable by imprisonment for up to three years or a fine.⁶⁰ In Poland, whoever uses the distinctive emblem contrary to international law during hostilities shall be imprisoned for up to three years.⁶¹ Spanish law penalizes the improper use of distinctive emblems on the occasion of an armed conflict with the same severity as committing violence against hospitals and medical personnel, resulting in three to seven years imprisonment.⁶²

Far more severe penalties also exist. Those who engage in the perfidious use of the distinctive emblems in Colombia risk four to twelve years of imprisonment and a fine ranging from 66.66 to 150 legal monthly minimum wages. A more severe sanction applies for destroying goods and facilities of a sanitary nature – max. fifteen years in prison and a fine of maximum 1,500 legal monthly minimum wages.⁶³ In Australia, the *Criminal Code* identifies war crimes perpetrated by improperly using distinctive emblems, resulting in imprisonment for twenty years or life, depending on the offence.⁶⁴ Similar war crimes in DRC might give rise to the death penalty.⁶⁵

Lastly, it should be noted that, besides concrete references to the distinctive emblems, more general criminal provisions, such as a prohibition to falsify and forge seals and marks related to a foreign entity or marks belonging to a company, might also cover the ICRC's distinctive emblems. As a consequence, such criminal provisions could also provide relevant protections (e.g., Yemen).⁶⁶

1.2.5. Military Law

In addition to criminal provisions of general application, countries also frequently sanction military personnel for misuse of the distinctive emblems. For example, a military commission in the US can hear cases relating to the improper use of the distinctive emblems, wherein the perpetrator risks confinement for a maximum of twenty years.⁶⁷ Penalties range from: two weeks to two years imprisonment under the Lebanese *Military Criminal Code*,⁶⁸ five years under French law,⁶⁹ and five to ten years in the DRC.^{70,71}

Military criminal codes sometimes contemplate misuse of the emblem as an aggravating factor in connection with committing perfidy⁷² or in the destruction of medical/sanitary facilities. The respective

⁶⁰ Art. 109 *Baudžiamasis kodeksas*.

⁶¹ Art. 126 *Kodeks karny*.

⁶² Art. 612 *ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*.

⁶³ Art. 143 and 155 *ley 599 de 2000 por la cual se expide el Código Penal*.

⁶⁴ Australia, sections 268.44, 268.66 and 268.78 *Criminal Code Act 1995*.

⁶⁵ *Loi n° 15/022 du 31 décembre 2015 modifiant et complétant le Décret du 30 janvier 1940 portant Code pénal*.

⁶⁶ Art. 208-210 *Republican Decree Pertaining to Law No. 12 of 1994 on Crimes and Penalties*.

⁶⁷ 10 *USCA* § 950 (p) and (t); *Manual for Military Commissions* (2019).

⁶⁸ Art. 146 *Military Criminal Code of 13 April 1968*.

⁶⁹ Art. L. 322-16 *Code de justice militaire*. See also Art. D. 4122-9 *Code de la défense*.

⁷⁰ Art. 86 *loi du 18.11.2002 n°024-2002 portant Code pénal militaire*.

⁷¹ Spanish law used to consider the improper displaying of the distinctive emblems a crime against the laws and customs of war (six months to six years imprisonment) (see Art. 75 *ley Orgánica 13/1985, de 9 de diciembre, de Código Penal Militar*). However, the new *Military Criminal Code* seems to no longer contain a similar provision. (See *Ley Orgánica 14/2015, de 14 de octubre, del Código Penal Militar*).

⁷² "Acts inviting the confidence of an adversary to lead him to believe that he is entitled to, or is obliged to accord, protection under the rules of international law applicable in armed conflict, with intent to betray that confidence, shall constitute perfidy." Art. 37 of AP I.

penalty in Colombia is three to eight years or five to ten years of imprisonment and a fine ranging from 50 to 100 or 500 to 1,000 times the legal monthly minimum wages.⁷³ In Yemen, perfidious use is likewise sanctioned with up to ten years of imprisonment.⁷⁴ The penalty for attacking medical units in El Salvador is ten to fifteen years imprisonment.⁷⁵ Such an act is punished by twelve years imprisonment in Mexico. Interestingly, its “promoters” risk 30 to 60 years imprisonment.⁷⁶

In addition to military penal law, military manuals also reference the distinctive emblems.⁷⁷ Some of the most explicit indications about how military personnel and units apply the distinctive emblems and other identifiers were found in: Spain’s *Manual of International Humanitarian Law*,⁷⁸ the US’s *Commander’s Handbook on the Law of Land Warfare* (2019)⁷⁹ and the *Commander’s Handbook on the Law of Naval Operations* (2022),⁸⁰ Australia’s *Publication on the Law of Armed Conflict*,⁸¹ the UK’s *Joint Service Manual of the Law of Armed Conflict*,⁸² and France’s *Manual of Military Operations Law*.⁸³ More countries can be expected to have a military manual with details on the use of the distinctive emblems, but such manuals can prove difficult to retrieve.⁸⁴ The lack of a manual on how to apply the distinctive

⁷³ Art. 143 and 155 *ley 1407 de 2010 (agosto 17) por la cual se expide el Código Penal Militar*.

⁷⁴ Art. 21 Law No. 21/1998 of 25 July 1998 relative to military offences and penalties.

⁷⁵ Art. 69 *decreto N° 562 de 1964, Código de Justicia Militar*.

⁷⁶ Art. 209 *Código de Justicia Militar*.

⁷⁷ Canada’s Chief of Defence Staff, *Joint Doctrine Manual: Law of Armed Conflict, National Defence 2001*; Colombia’s *Manual de Derecho Operacional para las Fuerzas Militares, Segunda Edición 2015*; Mexico’s *Secretaría de Defensa Nacional, Manual de Derechos Humanos para el Ejército y Fuerza Aérea Mexicanos, 2009* and *Secretaría de Defensa Nacional, Cartilla de Derecho Internacional Humanitario. PDC-02.01 Derecho internacional humanitario (DIH) en las FAS, enero 2022*, p. 274-76.

⁷⁸ US Department of the Army, *The Commander’s Handbook on the Law of Land Warfare*, (2019).

⁷⁹ Interestingly, the Handbook sometimes also offers the US’ interpretation of IHL rules in certain circumstances. For example, “*the United States views the manning of hospital ships with defensive weapons systems (e.g., antimissile defense systems or crew-served weapons to defend against small boat threats as prudent AT/FP measures) analogous to arming crew members with small arms and consistent with the humanitarian purpose of hospital ships and duty to safeguard the wounded and sick.*” Section 8.6.3.1 in *The Commander’s Handbook on the Law of Naval Operations* (2022), nos. NWP 1-14M, MCTP 11-10B and COMDTPUB P5800.7A. US military manuals also offer insight into current practice where the emblems are concerned. See, in this regard, section 4.13 of the Department of Defense *Law of War Manual* (2015).

⁸⁰ The publication offers certain clarifications relating to the distinctive emblems. For example, if during a mission, the command-and-control centre displays an unbriefed symbol of protection, like the red cross symbol, the aircrew must refrain from completing their attack unless intelligence, or higher authority, determines that the facility has lost its protected status. Australian Defence Force Warfare Centre, Australian Defence Doctrine Publication 06.4, available at: <https://www.onlinelibrary.iihl.org/wp-content/uploads/2021/05/AUS-Manual-Law-of-Armed-Conflict.pdf> (09.04.2023).

⁸¹ The Manual contains useful guidelines, mentioning (along the lines of NATO standardization agreements), that medical units and transports may be camouflaged as a temporary measure at the discretion of the competent combat commander and that this power is to be exercised on the basis of a balance of due protection and operational need. The *Joint Service Manual of the Law of Armed Conflict* (JSP 383), available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/27874/JSP3832004Edition.pdf (05.06.2023).

⁸² The Manual describes, for example, the proper specs for a hospital ship, emphasizing that its personnel may be armed and use their weapons for the maintenance of order, for their own defence or that of the wounded and sick whom they care for, without this entailing the loss of their special protection. *Ministère des Armées, Manuel de droit des opérations militaires*, 2022, p. 242-243.

⁸³ For example, reference was made to the *Manual on International Humanitarian Law for the Armed Forces of El Salvador* in: Permanent Mission of El Salvador to the United Nations, New York, Report Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims in armed conflicts (19 November 2020), available at: <https://www.un.org/en/ga/sixth/75/>

emblems in practice is perceived by some domestic policymakers as a gap.⁸⁵

While a military manual is a source where one might expect indications regarding how the distinctive emblem should be used in practice, other documents sometimes also provide a glimpse. That is the case, for instance, in the various regulations, instructions and standards from the Polish Ministry of Defence.⁸⁶ Similar insight can be found in a decree from the Colombian President on the protective use of the red cross emblem by health personnel at the service of the Public Force and civilian health personnel authorized by the Ministry of Social Protection.⁸⁷ The website of the Lebanese army also provides an example.⁸⁸

1.2.6. Intellectual Property Law

Countries' intellectual property laws or Emblem Laws frequently provide that images depicting the GCs' distinctive emblems (and similar signs or symbols) cannot be registered to obtain trademark protections (e.g., Brazil, Egypt, El Salvador, Iraq, Philippines, Sweden and Yemen).⁸⁹ This prohibition can also be applied by implication, employing a more general ground of exclusion for the registration of trademarks that can be applied to the distinctive emblems. For example, the law might prevent a trademark from being registered if its use is prohibited (which implicitly prohibits registering the distinctive emblems in the UK),⁹⁰ prohibit the registration of emblems and other signs associated with an international organization (which seems the technique employed in El Salvador, Mexico and

[protocols/elsalvador_e.pdf](#) (27.04.2023). The underlying document was not located. A similar reference was found for Lebanon. Lebanon's submission to the United Nations' Sixth Committee, 75th session, concerning the Status of the Protocols Additional to the Geneva Conventions of 1949, and relating to the protection of victims of armed conflicts, available at: https://www.un.org/en/ga/sixth/75/protocols/lebanon_e.pdf (31.08.2023).

⁸⁵ For India, see, for example, *Wg Cdr Umesh Chandra Jha (Retd)*, Military Manual on Laws of War, No. 3, 2022.

⁸⁶ For example, regulation of the Minister of National Defence of 10 April 2008 on identity cards and plates (*Rozporządzenie Ministra Obrony Narodowej z dnia 10 kwietnia 2008 r. w sprawie kart i tabliczek tożsamości*); Regulation of the Minister of National Defence of 16 April 2008 on cards and identity plates of professional soldiers and candidates for professional soldiers (*Rozporządzenie Ministra Obrony Narodowej z dnia 16 kwietnia 2008 r. w sprawie kart i tabliczek tożsamości żołnierzy zawodowych i kandydatów na żołnierzy zawodowych*); Defence Standard NO-02-A032: Geneva emblem. Camouflage on land medical facilities (*Norma obronna NO-02-A032 Emblemat Genewski. Maskowanie na lądowych obiektach medycznych*).

⁸⁷ *Decreto 138, 25/01/2005, por el cual se reglamentan los artículos 5º, 6º, 14 y 18 de la Ley 875 de 2004 y se dictan otras disposiciones.*

⁸⁸ بهم والمرتبطين المدنيين والأفراد المسلحة القوات أفراد بتعريف الخاصة القانونية المصطلحات، زكريا أحمد اللبناني للجيش الرسمي الموقع | بهم والمرتبطين المدنيين والأفراد المسلحة القوات أفراد بتعريف الخاصة القانونية المصطلحات (lebarmy.gov.lb) (31.08.2023).

⁸⁹ Brazil, Art. 3 *Decreto Nº 2.380, de 31 de Dezembro de 1910, Regula a existencia das associações da Cruz Vermelha, que se fundarem de acordo com as Convenções de Genebra de 1864 a 1900*; Egypt, Art. 67 *loi n° 82/2002 sur les droits de propriété intellectuelle dispose que les symboles*; El Salvador, Art. 9 *Decreto Nº 789 de 1994, ley de protección de emblema de la cruz roja*; Iraq, Art. 5 Law no. 21 of the year 1957 on trademarks, as amended in 2004; Philippines, section 14 Act no. 10530 of 23 July 2012 Defining the Use and Protection of the Red Cross, Red Crescent, and Red Crystal Emblems, Providing Penalties for Violations Thereof and for Other Purposes, and, see also, the memoranda of the Securities and Exchange Commission (SEC) (such as SEC Memorandum no. 14 of 2017 with Consolidated Guidelines and Procedures on the Use of Corporate and Partnership Names); Sweden, chapter 2 *Varumärkeslag* (2010:1877); Yemen, art. 17 Law No. 43/1999 relative to the organization and use of the red crescent and red cross emblems and the prohibition of their misuse, Law No. 23 of 2010 on Trademarks and Geographical Indications, and Art. 90 قرار جمهوري بالقانون رقم (19) لسنة 1994 م بشأن الحق الفكري

⁹⁰ Section 3 (4) Trademarks Act 1994; Intellectual Property Office, Manual of trade marks practice, Gov.UK 2021.

Poland),⁹¹ prohibit the registration of emblems that are of public interest (e.g., Spain)⁹² or bar the registration of any national or foreign emblems (e.g., Lebanon).⁹³

While references to the distinctive emblems in intellectual property law seem to mainly relate to the trademarking of company logos, some countries have attempted to provide a broader framework for protecting the distinctive emblems against infringements that might otherwise dilute their efficacy. For example, in Sweden, an explicit prohibition to make reference to the distinctive emblems and related terminology was included in the *Company Name Act 2018*, which comes in addition to the *Trademark Act 2010*.⁹⁴ Sweden is not alone in its attempt to provide a more comprehensive set of protections. Lithuanian law proscribes the incorporation of signs identical or similar to the distinctive emblems into company names, industrial designs, trademarks or components thereof.⁹⁵ The Canadian *Trademarks Act 1985* provides an example of a law that more elaborately spells out the four distinctive emblems and a few expressions, i.e. “Red Cross” and “Geneva Cross”, which are considered “prohibited marks” that are not to be used in connection with a business, as a trademark or otherwise.⁹⁶

Aside from differences in domestic provisions’ legal clarity and scope, some country reports have stressed the crucial role of intellectual property offices’ domestic policies in determining what is comparable to a distinctive emblem or associated terminology and what is not.⁹⁷ Such administrative guidance, as can be found, for instance, in the UK, might, in fact, be more instructive than the actual law.⁹⁸

1.2.7. Other Potentially Relevant Fields of Law

While the legal areas mentioned above were most apt to discuss/regulate the use of the distinctive emblems, there were other, less frequently cited, entry points as well. Such areas include consumer protection law (where researchers considered that undue use of distinctive emblems – or a sign resembling a distinctive emblem – might be considered an unfair method of competition or a fraudulent marketing practice in violation of consumer protection laws);⁹⁹ laws governing civil servants (wherein the inappropriate use of distinctive emblems (or a sign resembling it) by public servants, such as police officers, is punishable in light of their occupational or deontological obligations);¹⁰⁰ and tort law (whereby entities which wrongly use the distinctive emblems are held civilly liable).¹⁰¹

⁹¹ El Salvador, Art. 8 k) *decreto N° 868 de 2002, Ley de Marcas y Otros Signos Distintivos*; Mexico, Art. 173 *ley federal de protección a la propiedad industrial, publicada en el Diario Oficial de la Federación el 1 de julio de 2020*; Poland, Art. 129 1. 10) *Prawo własności przemysłowej*.

⁹² Art. 5 n) *Ley 17/2001, de 7 de diciembre, de Marcas*.

⁹³ Resolution No.2385/1924 issued on January 17, 1924 (amended by the law of 31/1/1946) on industrial drawings and designs.

⁹⁴ Chapter 2 *Lag (2018:1653) om företagsnamn*. The prohibition in the general law on trademarks: chapter 2 *Varumärkeslag (2010:1877)*.

⁹⁵ Art. 26 *Lietuvos Respublikos Lietuvos Raudonojo Kryžiaus draugijos, Raudonojo Kryžiaus, Raudonojo Pusmėnulio ir Raudonojo Kristalo emblemos ir pavadinimo įstatymas*.

⁹⁶ Section 9 Trademarks Act, Revised Statutes of Canada 1985, c. T-13.

⁹⁷ For example, the country reports on Poland and the United Kingdom pointed to the margin of appreciation that patent offices have and the fact that it is not always easy to make the determination.

⁹⁸ Intellectual Property Office, *Manual of trademarks practice*, Gov.UK 2021.

⁹⁹ The country reports on Sweden and the United States highlighted this possibility.

¹⁰⁰ The country report on Colombia emphasized this issue.

¹⁰¹ The country report on Germany described this possibility.

1.3. Case Law

While laws relating to the protection of the emblems are relatively commonplace, SICL country reports indicate that the amount of distinctive-emblem-related case law is limited. Indeed, many countries seem to have no case law at all. Looked at generally, some country reports suggest that most instances in which issues with the distinctive emblems arise are handled out of court, for example, because the NS engages in constructive correspondence with the misuser (e.g., Sweden and the UK).¹⁰² Regarding those instances that do make it to court, the most common area of litigation seems to be trademark law and, in particular, disputes about whether a trademark should be barred from registration. This section will survey these trends in the case law.

1.3.1. Registration under Trademark Law

Court or administrative cases are regularly initiated by parties wishing to challenge a domestic patent office's refusal to grant protection to a trademark. For example, in the UK, the intellectual property office held that the "Turmeric+" mark fell afoul of the terms of section 6(2)(b) of the GCs Act, unjustifiably resembling the red cross emblem.¹⁰³



Similar examples of these types of disputes were found in Poland, where the norm prohibiting the registration of the red cross emblem is violated from the moment the protected symbol or its imitation is included in the trademark. It is irrelevant for the symbol to only be a part of the reported trademark.¹⁰⁴ For instance, the image containing a polar bear in front of a red cross was, therefore, rightfully barred from registration, according to the judges.



Outcomes can differ depending on the content (and the interpretation) of the relevant domestic law. For example, in the US, the image relating to a storm shelter was not considered prohibited by the criminal statute (18 USC 706) because the logo was not "made or colored in imitation" of the red cross symbol.¹⁰⁵



Among all countries, Spain seems to be the state with the most publicly available, emblem-related case law; much of which related to trademark protection. The Spanish Supreme Court argued that the decision not to register a trademark requires a similarity between the conflicting sign in such a way that it can be understood that there is an imitation thereof or that there is a likelihood of confusion or association between the two. With this as the standard, it has been determined, *inter alia*, that there is no resemblance between the red cross symbol and a black cross followed by a black circle with a

¹⁰² Sweden, Information from the Swedish Red Cross Society, available at <https://www.rodakorset.se/krigets-lagar/emblem-som-skyddar-liv/animal-felaktig-anvandning-av-emblemet/> (31.03.2023); United Kingdom, Email from Michael Meyer, Head of International Law at the British Red Cross to the author of the United Kingdom country report on 18.04.2023.

¹⁰³ Intellectual Property Office 4 July 2018, Application number 3222086 by Cambridge Nutraceuticals Limited.

¹⁰⁴ Voivodeship Administrative Court of October 12, 2010 (VI SA/Wa 1095/10); Supreme Administrative Court of March 27, 2012 (II GSK 332/11); Voivodeship Administrative Court of November 7, 2019 (VI SA/Wa 1244/19); Supreme Administrative Court of August 25, 2020 (II GSK 531/20).

¹⁰⁵ *4SEMO.com Incorporated v. Southern Illinois Storm Shelters, Inc.*, C.A.7 (Ill.) 2019, 939 F.3d 905.

smaller circle inside it,¹⁰⁶ a drawing of a blue tower projecting at the bottom to the right and partially superimposed on the drawing of a red cross,¹⁰⁷ or a red letter “H”.¹⁰⁸

Related to trademark law, the US also featured a few cases in which a grandfathered user of the distinctive emblem was involved, aiming to preserve their lawful use of the red cross emblem because they obtained said right prior to the prohibition entering into effect.¹⁰⁹

1.3.2. Disputes Between Commercial Enterprises

Some countries’ statutes allow for private enterprises to assert harm when a competing (private) entity is using/displaying the distinctive emblems in a proscribed way. In Sweden, a company selling first aid products sued two vendors of similar products because the latter used a red cross (or a ‘plus’) in their designs, which, according to the plaintiff, was not allowed under the *Act (1953:771) on the Protection of Certain International Medical Designations*.¹¹⁰ The plaintiff won the case arguing, among other things, that such practices are misleading under the European Union’s *Unfair Commercial Practices Directive*¹¹¹ and contrary to good marketing practice.¹¹²

1.3.3. Disputes Between a National Society and an Individual or Enterprise

Although one assumes that NS’s generally attempt to resolve issues regarding emblem misuse out of court, companies can be reluctant to concede. In France, a judge ordered a former Red Cross co-contractor to stop displaying both the emblem and the name of the Red Cross on clothing donation bins and in the list of partners on the co-contractor’s website, as such use (i.e., after the undisputed termination of the partnership agreement and without being granted permission), constitutes a criminal offence.¹¹³ In Germany, the NS sued a commercial ambulance company for using a red-brown cross on an ivory background with lines that make the cross appear to be moving fast on its brochures and ambulances. The Federal Court ordered the person using this symbol to refrain from doing so, basing its 1994 decision mainly on paragraph 12 of the *Civil Code*, which protects a (natural or legal) person’s name in general.¹¹⁴ In another German case, an emergency medical vehicle previously used by the German Red Cross had been redesigned with illustrations of black crosses on a white background as well as skulls and the staff of Asclepius. The term *Deutsches Totes Kreuz* (German Dead Cross) replaced the usual *Deutsches Rotes Kreuz*. The Bautzen Higher Administrative Court considered that, despite differences between the new design and Red Cross designs, an average observer without

¹⁰⁶ *Tribunal Supremo (Sala de lo Contencioso-Administrativo, Sección3ª) Sentencia de 12 abril 2005*. ROJ: STS 2171/2005.

¹⁰⁷ *Tribunal Supremo (Sala de lo Contencioso-Administrativo, Sección3ª) Sentencia de 18 octubre 2004*. ROJ: STS 5239/2004.

¹⁰⁸ *Tribunal Supremo (Sala de lo Contencioso-Administrativo, Sección3ª) Sentencia de 13 julio 2005*. ROJ: STS 4737/2005.

¹⁰⁹ Circuit Court of Appeals, Second Circuit. *A.P.W. PAPER CO., Inc., v. FEDERAL TRADE COMMISSION* (1945); United States District Court, Southern District of New York, *Johnson & Johnson Consumer Companies, Inc., v. THE AMERICAN NATIONAL RED CROSS, et al* (2008).

¹¹⁰ *Lag (1953:771) om skydd för vissa internationella sjukvårdsbeteckningar m.m.*

¹¹¹ Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council.

¹¹² *Marknadsdomstolen* 12 November 2009, case no. MD 2009:33.

¹¹³ *Tribunal de grande instance de Grasse* 09.05.2018, n° 17/01147, *Association Croix-Rouge française c/ Société S.E.S. ZA COLLECTES RECYCLAGE*.

¹¹⁴ *Bundesgerichtshof (BGH), Urteil vom 23.06.1994 - I ZR 15/92*.

particular knowledge nor analysing the situation in detail might have the erroneous overall impression that the vehicle relates to the Red Cross.¹¹⁵

Disputes are also sometimes rooted in a domestic patent office's decision to register questionable trademarks. In particular, the Spanish Red Cross has succeeded in restricting the registration of trademarks integrating signs similar to the red cross emblem by filing various claims in front of Madrid's Superior Court of Justice.¹¹⁶ In one example, the Court took issue with the sign resembling a red cross emblem added onto the desk of a pharmacist in Chiqui Farma's graphic.¹¹⁷



Contrary to the above examples, not every case was decided in favour of an NS. For instance, in a Brazilian dispute,¹¹⁸ the Court of Justice of Rio de Janeiro stated that even though *Decrees 2.380/1910* and the *Statute of the Brazilian Red Cross* ensure exclusivity to the emblem, there was no relevant point of similarity of the litigated symbol with the red cross emblem and no risk of misleading anyone. Moreover, the judge argued that the symbol had already been consolidated in the market, making its removal onerous. In Spain, the Provincial Court of Barcelona decided that a cross-like sign in a light fuchsia colour and with ends of the four arms of the cross being rounded, ending in a semicircle, is sufficiently different from the red cross.¹¹⁹ Similarly, Madrid's High Court of Justice also ruled in favour of the defendants several times; for example, it did not object to the registration of a trade name which included in its graphic a cross similar to the one representing the Red Cross, because the cross was a different colour (orange) and was included inside a whimsical drawing, which made it a mixed graphic-denominative mark.¹²⁰

1.4. Procedures Related to Obtaining the Right to Use Distinctive Emblems

The GCs and AP I provide explicit instructions regarding who can use the distinctive emblems for indicative and protective purposes. Nonetheless, domestic law plays a potentially critical role in providing clarity about the specific steps one needs to take to obtain and maintain the right to display the emblems. These procedures are important in peacetime and in times of conflict for helping to ensure that the emblems are displayed appropriately (and consistently so) *in practice*.

¹¹⁵ The defendant's argument that seizure of the vehicle clashed with artistic freedom did not change the Court's opinion. *Oberverwaltungsgericht (OVG) Bautzen, Beschluss vom 19.10.2015 – 3 B 293/15*. Ruling in first instance: *Verwaltungsgericht (VG) Chemnitz, Urteil vom 25.05.2016 – 3 K 1096/15*; *Verwaltungsgericht (VG) Chemnitz, Beschluss vom 20.08.2015 – 3 L 486/15*.

¹¹⁶ *Tribunal Superior de Justicia de Madrid, (Sala de lo Contencioso-Administrativo, Sección4ª) Sentencia de 23 marzo 2000*. ROJ: STSJ M 3735/2000; *Tribunal Superior de Justicia de Madrid, (Sala de lo Contencioso-Administrativo, Sección2ª) Sentencia de 25 septiembre 2003*. ROJ: STSJ M 12979/2003; *Tribunal Superior de Justicia de Madrid, (Sala de lo Contencioso-Administrativo, Sección2ª) Sentencia de 9 febrero 2012*. ROJ: STSJ M 5405/2012; *Tribunal Superior de Justicia de Madrid, (Sala de lo Contencioso-Administrativo, Sección2ª) Sentencia de 4 diciembre 2013*. ROJ: STSJ M 17160/2013; *Tribunal Superior de Justicia de Madrid, (Sala de lo Contencioso-Administrativo, Sección2ª) Sentencia de 19 marzo 2014*. ROJ: STSJ M 2732/2014; *Tribunal Superior de Justicia de Madrid, (Sala de lo Contencioso-Administrativo, Sección2ª) Sentencia de 29 junio 2020*. ROJ: STSJ M 7458/2020.

¹¹⁷ *Tribunal Superior de Justicia de Madrid, (Sala de lo Contencioso-Administrativo, Sección2ª) Sentencia de 29 junio 2020*. ROJ: STSJ M 7593/2020.

¹¹⁸ *Tribunal de Justiça do Rio de Janeiro TJ-RJ -APELAÇÃO: APL XXXXX-23.2010.8.19.0202 RIO DE JANEIRO MADUREIRA REGIONAL 2 VARA CIVEL - Inteiro Teor, 24.10.2012*.

¹¹⁹ *Audiencia Provincial de Barcelona (Sección 15ª) Sentencia de 6 julio 2011*. ROJ: SAP B 9944/2011.

¹²⁰ *Tribunal Superior de Justicia de Madrid, (Sala de lo Contencioso-Administrativo, Sección2ª) Sentencia de 29 septiembre 2011*. ROJ: STSJ M 12060/2011. See also *Tribunal Superior de Justicia de Madrid, (Sala de lo Contencioso-Administrativo, Sección6ª) Sentencia de 22 marzo 2007*. ROJ: STSJ M 3159/2007.

The Questionnaire posed two queries relating to specific aspects of the GCs and AP I that contemplate the need for such procedures.¹²¹ First, GC I mentions the limited possibility “in conformity with national legislation” and with the “express permission” of the NS to employ, as an “exceptional measure”, the distinctive emblems in time of peace in order to identify vehicles used as ambulances and aid stations, where either of these is “exclusively” used to provide “free treatment” for the wounded or sick.¹²² Without stringent safeguards, for instance, in the form of procedures under domestic law, this free treatment exemption would be open to abuse.¹²³

The other situation posed in the Questionnaire relates to the granting of rights to civilian medical service providers to display a distinctive emblem in times of conflict. AP I notes that parties to the conflict must endeavour to adopt and implement methods and procedures which will make it possible to recognize civilian medical units and transports which use the distinctive emblem.¹²⁴ To this end, countries ought to have procedures in place that make it possible to effectively attribute the distinctive emblems and other identifiers to civilian medical units, transports and personnel in a setting marked by armed conflict.¹²⁵

The subsections below describe the extent to which domestic laws contain concrete details on the procedures to be followed in order to obtain a right to display the distinctive emblems.

1.4.1. Civilian Parties Authorized to Use the Distinctive Emblems in Peacetime

It is not unusual for countries’ laws to remain silent or vague on the specific procedural requirements necessary to display a distinctive emblem during an “exceptional” peacetime emergency (as envisaged in Art. 44 of GC I). Detailed requirements were not located in France, Germany, Spain or the US, for example. Some other countries have adopted a minor provision indicating that the government could issue more detailed regulations. South Africa’s Multi-purpose Law highlights that the Minister of Health may make regulations on civilian persons authorized to employ an emblem during times of peace.¹²⁶ The UK’s *Geneva Conventions Act* states that the Secretary of State may make regulations (but *ad hoc* authorization is also possible).¹²⁷ Both of these laws make no reference to any of the conditions prescribed by the GC for the free treatment exemption.¹²⁸

Other countries make a far more explicit reference to the possibility of equipping ambulances and aid stations with a distinctive emblem, such as Egyptian law.¹²⁹ The related Decree clarifies that aid stations reserved exclusively for free care may be authorized by the Minister of Public Hygiene after

¹²¹ As part of the endeavor to search for procedures, our country reports investigated if countries adopted more concrete rules about the use of the “distinctive signals”. However, as a general rule, domestic law did not seem to provide for any details that went beyond the information prescribed in Annex I to AP I.

¹²² Art. 44 GC I.

¹²³ Commentary of 2016 on Art. 44 of GC I.

¹²⁴ Art. 18 of AP I.

¹²⁵ Commentary of 1987 on Art. 18 of AP I.

¹²⁶ Section 12 Red Cross Society and Legal Protection of Certain Emblems Act 2007.

¹²⁷ Section 6A Geneva Conventions Act 1957.

¹²⁸ It should be noted, though, that in the United Kingdom, the Manual for Trademark Practice prescribes that “[w]here the mark contains or consists of an exact replica of the protected signs with no other matter, consent must be sought from the Ministry of Defence. If the mark contains or consists of a sign similar to a protected sign, or is applied for together with other matter, then consent must be sought from the Secretary of State, via the Intellectual Property Office. In both of these cases the MoD or the Secretary of State will also consult with the Head of International Law of the British Red Cross before any consent may be given.” The Intellectual Property Office, *Manual of Trademarks Practice*, 2018.

¹²⁹ *Loi n° 12 du 25 mars 1940 relative à la protection du Croissant Rouge et des emblèmes ou dénominations assimilés à cet emblème.*

consultation with the NS.¹³⁰ The use of the word “consultation” is noteworthy as the GC calls for express permission from the NS instead.

Interestingly, even in relation to the countries that adhere more closely to the language of Article 44 of GC I, there are still significant differences between countries’ domestic laws. For example, Swedish law notes that the NS might give permission to civil healthcare to use the distinctive emblem to mark vehicles used as ambulances and to show aid stations that are exclusively intended for free care if there are “special reasons”.¹³¹ The reference to “special reasons” is notable from a comparative perspective, as it seems to be the domestic incorporation of the GC I (Article 44) requirement that wearing the emblems relates to an “exceptional measure”. Not all other countries highlight this condition, however. El Salvador’s Emblem Law simply states that with the permission of the Salvadoran Red Cross, the emblem can be used in peacetime for vehicles used as ambulances, as well as to identify places or buildings intended exclusively as aid stations, which have the sole purpose of providing free assistance to the wounded or sick. Contrary to Sweden, there is no reference to “special reasons” (nor, as is seen below in the Lithuanian context, is there a reference to an emergency or disaster).¹³² Lithuanian law offers a third example, stipulating that, with the permission of the NS, the red cross emblem can mark “medical stations” that provide free medical assistance to victims during an emergency. So long as permission is granted, the emblem can also be used for ambulance services that provide the necessary medical assistance or transport victims in the event of an “emergency” in Lithuania and for such free-of-charge services for an emergency or disaster *in a foreign country*.¹³³ While the extraterritorial aspects are clearly contemplating humanitarian missions, it is nevertheless a striking attribute of domestic legislation.

While the above countries clearly reference the free treatment exemption in their laws, others seem to only mention the possibility in administrative documents. For example, the Polish Red Cross Emblem Protection Guide, approved by a resolution of the Polish Red Cross, mentions that vehicles used as ambulances and first aid stations not owned by the Polish Red Cross Society or by the military medical service may use the red cross emblem solely and exclusively if the assistance provided by them is free of charge.¹³⁴ Since there is no clear legislative framework, it would be worthwhile knowing how the NS applies this mechanism in practice. Indeed, NSs may be a major force in determining who is entitled to present an emblem in peacetime. For instance, under Brazilian law, the use of the emblem is permitted to persons authorized by the NS’s Articles of Association; however, those Articles of Association do not seem to contain a clear procedure to obtain authorization.¹³⁵ Mexican law is more specific about its NS’s competencies, emphasizing that the Mexican Red Cross may authorize, under its control, the use of the emblem by natural or legal persons to indicate medical transport vehicles or first aid posts or medical assistance centres, which serve and assist the wounded and sick free of charge.¹³⁶ Having said this, SICL country studies did not detect information indicating whether the NS in question actively performed its conventional role to authorize, nor did SICL encounter further information related to the processes applied by the NS in bestowing the right to display a distinctive emblem.

¹³⁰ *Décret du 9 avril 1940 relatif à l’utilisation de l’emblème du Croissant Rouge ou des emblèmes assimilés à cet emblème.*

¹³¹ Section 6 *Lag (2014:812) om skydd för kännetecken i den internationella humanitära rätten.*

¹³² Art. 6 *Decreto N° 789 de 1994, ley de protección de emblema de la cruz roja.*

¹³³ Art. 23 *Lietuvos Respublikos Lietuvos Raudonojo Kryžiaus draugijos, Raudonojo Kryžiaus, Raudonojo Pusmėnulio ir Raudonojo Kristalo emblemos ir pavadinimo įstatymas.*

¹³⁴ *Przewodnik ochrony znaku czerwonego krzyża 2013, p. 11.*

¹³⁵ Art. 2 §1 *Decreto Nº 2.380, de 31 de Dezembro de 1910, Regula a existencia das associações da Cruz Vermelha, que se fundarem de acordo com as Convenções de Genebra de 1864 a 1900; Estatuto da Cruz Vermelha Brasileira, Decreto Federal nº 8.885 de 24 de Outubro de 2016.*

¹³⁶ Art. 18 *Ley para el uso y protección de la denominación y del emblema de la Cruz Roja, publicada en el Diario Oficial de la Federación el 23 de marzo de 2007.*

1.4.2. *Civilian Parties Using the Distinctive Emblems in Times of Conflict*

Despite the critical need to be prepared to grant the entitlement to display the emblem (for purposes of providing protection) to civilian medical parties once conflict emerges, some countries make only a cursory reference to this situation. For instance, South Africa's Multi-purpose Law prescribes that the Minister of Health may make regulations regarding civilian persons authorized to employ an emblem during a time of armed conflict (those regulations were not retrieved).¹³⁷ Sweden's Emblem Law states that permission is required from the government (or the authority determined by it) for civil healthcare to use the distinctive emblem during an armed conflict.¹³⁸ Brazilian law highlights that the Federal Government may permit the use of the distinctive emblem in wartime for private persons or associations.¹³⁹ El Salvador's Emblem Law mentions that the authorities designated by the State of El Salvador may authorize using the red cross emblem in wartime.¹⁴⁰ In all these cases, it remains particularly unclear whether the implementing authorities gave a more concrete interpretation and where that information can be retrieved.

A few countries describe the envisioned procedures in a bit more detail, in particular, setting out those responsible for administering the process. The Lithuanian Multi-purpose Law, for example, highlights that, subject to permission and under the control of the Minister of Health, civilian medical and religious entities may be marked by the red cross emblem. They must wear a waterproof armband with the emblem and bear an identity card in the Lithuanian and English language, which is to be issued by the Ministry of Health.¹⁴¹ The Philippines' Emblem Law mentions that the Department of Health (DOH) shall authorize the red cross emblem to be used as a protective device for civilian medical entities during armed conflict, in consultation with the NS. The DOH issues the corresponding armlets and identity cards. It works together and coordinates with the Department of National Defence (DND), which is highly desirable since it is the DND that authorizes medical personnel, units and transports of uniformed personnel in government other than the Armed Forces of the Philippines to be marked with the emblem used as a protective device in time of armed conflict.¹⁴²

As illustrated, brief references to this mechanism are not uncommon, yet the research found few examples of detailed procedures related to it.¹⁴³ In fact, only three national reports (i.e., for Poland, Colombia and Mexico) described relatively concrete instructions for gaining the right to display a distinctive emblem. In Poland, the country report suggests the issue might be treated in a publicly unavailable Defence Standard regarding the Geneva emblem and, more specifically, the camouflage on land medical facilities,¹⁴⁴ which interrelates with a decision of the Minister of National Defence from December 17, 2001.¹⁴⁵ Additionally, a publicly available regulation of the Minister of Defence exists relating to the identity cards and plates to be granted to, among other persons, civilian medical

¹³⁷ Section 12 Red Cross Society and Legal Protection of Certain Emblems Act 2007.

¹³⁸ Section 6 *Lag (2014:812) om skydd för kännetecken i den internationella humanitära rätten*.

¹³⁹ Art. 2 §2 *Decreto Nº 2.380, de 31 de Dezembro de 1910, Regula a existencia das associações da Cruz Vermelha, que se fundarem de acordo com as Convenções de Genebra de 1864 a 1900*.

¹⁴⁰ Art. 2 *Decreto Nº 789 de 1994, ley de protección de emblema de la cruz roja*.

¹⁴¹ Art. 16 *Lietuvos Respublikos Lietuvos Raudonojo Kryžiaus draugijos, Raudonojo Kryžiaus, Raudonojo Pusmėnulio ir Raudonojo Kristalo emblemos ir pavadinimo įstatymas*.

¹⁴² Section 5 Act no. 10530 of 23 July 2012 *Defining the Use and Protection of the Red Cross, Red Crescent, and Red Crystal Emblems, Providing Penalties for Violations Thereof and for Other Purposes*.

¹⁴³ For example, Section 4-32 of the US Commanders' Handbook on Land Warfare gives very basic information, without much detail as to the process, stating, "The display of the distinctive emblem is under the direction of the competent military or civilian authority."

¹⁴⁴ *Normy obronne NO-02-A032 Emblemat Genewski. Maskowanie na lądowych obiektach medycznych*.

¹⁴⁵ *Decyzja Nr 302/MON Ministra Obrony Narodowej z dnia 17 grudnia 2001 r. w sprawie norm obronnych*.

personnel of the Armed Forces in times of conflict. Said cards and plates are likewise available for peacekeeping missions, humanitarian operations, etc.¹⁴⁶

In Colombia, pursuant to Article 6 of Law 875 of 2004, chapter III of Decree 138 of 2005 regulates in detail the use of the distinctive emblem by civilian health personnel in a situation of conflict. Besides the technical features of the ID card, bracelet and other identifiers, the Decree instructs the Ministry of Social Protection to adopt the format for the request and authorization, which must specify the type of activity, the geographical areas where it will be carried out, the period of time, names and identification of the civilian health personnel, the units and means of civilian health transport involved. The Ministry must also create a registry containing information relating to the healthcare personnel, units and means of transport authorized to carry the emblem.¹⁴⁷

In Mexico, subject to authorization from the Ministry of National Defence (which corroborates with the Ministry of Health),¹⁴⁸ the emblem may be conferred – for purposes of providing protection – during armed conflict to: (i) civilian personnel in charge of searching for, collecting, transporting, diagnosing, caring for and assisting, treating and rehabilitating the wounded, sick, shipwrecked, persons deprived of their liberty or dead, or of the administration of sanitary units, or of the operation or administration of means of sanitary transport; (ii) civil vessels providing medical services, medical transport companies operating by land, sea and air; and (iii) civilian hospitals.¹⁴⁹ Article 7 of the Regulations indicates in extensive detail what information, including documentation, the applicant must provide to the General Health Directorate of the National Defence Secretariat in the request for authorization. The General Director of Health of the National Defence Secretariat is meant to issue further general technical provisions that specify how the request is presented. The Directorate grants or denies the requested authorization through a substantiated resolution in writing within six business days from the date of receipt of the request. The Regulations finally indicate how the parties must display the emblem if the request is granted.¹⁵⁰

2. Common Healthcare Signs and Symbols (other than the Distinctive Emblems)

2.1. Introduction

As noted in the Methodology section, the legal research provided by the SICL aims not only at exploring the extent to which the (mis)use of the distinctive emblems is contemplated and addressed in domestic law, but also to shed light on OSS that have significance at a country, regional or international level. Obtaining such information involved a preliminary scan to examine whether the use and governance of OSS derived from international obligations (e.g., through treaty or, less likely, custom) as well as the prevalence of use of certain OSS at a country level.

¹⁴⁶ Section 2 *Rozporządzenie Ministra Obrony Narodowej z dnia 10 kwietnia 2008 r. w sprawie kart i tabliczek tożsamości.*

¹⁴⁷ Art. 6 *Ley 875 de 2004 (enero 2)*, por la cual se regula el uso del emblema de la Cruz Roja y de la Media Luna Roja y otros emblemas protegidos por los Convenios de Ginebra del 12 de agosto de 1949 y sus protocolos adicionales; Art. 7-12 *Decreto 138, 25/01/2005*, por el cual se reglamentan los artículos 5º, 6º, 14 y 18 de la *Ley 875 de 2004* y se dictan otras disposiciones.

¹⁴⁸ Art. 8 *Reglamento de la ley para el uso y protección de la denominación y del emblema de la Cruz Roja*, publicado en el *Diario Oficial de la Federación* el 25 de marzo de 2014.

¹⁴⁹ Art. 7 and 8 *Ley para el uso y protección de la denominación y del emblema de la Cruz Roja*, publicada en el *Diario Oficial de la Federación* el 23 de marzo de 2007.

¹⁵⁰ Art. 7 and 9-12 *Reglamento de la ley para el uso y protección de la denominación y del emblema de la Cruz Roja*, publicado en el *Diario Oficial de la Federación* el 25 de marzo de 2014.

At the international level, the most relevant treaty appears to be the CRS (as supplemented by its European Agreement of 1 May 1971), as it directs signatories to use certain signs to indicate the presence of a hospital or first aid center.¹⁵¹ At the national level, SICL research showed a host of different signs and symbols used on hospitals, clinics, ambulances and pharmacies. It was relatively rare to see a symbol that had wide regional use, let alone one that had an international presence. In this regard, the ‘star of life’ (on ambulances, in particular) and the green cross (on pharmacies) are arguably the most prolific. Even at a country level, uniformity of symbol(s) use was an oddity. Rarer still were instances in which rules or standards, other than those provided by domestic trademark law, established the parameters of use for a given symbol. Certainly, there were instances in which a professional society (e.g., pharmacists) had control of a given trademark or logo and would limit those who could use it. However, by and large, very few symbols were deemed important enough that state-level (or even provincial or municipal) rules were crafted to protect against misuse.

2.2. The Road Signs Convention (CRS)

The CRS is an international treaty created to unify road signalization so as to facilitate traffic and heighten road safety.¹⁵² In connection with this effort, the CRS sets out specifications on the size, shape and content of signs that are encountered on signatories’ roads. The prescribed signs cover many subject areas, one of which is to indicate to drivers the location of hospitals and emergency first-aid centers. The CRS proposes two alternatives for hospitals and one sign for first-aid symbols.¹⁵³ Hospital signs are briefly discussed in Section E.II.11 of Annex 1 to the CRS (entitled Special Regulation Signs). II.11(a) states: “This sign shall be used to notify drivers of vehicles that they should take the precautions required near medical establishments; in particular, that they should not make any unnecessary noise. There are two models of this sign: E, 13^a and E, 13^b”. These are set forth in Annex 3 of the CRS, as follows:



E, 13^a



E, 13^b

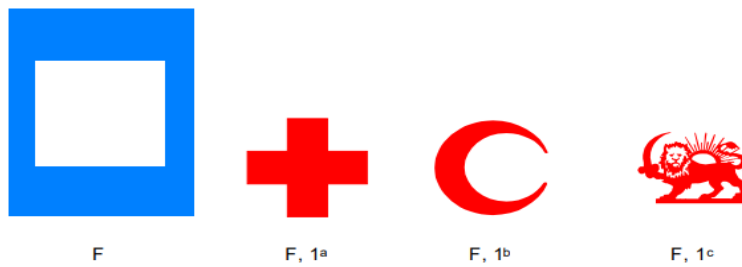
First-Aid representations are mentioned in Section F (Information, Facilities or Service Signs) II.1. The specific statement notes that: “The symbols depicting first-aid stations in the States concerned shall

¹⁵¹ Certainly, the CRS is not the only aspect of international law that is potentially relevant to the use of healthcare-related symbols (other than the distinctive emblems). For example, one area that the study did not explore is the extent to which any international standards, created by the International Organization for Standardization, or other body, were relevant. Similarly, the research did not delve into the degree to which the mandates of protection of civilian medical personnel (seen in Art. 15(1) of AP I or Art. 9(1) of AP II, for example) are potentially aided by readily recognized OSS. Nor did the study look specifically for use of logos used by certain International Organizations associated with the provision of healthcare, such as the World Health Organization, Doctors without Borders, The Global Fund, GAVI, etc. Finally, regional organizations, such as the North Atlantic Treaty Organization, might also influence countries’ use of healthcare symbols (which was also not a focus of this study).

¹⁵² Preamble of the Road Signs Convention: “*international uniformity of road signs, signals and symbols and of road markings is necessary in order to facilitate international road traffic and to increase road safety.*” Please note that the CRS has nevertheless been supplemented by the European Agreement of 1 May 1971, supplementing the Convention on road traffic opened for signature at Vienna on 8 November 1968.

¹⁵³ See Annex 3 of the Road Signs Convention.

be used. These symbols shall be red. Examples of these symbols are F, 1^a, F, 1^b and F, 1^c. Annex 3 provides illustrations of the symbols, with the blue background, which can be filled with one of the distinctive emblems, as seen below.”



From a legal standpoint, there is clearly a tension created by the CRS’ call for using signs that feature the distinctive emblems. On the one hand, the GCs and the APs establish a legal framework for (mis)use of said emblems. There is a reasonable expectation that this is a self-contained world. On the other hand, the CRS is itself an international treaty and binding on the parties to it. For its part, the ICRC has expressed its view that the CRS is not in conformity with the GCs in this respect and has called for an alteration in the suggested signs of the CRS, which feature the distinctive emblems.¹⁵⁴

With respect to the practical impact of the CRS, a brief review shows that fourteen of the twenty-three countries examined in this report have signed the treaty, and ten have ratified or acceded to it (see Table below).

Convention on Road Signs (CRS)				Observed use of signs prescribed in the CRS		
Country	Ratified or Acceded	Signed but not ratified	Neither signed nor ratified	‘H’ (Hospital)	Bed (Hospital)	use of a distinctive emblem (First Aid)
Australia			✓			
Brazil		✓				✓
Canada			✓	✓		
Colombia			✓			✓
DRC	✓				✓	✓
Egypt			✓			
El Salvador			✓			✓
France	✓			✓		✓
Germany	✓					✓
India	✓				✓	✓
Iraq	✓					
Lebanon			✓	✓		
Lithuania	✓				✓	✓
Mexico		✓				✓
Nigeria	✓				✓	✓
Philippines	✓			✓		
Poland	✓				✓	✓
South Africa			✓	✓		
Spain		✓				✓
Sweden	✓					✓
UK		✓		✓		
US			✓	✓		
Yemen			✓	✓		✓
Totals	10	4	9	8	5	14

¹⁵⁴ See, ICRC, *Study on the Use of the Emblems: Operation and Commercial and Other Non-Operational Issues*, 2009, at 195 et seq.

While SICL presumed that the ratifying countries were, in fact, using the symbols prescribed by the CRS, SICL collaborators attempted to find further evidence that there was legislation incorporating the CRS or, saving that, indications about use that could be obtained through an appeal to either domestic traffic laws or driving manuals.¹⁵⁵ For those countries that had neither signed nor ratified the CRS, these were the primary sources available for determining which signs were being used to indicate the presence of a hospital or first-aid clinic.

Despite the fact that more than half of the studied countries did not ratify the CRS, there was wide use of the symbols recommended by the Convention. In total, fourteen countries had mandated or observed the use of a distinctive emblem in road signs for first-aid centres, while eight observations of some variation of the 'H' sign were observed, making it arguably the most recognized symbol (other than the distinctive emblems) used in road signs. Five countries used the bed with the red cross to represent hospitals.

Of the countries that signed, but did not ratify, the CRS (Brazil, Mexico, Spain and the UK), use of the first-aid symbols appeared in two of them (Spain and Mexico) and the white 'H' on a blue or red background was seen in the UK.¹⁵⁶

Among those countries that neither ratified nor signed the CRS, there were still instances in which the symbols mentioned in the treaty were observed. For example, the US, Lebanon¹⁵⁷ and Yemen¹⁵⁸ use the white 'H' on a blue background to represent a hospital. Similarly, El Salvador uses the red cross symbol to indicate first aid (and perhaps hospitals as well),¹⁵⁹ Yemen relies on the red crescent symbol,¹⁶⁰ and Colombia also frequently uses a red cross on a white background to indicate the presence of hospitals or first aid. Some countries used slight variations on these symbols. For example, Canada prescribes a white 'H' on a green background to indicate a hospital,¹⁶¹ while South Africa's *Road Traffic Signs Manual* calls for the use of a white 'H' with a red background. Since some of this information is derived from traffic manuals or official public administrations' websites, one would assume that there is a legal standard imposing the use of a specific sign (hence, its appearance in the manual); however, it has proven difficult to consistently identify such legal standards.

¹⁵⁵ It is perhaps notable that in many instances, federal law leaves to states, provinces or even municipalities the power to determine the precise signs to be used on the roads. Canada, which is not a signatory to the CRS, provides one such example. The Manual of Uniform Traffic Control Devices for Canada, Sixth Edition (MUTCDC), published by the Transportation Association of Canada (TAC), a public charity, gives guidance to the signs that should be used (for harmonization purposes), but following the TAC recommendations is not required. One generally finds that the symbol for hospital is the white 'H' with a green background (as is recommended by TAC), but also instances of a blue background were observed. In countries that had adopted the CRS, there was difficulty locating domestic enforcement mechanisms, though these did sometimes appear (e.g., Germany makes it an administrative offense to fail to have proper signs in line with the CRS).

¹⁵⁶ The Brazilian Traffic Signal Manuals do not seem to include special rules on road signs to indicate the location of hospitals and/or first aid centers. There are some indications that first-aid symbols are those set forth in the CRS, but SICL could not locate mandates, nor even official recommendations.

¹⁵⁷ Art. 75 Lebanese Traffic Law of 2012. Available at: [الجمهورية اللبنانية \(isf.gov.lb\)](http://www.isf.gov.lb) (31.08.2023). See also the website of the Ministry of Home Affairs, Traffic signals and instruction in Lebanon, available at: <http://www.interior.gov.lb/adsdetails.aspx?ida=78> (31.08.2023).

¹⁵⁸ Traffic public administration, Traffic instructions, available at: <https://trye.gov.ye/services/guidance> (31.08.2023).

¹⁵⁹ See, Ministry of Public Works, Transport, Housing and Urban Development of El Salvador, Manual of Road Signs and Signals, July 2017.

¹⁶⁰ Traffic public administration, Traffic instructions, available at: <https://trye.gov.ye/services/guidance> (31.08.2023).

¹⁶¹ See TAC, note 138 supra.

Interestingly, there were only a few instances where *non-signatory* states used symbols that deviated from (or were additional to) those prescribed in the CRS. For example, South Africa and the US employ versions of the star of life as indicators of emergency care, with South Africa using a red version and the US a white version on blue background. A recurrent symbol was a white cross, often set within a blue background to indicate the presence of medical services (at either hospitals or first-aid centers). Notably, countries using this latter symbol included both signatories (the Philippines) and non-signatories (Australia and South Africa) of the CRS.

Among those who ratified the treaty, at least two used the 'H' and as noted above, five were explicitly noted by the researcher as using the bed with the red cross.¹⁶² Seven countries indicated that they use the red cross symbol (usually on blue background) to indicate the presence of a first-aid center. Rarely, a signatory also had its own variation on a symbol. For example, the Nigeria Highway Code provides the following visuals to represent a hospital and a first aid station:



SICL also found evidence (a Driver's manual) to suggest that the Philippines allows for a white cross to indicate the presence of a first-aid site (while still using the suggested white 'H' for hospitals), and Germany often uses a red cross with a roof-like structure on roadway directional signs to indicate the presence of a hospital or clinic (see figures below).



2.3. Other Signs and Symbols

As mentioned in Section II (Methodology), the final query on the Questionnaire asked researchers to identify 'commonly used' healthcare symbols and signs in a given country (other than the distinctive emblems). To the extent that researchers were able to identify such symbols/signs, they were then asked to determine the extent to which those marks were regulated/mandated in domestic law. In particular, researchers looked at hospitals and clinics, ambulances and pharmacies in an attempt to gain a sense of commonly used signs and symbols. Specific attention was given to those signs and symbols that were observed in multiple jurisdictions.

¹⁶² Specific domestic information for Iraq was not found. For use of the 'H', see, for France, Art. 5-10 *arrêté du 24 novembre 1967 relatif à la signalisation des routes et des autoroutes*; and, in the Philippines, Land Transportation Office, Information related to signs, signals & markings as part of the Comprehensive Driver's Education Program. For use of the symbol with a bed, see: India, Schedule I of *India's Motor Vehicle Act 1988*; Lithuania, Part VII, Points 701 and 702 Law on the adoption of road traffic rules (*Dėl Kelių eismo taisyklių patvirtinimo*); Nigeria, the Highway Code; Poland, Act of June 20, 1997 (Road Traffic Law); and DRC, *loi du 30.08.1978 n°78-022 portant nouveau Code de la route, Annexe (5) relative aux Signaux d'indication*.

2.4. General Findings

Certain themes were recurrent across the searches where OSS were concerned. First, and perhaps unsurprisingly, there was generally a high level of diversity among the signs and symbols used. This was true at both an intra-state, regional and international level. Indeed, it was relatively rare for a given sign or symbol to be ubiquitous or exclusively used. With that said, in countries that feature a mix of symbols, there were recurrent observances of symbols like the caduceus and the staff of Asclepius (each pictured below), which suggests some recognition of these symbols.¹⁶³ Crosses of various colors were also common.



Caduceus



Rod of Asclepius

While the types of symbols found were quite diverse, the legal architecture governing them was relatively consistent. Specifically, a country's trademark regime provides owners of a symbol with the ability to control its use within prescribed parameters. In most instances (e.g., with private vendors' marks), trademark law represents the full extent of legal coverage. In other situations, including some in which the state is the owner of the mark or in which professional societies are, there is potentially a larger impact on the extent to which a given symbol dominates the healthcare landscape.

2.5. Hospitals

Of the subcategories of signs and symbols examined by SICL, hospitals had the most diverse set of OSS. A number of different marks were seen in multiple jurisdictions (e.g., an 'H' for 'hospital', the caduceus, the staff of Asclepius, the star of life, and various stylized or religious crosses, and even heart-shaped insignias), however it was rare that a given symbol approached universality of use.

In many instances, a mixture of private and public hospitals added to the diversity, as private branding was used with the purpose of distinguishing the marked hospital from competitor providers. A good example of this dynamic is illustrated by India, where 70 percent of the hospital market share is controlled by private sector providers.¹⁶⁴ The logos/symbols of such private providers – including large providers like Apollo, Fortis and Aster – are among the most commonly observed healthcare symbols (on hospitals) in India.

¹⁶³ The Questionnaire invited researchers to identify commonly used symbols of healthcare, without respect to whether the symbol aimed at providing a protective function (akin to the functions served by the distinctive emblems) to its bearers. The overwhelming majority of these symbols serve only to *indicate* the presence of medical staff, facilities, etc. In only one instance – the *Mision Medica* symbol in Colombia – was a protective function asserted (based on the Medical Mission's purpose as described in the respective Colombian Resolution).

¹⁶⁴ Sanyukta Kanwal, Breakdown of hospital services India 2020, by public and private sector, May 18, 2022. Available at: <https://www.statista.com/statistics/1252917/india-breakdown-of-hospital-services-by-public-and-private/#:~:text=In%20financial%20year%202020%20in,provided%20by%20private%20sector%20hospitals.>



Despite this mixture being the norm, SICL observed instances in which the display of state-held marks is required. One such example of this is Brazil, which has a common symbol on its **public** hospitals and a (different, but consistently used) symbol for emergency units (see below)



Similarly, England requires the use of the National Health Service (NHS) 'lozenge' logo (see below) by all NHS organizations and hosted or non-statutory NHS organizations as part of the NHS identity. There is no legislation, as such, specifically aimed at protecting the logo. Rather, protection of the lozenge is achieved through intellectual property law in the form of trademark protection. As the logo is owned by the Secretary of State for Health and Social Care, said office has the ability to determine/shape the extent of its use. Scotland, Wales and Northern Ireland have their own particular logos related to the National Health Service. Nigeria also pictured the Federal Ministry of Health's logo on many of its hospitals (particularly in the northern states such as Borno state, where there is a NIAC), but SICL could not find a rule or Decree that required this.



Amidst the high level of diversity of OSS observed on/in hospitals in the studied countries, it was nevertheless possible to find nations in which sometimes frequent use of one of the distinctive emblems existed. In Egypt, for example, the SICL researcher noted that "it seems quite common for hospitals to put a red crescent on their facades". This was also true of observations in Iraq. In DRC, where the use of symbols on hospitals was quite varied, there were many hospitals that used the red cross. The use of the distinctive emblems on hospitals and ambulances has clearly been problematic in DRC in the past, as one decade-old press report noted a request from the Red Cross to the Congolese Ministry of Health in 2013 for the adoption of a law to regulate the use of the emblem of the humanitarian organization.¹⁶⁵

These were not the only examples of states using a distinctive emblem on hospitals. The NS in Spain, for example, runs its own private hospital and uses the red cross. In some countries, like El Salvador, uses of the red cross appeared in some hospital signs (in the Salvadorean case, this was set on a green background) while also having some private marks that seemed to be stylized versions of the red cross.

2.6. Ambulances

While findings related to ambulances are not radically different to those found for hospitals and pharmacies, one symbol does stand out, both for the frequency of its recurrences and for the extent to which it has been contemplated in manuals and even regulations. That symbol is the '**star of life**'.

¹⁶⁵ The SICL researcher even found a song entitled "stop the abuse of the Red Cross logo" in DRC, 23.05.2014. Available at: <https://observers.france24.com/fr/20140523-chanson-dire-stop-abus-logo-croix-rouge-rdc-beni-kinshasa> (05.05.2023). Ultimately, no such law was identified, however.

The star of life was initially conceived by the American Medical Association (AMA). The design was based on the crossing of the three rivers of life and the staff of Asclepius.¹⁶⁶ The symbol was initially



star of life

adopted by the National Registry of Emergency Medical Technicians (NREMT). Eventually, Dawson Mills, then Director of the National Highway Traffic Safety Administration (NHTSA) in the Department of Transportation – after asking the American Red Cross if the red cross emblem could be used as an emergency medical services (EMS) logo and being rejected – requested permission to use the star of life as the National EMS logo and the NREMT agreed.¹⁶⁷ Subsequently, the NHTSA trademarked the symbol on February 1, 1977. Searches conducted show that the trademark has continued to be renewed.¹⁶⁸ The original design has changed little since its inception. It is blue, contains six ‘bars’ (each referring to a different aspect of the EMS function)¹⁶⁹ and features the rod of Asclepius in the center.¹⁷⁰

Over two-thirds of the countries surveyed by the SICL use the star of life on ambulances.¹⁷¹ In a number of these countries, such use was incentivized through the publication of either a standard that called for the use of the star of life or a regulation mandating its use. In the US, the star of life acts as an incentive to induce conformity with other emergency care standards. Specifically, the General Services Administration sets forth the Federal Specification for ambulances in Federal Specification KKK-A-1822F.¹⁷² Adherence to detailed requirements and quality assurance provisions are the prerequisites for displaying the star of life symbol. The Specifications establish “performance parameters and essential criteria for the design of ambulances”.¹⁷³ The Specification further notes that,

The object is to provide ambulances that are nationally recognized, properly constructed, easily maintained, and, when professionally staffed and provisioned, will function reliably in pre-hospital or other mobile emergency medical service.¹⁷⁴

France and India have similar regimes. In France, only vehicles of approved companies used for medical transport may be equipped with “a distinctive emblem conforming to the model fixed by order of the Minister responsible for health” (see *Public Code de la santé publique*, Article R.6312-3).¹⁷⁵ France arguably goes a step further, however, as it punishes those who would falsely suggest that they are affiliated with EMS services by using the star of life emblem, with a fine of up to 1,500 euros (*Code de la santé publique*, Articles R.6314-1 et R.6314-6). In India, the Bureau of Indian Standards (BIS) and the

¹⁶⁶ The internet is dotted with various references to a supposed resolution put forth by the World Medical Association in 1964, which proposed to establish the star of life as the universal emergency medical information symbol. SICL has not been able to locate this document, however.

¹⁶⁷ Peter Pons and Vincent J. Markovchick (eds.), *Pre-Hospital Care Pearls & Pitfalls*, Shelton: People’s Medical Publishing House 2012, p. 11.

¹⁶⁸ Search conducted at: <https://tmsearch.uspto.gov/bin/gate.exe?f=tess&state=4803:t32kja.1.1>.

¹⁶⁹ In particular, the six points (or bars) denote: (1) early detection; (2) early reporting; (3) early response; (4) on scene care; (5) care in transit; and (6) transfer to definitive care.

¹⁷⁰ The rod of Asclepius is itself a symbol that one frequently encounters.

¹⁷¹ The star of life having appeared (frequent use and/or laws/standards requiring use are in **bold**) on ambulances in: Brazil, **Canada**, **Colombia**, DRC, **Egypt**, El Salvador, **France**, **India**, Lebanon, Mexico, Nigeria, **Philippines**, **Poland**, **South Africa**, **Spain**, **Sweden** and the **US**.

¹⁷² The U.S. General Services Administration (GSA), August 1, 2007, Federal Specification for the Star-of-Life Ambulance Certification standards (KKK-A-1822F), as amended.

¹⁷³ Id., at 1.

¹⁷⁴ Id.

¹⁷⁵ « Leurs véhicules ou aéronefs utilisés pour ces transports peuvent seuls être munis d'un emblème distinctif conforme au modèle fixé par arrêté du ministre chargé de la santé. » An Order of 12 December 2017 setting the characteristics and physical installations required for vehicles used for land medical transport requires a star of life symbol.

Ministry of Road Transport and Highways promote the use of the star of life in its '*National Ambulance Code*'.¹⁷⁶ Other countries with similar arrangements include Poland¹⁷⁷ and Sweden.¹⁷⁸ The Philippines has given serious consideration to such a regime.¹⁷⁹

In Canada, acts or codes requiring the use of the star of life are established at the provincial level, though, as a practical matter, the star of life is seen on ambulances throughout the country. Governmental calls for its use were found in places like Saskatchewan's *Ambulance Act* (Section 19(1)(m) provides for the dimensions and placement of the star of life) and in the *Alberta Standard Code* (Section 6.4).



While a large number of countries feature the star of life on ambulances (and sometimes on hospitals and road signs), it is not used everywhere. For example, some countries use the symbol of St. John's Ambulance, which is a Maltese Cross. Australia, in particular, makes wide use of this symbol, though it exists in other countries as well.

As with hospitals, the distinctive emblems (either the red cross or the red crescent) were also used on ambulances in many countries. Use of the red cross emblem was seen on ambulances in Brazil, Germany, Mexico, Nigeria, and DRC, while the red crescent was observed on ambulances in Egypt, Iraq and Yemen. Notably, in Egypt, this would appear to be a prescribed use for ambulances owned by the Egyptian Ministry of Health, pursuant to the Decree of the Minister of Health no. 9 of January 3, 2011 (relating to the colors and distinctive marks of ambulance cars (Article 2)).

2.7. Pharmacies

The surveys of pharmacies conducted by the SICL share similarities with the findings for hospitals and ambulances. Like the findings for ambulances, we can identify one symbol that stands out for its cross-national appeal. However, like hospitals (and unlike ambulances), there are numerous private marks.

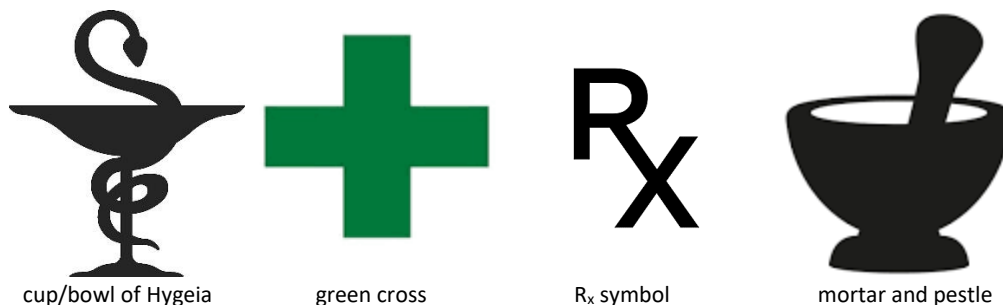
¹⁷⁶ See Bureau of Indian Standards, *Constructional and Functional Requirements for Road Ambulances*, 2013.

¹⁷⁷ Poland made the star of life an official symbol of the Polish State Medical Rescue specified under the Regulation of the Minister of Health of January 3, 2023. Under paragraph 2, the star of life is an official graphic symbol of the Polish State Medical Rescue system, which is used as its designation. Under Article 39 of the Act on State Medical Rescue, the star of life may be used only by hospital emergency departments and medical rescue teams. Polish law does not set forth any punishments for the misuse of the star of life.

¹⁷⁸ Rules on the design of ambulances are laid down in a regulation regarding ambulance service/care (SOSFS 2009:10 *Socialstyrelsens föreskrifter om ambulanssjukvård m.m.*). The regulation is available at: <https://www.socialstyrelsen.se/kunskapsstod-och-regler/regler-och-riktlinjer/foreskrifter-och-allmanna-rad/konsoliderade-foreskrifter/200910-om-ambulanssjukvard-m.m/> (31.03.2023).

¹⁷⁹ Section 33 of a 2010 draft bill would have encouraged adherence with ambulance vehicle standards by allowing them to display the star of life, however, SICL could not confirm this passage (see, Committees on Health and Demography and Finance, Senate Bill No. 3579 about an Act Institutionalizing a Pre-hospital Emergency Care System, Providing for the Establishment, Supervision and Regulation of the Pre-hospital Emergency Care Profession and for Other Purposes, available at: <https://legacy.senate.gov.ph/lisdata/1356911975!.pdf> (senate.gov.ph) (01.05.2023)). More recently (2018), the Department of Health issued *Revised Rules and Regulations Governing the Licensure of Land Ambulances and Ambulance Service Providers*, where use of the star of life is listed as an *optional* mark.

A general search for typical symbols and signs associated with pharmacies includes a green cross, the cup (or bowl) of Hygeia,¹⁸⁰ the Rx symbol and a mortar and pestle (each depicted below). It is not uncommon for these symbols to be blended in one way or another.



cup/bowl of Hygeia

green cross

Rx symbol

mortar and pestle

In SICL searches, the most readily observed mark for pharmacies was the green cross. Not unlike ambulances, uses were observed in roughly two-thirds of the countries, though the relative ubiquity of that mark within a given country varied. In contrast to the star of life, which had strong use in many regions of the world, the green cross is clearly most dominant in Europe (notably in France and Sweden and to a large extent in Poland, Spain and the UK). With that said, there was recurrent use of the symbol in Nigeria and in the former British colonies: Canada, India, South Africa and Australia. There was also identified use of the green cross – though as part of a wide swath of signs and symbols – in countries such as Colombia and Germany.¹⁸¹

In a few instances, other marks were relatively prominent within a country. In two countries, Egypt and DRC, the cup of Hygeia was seen with frequency, and in Germany, a distinct symbol, the *Apotheken* “A”, is the primary mark. In the US, the logos of the two biggest corporate pharmacies, CVS and Walgreens, were most often depicted. Such private marks also played a significant role (albeit to a lesser extent) in a few other countries. For example, the largest Brazilian pharmacy chain (Raia) uses a white cross on a red background, quite similar to the Swiss flag.



Apotheken-A

In many settings, no singular (or even group of) mark(s) stood out. In some instances, trends could be observed. For example, in Brazil, pharmacies typically use different stylized crosses as part of their branding. Likewise, several Salvadorean pharmacies use stylized crosses similar to the red cross emblem or the Swiss cross. In other settings, however, commonalities were simply difficult to identify, (e.g., in India, Mexico and the Philippines).¹⁸²

Like hospitals and ambulances, the legal framework governing the (mis)use of a given pharmacy symbol is generally rooted in trademark law. However, it must be mentioned that there are some instances in which the government owns the trademark and/or where there are supplemental decrees relating to a given mark. In France and Sweden, such rules are related to the green cross. In France (in particular, Article R.4235-5 of the *Health Code*), the green cross is recognized as one of two authorized

¹⁸⁰ An article notes that: “*The meaning of the Bowl of Hygeia is rooted in Greek mythology; Hygeia was the daughter of the god of health, and she tended to the temples and people of her time. Her cup has come to represent medicine and her snake to represent healing.*” Kalyna Hennig, *The Genesis of the Bowl of Hygeia Scholarship The Mortar & Pestle*, Summer 2018. Available at: <https://www.ualberta.ca/pharmacy/news/2021/april/the-genesis-of-the-bowl-of-hygeia-scholarship.html> (20.06.2023).

¹⁸¹ In the case of Germany, green crosses were generally seen at airports or train stations alongside the Apotheken-A mentioned in this section.

¹⁸² Notably, there were also instances in which the researcher’s appeal to images for the symbols adorning pharmacies in the studied country, did not instill a high level of confidence that ‘commonly used symbols’ had been located. This was the case in Iraq and Lithuania.

external emblems.¹⁸³ The basic obligation to use the green cross in Sweden is regulated in the Medicinal Product (Trading) Act (*Lag (2009:366 om handel med läkemedel*). The symbol is a trademark that all pharmacies must use in accordance with the compulsory license agreement with the Medical Product Agency. In cases of non-compliance, the agency can rely on the license agreement and on the enforcement measures regulated in the *Trademarks Act*.¹⁸⁴

These are not the only instances in which a State has guided the use of a pharmacy symbol. In DRC, a Ministerial Order provides that: “Each pharmacy must be identified by a clearly visible sign in order to be easily located by the population. It must bear on the exterior facade, the caduceus of the pharmacist with the name and the number of the Order of the pharmacist-holder.”¹⁸⁵ In the UK, it is the NHS logo that often appears (as it does with ambulances) on pharmacies operated by the NHS.

One observed standard was set by a Canadian province. Specifically, an Ontario (Canada) Regulation made in connection with the *Drug and Pharmacies Regulation Act* states that “Each pharmacy must have the College’s Point of Care symbol in its unaltered trademarked form prominently and appropriately displayed so as to be easily visible to the public either before entering the pharmacy or immediately after entering.”



Point of Care symbol

It was not always a governmental body that controlled a mark. For example, in Germany, the aforementioned “Apotheken-A” is the official symbol of the German Pharmacy Association (*Deutscher Apothekerverband, DAV*), registered as such at the German Patent Office. The DAV makes a document available on its website explaining who is allowed to use this symbol and in what way. These rules have their basis in the protection of the symbol under intellectual property law.¹⁸⁶

2.8. Mision Medica - Colombia

While the above attempts to summarize the findings relating to the trends of use of particularly interesting OSS adorning hospitals, ambulances and pharmacies, there are certainly others of note. For example, from 1961 until 1991, Brazil used an Asclepius-like symbol on all medical personnel and transports.¹⁸⁷ As mentioned above, public hospitals in Brazil still show a degree of uniformity in their symbol usage.¹⁸⁸

¹⁸³ The legislation authorizes a second symbol, the pharmaceutical caduceus: “consisting of a cup of Hygeia and a serpent of Epidaurus”, which the Ministry of Health recognizes as the official emblem of French pharmacists.

¹⁸⁴ It should also be noted that the different pharmacy chains have their own trademark/symbols, which are usually more visible than the mandatory trademark.

¹⁸⁵ Ministerial Order No. 1250/CAB/MIN/SP/010/CPH/OMP/2015 amending and supplementing Ministerial Order 1250/CAB/MIN/S/AJ/01 of March 14, 2000, on the conditions for granting authorizations for opening and operation of pharmaceutical establishments. Interestingly, despite the description provided in the ordinance, the visual image that recurred for pharmacies most frequently in DRC was the cup of Hygeia.

¹⁸⁶ *Deutscher Apothekerverband DAV, Apotheken-A-Fibel*. Available at https://www.abda.de/fileadmin/user_upload/assets/Apotheken_A/Apotheken-A-Fibel.pdf (02.05.2023).

¹⁸⁷ *Decreto do Conselho de Ministros nº 966, de 7 de Maio de 1962; Regulamenta a Lei nº 3.960, de 20 de setembro de 1961, que institui obrigatoriamente o uso de distintivo das profissões médicas e paramédicas*. Available at: <https://www2.camara.leg.br/legin/fed/decmin/1960-1969/decretodoconselhodeministros-966-7-maio-1962-352356-publicacaooriginal-1-pe.html> (30.03.2023).

¹⁸⁸ Please note, this is not an exhaustive list of interesting symbols. For example, in DRC, there was a required symbol for doctors that includes a red cross with a black caduceus and the name “doctor” in it (See, Art. 2 Departmental decree of the 30.07.1973 No 003 on the use of doctors in DRC). The Indian

Perhaps the most interesting symbol that the SICL encountered, however, was the *Mision Medica* in Colombia. Article 81 of *Law 418 of December 26, 1997*, which establishes instruments for the pursuit of coexistence, the effectiveness of justice and other provisions, commits the government to implementing a protection program for persons who are at imminent risk to their lives, integrity, safety or freedom, for reasons related to political or ideological violence, or to the internal armed conflict, and who belong to various categories, including members of a “Medical Mission”.

Resolution N° 4481 of 2012 from the Colombian Ministry of Health, defines Medical Mission as “the set of goods, facilities, institutions, land, air, river and maritime transportation, equipment and materials necessary to carry out the activities involved in the provision of health services, such as health care, preventive health, health education, administration and support in the provision of health services, pre-hospital, hospital and extramural care, made up in turn, by professional health personnel and other disciplines, with labor or civilian ties, who perform health functions, within the framework of the humanitarian mission in situations or **areas of armed conflict** or other situations of violence affecting public safety, natural disasters and other calamities” (emphasis added).¹⁸⁹

Resolution N° 4481 also establishes a special emblem to identify the Medical Mission. The authorization for the use of the emblem is made through an administrative act issued by the Departmental, District or Sectional Health Secretariats, as appropriate.



The symbol is meant to perform a protective function in “areas of armed conflict”. As Colombia has ratified the GCs and AP I and II, there would seem to be a tension with the commitment in those treaties to use one of the distinctive emblems to indicate medical services professionals during armed conflict. SICL has not conducted an in-depth analysis of the actual use of the symbol, which may allay concerns about such tensions.

Medical Association had a very similar symbol for doctors, a red “plus sign” with a white “Dr.” in the middle. In the realm of the military, the US Commander’s Handbook on the Law of Naval Operations (2022 edition) notes that “an oblique red band on a white background” designates hospital zones and safe havens for civilians and the wounded and sick. Perusal of Military websites also reveals the use of certain medical patches and insignia used by certain medical regiments.

¹⁸⁹ Resolución Nro. 4481 de 2012, “Por la cual se adopta el Manual de Misión Médica y se establecen normas relacionadas con la señalización y divulgación de su Emblema”, available at: <https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/DE/GT/RES-4481-12%20Manual%20de%20Mision%20Medica.pdf> (13.04.2023).

IV. CONCLUSIONS

This report has presented information relating to: (i) the extent of domestic incorporation (in the form of statutes, rules and procedures, as well as the interpretation of these sources) of the requirements of IHL, where the distinctive emblems are concerned; and (ii) the legal frameworks that provide the parameters for the proper use of OSS (and the extent of OSS use).

The **pertinent findings** of the report relating to these two areas are as follows:

Governance of the Distinctive Emblems

- Countries do not seem to make reservations or declarations that are relevant to the use of the distinctive emblems when ratifying the GCs or APs. The most common gap in terms of ratification of (or participation in) relevant IHL treaties is the failure to ratify AP III.
- The domestic legal frameworks governing the distinctive emblems take a wide range of approaches. Many countries codify the majority of existent rules in a single Emblem Law or in a Multi-purpose Law. While these laws range from relatively short and concise (mostly the older iterations) to very detailed (mostly the newer versions), they have the benefit of providing a clear reference point for locating the relevant law. They also can set forth the overall structure of the domestic rules and regulations on the distinctive emblems, including by vesting powers in the executive, an administrative agency, or NS, which can then be developed further by these agents.
- Nevertheless, many countries have not adopted an Emblem Law or Multi-purpose Law. In some of these countries, laws implementing the GCs contain a chapter or sections on the distinctive emblems. Other countries incorporate some of the details on the distinctive emblems into the laws or decrees establishing the NS without, however, the protection of the emblems becoming a primary goal of the law or decree. While these approaches may, in part, fulfil the same purpose as an Emblem or Multi-purpose Law, they risk making it more difficult to gain a comprehensive understanding of the rules relating to the distinctive emblems because the provisions tend to be more dispersed.
- Provisions on the misuse of the distinctive emblems are often also contained in criminal, military and intellectual property laws. With emblem misuse coming in many forms (ranging from minor offences to expensive commercial disputes in peacetime or war crimes in times of conflict), it is normal for specific provisions to feature in a combination of legal areas to allow the authorities to address (preventatively or punitively) the various types of violations.
- Despite the variety of legal instruments available, SICL's survey of case law found that Emblem, Multi-purpose or GC Laws (unless the NS invokes its sanctions in court) are very rarely at the centre of litigation relating to the emblems. Rather, most of the emblem-centric case law relates to intellectual property law. In these instances, a trademark applicant is often appealing an intellectual property office's decision not to register the trademark because of resemblance with the distinctive emblems, or the relevant NS is attempting to overturn the office's decision to register a mark. Additionally, there are instances in which the informal contact between the NS and an alleged violator does not resolve the issue and the NS lodges a case in court to defend its exclusive right to use the emblems as an indicative device. Ultimately, while intellectual property cases make up the bulk of the litigation found, it is important to bear in mind that even in this milieu, the intellectual property offices' policies on registering distinctive emblems and informal enforcement efforts from NS are likely more impactful in practice than the courts' jurisprudence.
- One of the study's objectives was also to identify more concrete procedures regarding the conferral of the distinctive emblems to civilian entities. Our country reports found very few examples of administrative rules on the subject. Many countries make it possible under the law for distinctive emblems to be conferred to civilian medical entities under certain

circumstances. However, countries' executive agencies seem to rarely issue concrete administrative rules to operationalize this process. And even when they do, those rules are not necessarily transparent and easily accessible. Therefore, in many instances, it may be difficult for civilian entities to know precisely how they ought to initiate requests for authorization to display the emblems either in times of peace or in times of conflict.

Use and Governance of Other Signs and Symbols (OSS)

- A wide variety of signs and symbols of healthcare can be found on road signs, ambulances, hospitals and pharmacies.
- While certain symbols (or stylized versions thereof) had cross-border appeal (e.g., the caduceus, the cup of Hygeia, the rod of Asclepius, the 'H' symbol, a symbol of a heart and all manner of crosses (or 'plus signs'), very few symbols were *prominent* in multiple countries. Exceptions to this general rule were the star of life (for ambulances), the green cross (on pharmacies) and, to a lesser extent, the white 'H' on road signs to represent hospitals (which is one of the options proposed by the CRS). If one considers the other CRS option for indicating the presence of a hospital (i.e., the bed with a distinctive emblem) to be an OSS, then this also fits within the category of symbols with cross-border usage/appeal.
- Significant examples of distinctive emblem use were found on ambulances, hospitals and road signs as well. These ranged from prolific to scattered use among those countries where the distinctive emblems were observed. Some countries, however, evidenced no such use.
- The legal instruments establishing the (im)proper use of OSS were generally found in **intellectual property** (and, in particular, trademark) law.
- Sometimes impactful on the relative ubiquity of a given symbol was the extent to which the government or a prominent professional society had ownership of the mark. In such instances, there were often practical incentives that simultaneously enhanced the desirability of displaying the mark while having a chilling effect on competitive symbols. For example, several countries had ambulance standards that encouraged use of the star of life. Similarly, schemes were established to incentivize use of certain symbols on/in pharmacies (primarily the green cross, but also to other symbols, like the cup of Hygeia). In rarer cases, use of one of these symbols was actually required among certain groups of practitioners.
- Aside from intellectual property, the **CRS** is a source of law that bears on the use of healthcare signs and symbols, including the distinctive emblems. CRS offers its signatories the option of displaying the white 'H' on road signs to indicate the presence of hospitals. Many of the countries examined herein have done so. However, the CRS also allows for use of a hospital symbol incorporating one of the distinctive emblems. The CRS also provides only one symbol for first-aid centers, and this, too, incorporates a distinctive emblem. Such inclusion is problematic legally, as the CRS prescribes peacetime use of the emblems, which is seemingly not in concert with IHL. At the same time, the CRS is an international instrument and due to a certain degree of deference on that account.
- Many **additional symbols** were encountered in the course of the study, some of which pertained to marks displayed by medical professionals (sometimes, in addition to, transports). For example, patches emblazoned with the star of life are often used by EMS professionals, particularly in the US. Similarly, doctors in India and DRC had patches that show similarities to the red cross. One particularly interesting symbol was **Colombia's Mision Medica Symbol**, which aims at protecting medical providers (including in times of conflict). This was the clearest case of a mark that explicitly overlapped with the functions of the distinctive emblems.

These observations, relating to both the laws governing the distinctive emblems and the scope of OSS, pose a host of additional questions relating to the actual use of these signs and symbols in times of conflict. The second phase of the project should begin to shed light on these issues. It is the hope that the collective efforts gained both in this Report and the next will allow for the creation of recommendations that will optimize the use and governance of the distinctive emblems and OSS in peacetime and times of conflict.

SWISS INSTITUTE OF COMPARATIVE LAW

Sean Stacy
Legal Adviser, US Law and Common Law

PD Dr. Krista Nadakavukaren Schefer
Co-Head of the Legal Division

Dr. Mathias Wouters
Legal Adviser, Benelux Jurisdictions

Australia	Dr. Mathias Wouters <i>Legal Adviser, Benelux Jurisdictions</i>
Brazil	Dr. Rodrigo Polanco Lazo <i>Legal Adviser, Spanish and Portuguese speaking jurisdictions</i>
Canada	Sean Stacy <i>Legal Adviser, US Law and Common Law</i>
Colombia	Dr. Rodrigo Polanco Lazo <i>Legal Adviser, Spanish and Portuguese speaking jurisdictions</i>
Egypt	Dr. Karim El Chazli <i>Legal Adviser, Arab Jurisdictions and Islamic Law</i>
El Salvador	Dr. Rodrigo Polanco Lazo <i>Legal Adviser, Spanish and Portuguese speaking jurisdictions</i>

France	Dr. Carole Viennet <i>Legal Adviser, French-speaking Jurisdictions</i>
Germany	Dr. Johanna Fournier LL.M. <i>Legal Adviser, German-speaking Jurisdictions</i>
India	Sean Stacy <i>Legal Adviser, US Law and Common Law</i>
Iraq	Dr. Karim El Chazli <i>Legal Adviser, Arab Jurisdictions and Islamic Law</i>
Lebanon	Nour Assaf <i>External Adviser for Lebanese Law</i>
Lithuania	Dr. Inesa Fausch <i>Legal Adviser, Eastern Jurisdictions</i>
Mexico	Dr. Rodrigo Polanco Lazo <i>Legal Adviser, Spanish and Portuguese speaking jurisdictions</i>
Nigeria	Henrik Westermark LL.M. <i>Legal Adviser, Scandinavian Jurisdictions</i>
Philippines	Dr. Mathias Wouters <i>Legal Adviser, Benelux Jurisdictions</i>
Poland	Ewa Bujak <i>External Adviser for Polish Law</i>
Democratic Republic of the Congo	Dr. Carole Vienne <i>Legal Adviser, French-speaking Jurisdictions</i>
South Africa	Henrik Westermark LL.M. <i>Legal Adviser, Scandinavian Jurisdictions</i>
Spain	Dr. Rodrigo Polanco Lazo <i>Legal Adviser, Spanish and Portuguese speaking jurisdictions</i>
Sweden	Henrik Westermark LL.M. <i>Legal Adviser, Scandinavian Jurisdictions</i>
United Kingdom	John Curran LL.M. <i>Legal Adviser, Common Law</i>

United States

Sean Stacy
Legal Adviser, US Law and Common Law

Yemen

Nour Assaf
External Adviser for Yemeni Law

ANNEX A - DIAGNOSTIC QUESTIONNAIRE

1. Has the studied country signed (and ratified) the Geneva Conventions and each of the Additional Protocols thereto?
2. Is there a law, regulation or legal framework which explicitly mentions the distinctive emblems (i.e., the red cross, the red crescent or the red crystal) and regulates and or protects the emblems?
 - a. Yes: Where is the reference found? For example, is there any specific reference to the distinctive emblems in a more general legislation, code or regulation, such as a Geneva Conventions' Act, a criminal code, an IP Law, a Law or Regulation on the on the recognition or status of the National Red Cross or Red Crescent Society, military regulations¹⁹⁰ or any other regulatory text? What specifically do(es) the law(s) do? What mechanisms exist to enforce compliance with the rule(s)?
 - b. No: If there is no explicit mention of the distinctive emblems, is there a more general provision or legal framework (such as IP law) that has been used, or is apt to govern, the proper use of the distinctive emblems within the studied country? Is there evidence to suggest that this general legal framework is being applied in the context of the distinctive marks?
3. Please summarize any case law related to the (mis)use of the distinctive emblems in the studied country?
4. Article 18 of the Protocol Additional to the Geneva Conventions of 12 August 1949 calls for the creation of 'methods' and 'procedures' to make it possible to recognize civilian medical units and transports during times of conflict. Do the sources of law described under 2. or 3. refer in any way to the subject matter of Article 18 of the Additional Protocol I and to the procedures of authorization to civilian health services to display the emblem for protective purposes in times of armed conflict? Are there any other military rules or national rules/regulations that establish such methods and/or procedures in times of conflict? If so, what is the competent authority, and is there any information on how this happens in practice?
5. Related to the prior question, a Party to a conflict may, as provided in Chapter III of Annex 1 to AP I, authorize the use of distinctive signals to identify medical units and transports. Is there any indication that the country has opted to identify civilian medical personnel/equipment through a «distinctive signal» in addition to a distinctive emblem?
6. Do the national laws or regulations foresee the possibility, in accordance with Article 44 paragraph 4 of the Geneva Convention,¹⁹¹ for vehicles used as ambulances or first aid stations exclusively assigned to providing free treatment to the wounded and sick to display the distinctive emblem as an exceptional measure in peacetime? If yes, which are the conditions set out for such a display? In accordance with the requirements of the first Geneva Convention, is such use or display for easier identification: 1. defined as an "exceptional measure"; 2. constrained to peacetime situations; and 3. subject to the express permission/authorization of the National Red Cross or Red Crescent Society in the country?

¹⁹⁰ Please pay adequate attention to the interaction between the distinctive emblems and military medical personnel. It may be necessary to conduct more focused searches to find this information.

¹⁹¹ Art. 44, para. 4: "As an exceptional measure, in conformity with national legislation and with the express permission of one of the National Red Cross (Red Crescent, Red Lion and Sun) Societies, the emblem of the Convention may be employed in time of peace to identify vehicles used as ambulances and to mark the position of aid stations exclusively assigned to the purpose of giving free treatment to the wounded or sick."

7. Moving beyond the distinctive emblems and the distinctive signals provided for under the first AP to the Geneva Conventions, has the studied country signed (and ratified) the Convention on Road Signs and Signals of 1968¹⁹²?
- Yes: is there national legislation incorporating said Convention?
 - Yes/No: Is there a national legal framework regarding the makeup of road signs and signals? More specifically, does national (state or municipal) law set forth the sign to indicate the location of hospitals and/or first aid centers (where the latter include pharmacies) other than the distinctive emblems and signals on roadways? If so, please provide a summary of the legislation and a graphic of the approved sign(s).
8. Please take note of the healthcare symbols and/or emblems that are found to be used in connection with the provision of civilian medical services in the studied country. To this end, a good point of departure is to consult the document *“Preliminary scan of the use of signs for healthcare”*, provided by the ICRC. Please verify whether, on the basis of this document, any symbol could be considered a “commonly used healthcare symbol” for the studied country. A commonly used healthcare symbol refers to a more or less identical symbol that repeatedly features on medical buildings/vehicles. Secondly, please consult the annex to this questionnaire which displays some of the commonly used healthcare symbols worldwide. Finally, please visit <https://images.google.com/> and enter “pharmacy”, “hospital” and “ambulance” in the (main) language(s) of the studied country. Make sure to click on “quick settings” and subsequently “advanced search” to limit the region in which the search is conducted to the studied country. Take a brief moment to verify whether there are any commonly used healthcare symbols that feature on a pharmacy, hospital or ambulance. To the extent this is the case, and the symbol is not mentioned in the annex to this questionnaire, please provide a graphic of the sign. Consider this sign as one of the commonly used healthcare symbols for the studied country.

With respect to *each* of the commonly used healthcare symbols, as identified through these three methods, do the studied country’s laws set forth the parameters for its proper use? Does the country set forth punishments (civil and/or criminal) for its misuse?

- Yes: Is there relevant case law interpreting these provisions? If so, please summarize said case law. To the extent that the studied country has established the types of ‘procedures’ and ‘methods’ referred to in question 6 above, do said methods and procedures specifically contemplate the use of the healthcare emblem(s)/symbol(s) discussed in this question? If not explicitly mentioned, would the ‘methods’ and/or ‘procedures’ likely extend to the healthcare emblem(s)/symbol(s) identified by the ICRC for the studied country? Why or why not?
- No: If there is no explicit mention of the symbol/emblem in domestic law, is there a more general provision or legal framework (e.g., such as IP law) that has been used, or is apt to govern, the proper use of said healthcare symbol/emblem within the studied country?
- If no legal reference to this healthcare symbol can be found, please provide some insight into your findings. Is there any relevant discussion on the (mis)use of this symbol in general (for instance in news articles)? Or is there no relevant trace to this symbol at all?

¹⁹² While concerns have been expressed in relation to the compatibility between international humanitarian law and the Convention on Road Signs, at this stage, the inquiry merely aims at factually clarifying the practice. However, this alone should not be taken as promoting any such practice.

ANNEX B - INSTRUCTIONS

Specific Guidance for Each Question in the Questionnaire

Global Note: With respect to each question, please note the database(s) searched and, where relevant, the search terms employed.

Question 1

- You are, in essence, looking to see if the studied country has adopted the Geneva Conventions (I-IV) and the Additional Protocols (I-III). In attempting to answer question 1, one is advised to first search either the Excel document found [here](#), or the ICRC database found [here](#). If you use the latter, please tick the “Victims of Armed conflicts” box under the “Topic” tab and the studied country under the “State” tab. Please note the date of signing/ratification, as appropriate. Please also note if any of the protocols have **not** been adopted and/or if any **reservations** have been noted by the country.

The screenshot shows the ICRC International Humanitarian Law Databases search interface. The 'IHL TREATIES' tab is selected. The search filters are as follows:

Instrument title	Topic	State	Year of adoption
Instrument title	X Victims of Armed ...	X Nigeria	Oldest to newest

Buttons: Validate, Clear all filters

Question 2

- 2(a) In attempting to answer question 2(a), one is advised to first search the ICRC database found [here](#). In particular, one should tick the “national practice” box for the country in question and choose the “legislation” prompt under the first dropdown menu and the “Emblems Protection” and/or “Protection of health care” from the second drop-down menu. It is expected that one confirms the results obtained through the database by **conducting a supplemental search of trusted databases**, be it commercial ones (e.g., Westlaw, Dalloz, LexisNexis etc.) or publicly available ones, in the selected jurisdiction.

ICRC IHL Databases International Humanitarian Law Databases Citation English CONTACT

HOME IHL TREATIES CUSTOMARY IHL NATIONAL PRACTICE SEARCH

Enter your keyword Search type All Search Terms

Select one or more database(s)

Treaties, States Parties and Commentaries Customary IHL National Practice

Select... Rules Practice Legislation Emblems protection Protection of health care

Filters

States Languages Dates

Nigeria English 1899 2023

Search →

- At this stage, it would be advisable to search for **military code** (rules or manuals),¹⁹³ which may also set forth rules relating to the use of the distinctive emblems during combat (and may serve as a source of research relating to questions set forth below).
- If you are having difficulty finding legislation relating to the distinctive emblems (i.e., the red cross, the red crescent and/or the red crystal), you may be able to find the relevant information by looking at the website of the **National Red Cross Society (NS)** in your country of study. A database of those societies can be found [here](#).
- **Substance of finding:** please summarize the legislation that you found. With respect to the emblems, please be sure to highlight any sections that set forth criminal, civil or military punishments for misuse of the distinctive emblems.
 - **Example findings:** Belgian law of July 4, 1956, on the protection of names, signs and emblems of the Red Cross; Luxembourg law of December 18, 1914, concerning the protection of the emblems of the Red Cross. Or in Norway, the instrument on the Recognition of the Norwegian Red Cross' right to use the name and emblem as Norway's national association in accordance with the Geneva Conventions.
- **If applicable, 2(b):** Given the overwhelming number of signatories to the Geneva Convention, it is unlikely that one will need to look exclusively at IP law (in particular, that governing trademarks) in answering this question. However, it may be helpful to the study to briefly note the general **statute which relates to trademarks** in the studied country also because we have noticed that statutes on trademarks, for instance, frequently contain specific provisions mentioning the types of emblems that cannot be trademarked, including the ICRC's distinctive emblems. Here we rely on the expertise of the researcher to use the most expeditious means to locate the relevant primary source.

193

Example sources: Italian Code of the military system; Swedish International Law Regulation of the Total Defense.

- One final (global) note: Whenever possible, we should aim to **glean a sense of practice**. As such, if there are memoranda or white papers analyzing state responsibility in times of conflict, please explore them to determine their probity. For example, the US Department of Defense has published its “Law of War Manual”, which, though not law itself, provides insight into how the US approaches, inter alia, the use of distinctive emblems in times of conflict. This sense of practice is particularly important in relation to questions 4, 5 and 6. For example, a legislative statute might enable the procedures described under these questions, but this doesn’t mean that the procedures are used.

Question 3

- In attempting to answer question 3, one is advised to first search the ICRC database found [here](#). In particular, one should tick the “national practice” box for the country in question and choose the “case law” prompt under the first dropdown menu and the “Emblems Protection” and/or “Protection of health care” from the second drop-down menu.

The screenshot displays the ICRC International Humanitarian Law Databases search interface. The top navigation bar includes 'HOME', 'IHL TREATIES', 'CUSTOMARY IHL', 'NATIONAL PRACTICE', and 'SEARCH'. The search bar contains the text 'Enter your keyword' and a 'Search type' dropdown set to 'All Search Terms'. Below the search bar, the 'Select one or more database(s)' section shows three main categories: 'Treaties, States Parties and Commentaries', 'Customary IHL', and 'National Practice'. Under 'National Practice', there are two dropdown menus. The first dropdown has 'Case-law' selected, and the second dropdown has 'Protection of health care' and 'Emblems protection' selected. The 'Filters' section includes 'States' (with 'Nigeria' selected), 'Languages' (with 'English' selected), and 'Dates' (with a range from 1899 to 2023). A 'Search' button is located at the bottom left of the filter section.

- It is recommended that one confirm the results obtained through the database by conducting a **supplemental search of trusted databases** in the selected jurisdiction. With respect to possible search terms, one could, for example, search domestic statutes/legislation for:
 - The statute(s) found in connection with question 2.
 - “Red Cross” and emblem and use or misuse
 - “Red Cross” and distinctive
 - “Red Cross” and signs

Important Note: Certain countries use the **red crescent** rather than the red cross, in which case searching for the red crescent might deliver more results.

- **Substance:** Please provide a general summary of the legal issue(s), describing how it/they pertain(s) to the distinctive emblems.
- It may be that a number of jurisdictions will have no cases. If this is true for you, do not be discouraged. “Nothing of relevance found” is a potentially interesting and valuable conclusion in and of itself.

Question 4

- The cited text (i.e., Article 18) reads as follows: *Each Party to the conflict shall also endeavor to adopt and to implement methods and procedures which will make it possible to recognize civilian medical units and transports which use the distinctive emblem and distinctive signals. With the consent of the competent authority, civilian medical units and transports shall be marked with the distinctive emblem.*
 - Searches on this question could obviously focus on the direct cite (Additional Protocol I of the Geneva Convention, Article 18, paragraph 2). One might also want to see if the Military has any published rules/procedures relating to the protection of healthcare providers (e.g., hospitals, doctors, nurses, etc.).

Question 5

- The Annex refers, among other things, to light and radio signals.
- Please search the legislative databases and military manuals/codes for “distinctive signal”. If it appears that a country has used (or has a procedure in place for using) distinctive signals, please provide the source material and note the specific “signal” that has been (or will be used).

Question 6

- As mentioned in the instructions relating to Question 2, most countries have an NS. Given that this question relies (in part) on the existence of an NS, you may be best served to start by looking at: **(1) the legislation establishing the NS** (which may lay out the powers it has) and **(2) the NS website (which often contains legislation relating to the use of the distinctive emblem)**. If any exists, the country’s general law on the distinctive emblems might also hint at this particular procedure.
- If the above search does not prove fruitful, please check legislative databases and search for citations to the specific paragraph of the Geneva Convention referenced in the question.

Question 7

- The **Convention on Road Signs** (For a list of signatories, please consult [this link](#)) calls for certain signs to be used to indicate healthcare providers. For example, signs indicating the presence of a hospital may have one of the two following symbols.



Similarly, the Convention calls for the use of one of the **distinctive emblems** (i.e., the red cross or red crescent) to indicate the presence of a **first-aid center**.

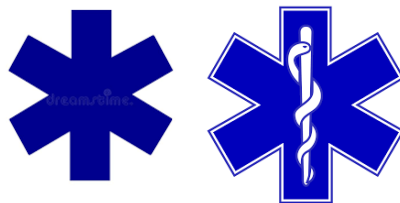
- If the studied country is a Member of the Convention, please identify which of the Hospital and first-aid signs it is using.
- If the studied country is not a member of the Road Signs Convention, please detail if there are any particular road signs that must be used to indicate the presence of a **hospital**, a **first aid center** and/ or a **pharmacy**. If there are no federal requirements, please note if there are

frequently used road signs to indicate the aforementioned places (please provide a graphic, if possible). Possible signs include:



Question 8

- Question 8 is essentially composed of two steps: an identification piece and a legal piece. The identification piece consists of compiling a group of medical/healthcare symbols (other than the distinctive emblem and other than those used on road signs) for which there is a consistently observed use. Once those symbols are identified, we look to the rules that govern the (mis)use of said signs/symbols.
 - **Step 1: Identification (3 elements)**
 - 1) A good point of departure is to consult the document "[Preliminary scan of the use of signs for healthcare](#)", provided by the ICRC. Please verify whether, on the basis of this document, any symbol could be considered a "commonly used healthcare symbol" for the studied country. A commonly used healthcare symbol refers to a more or less identical symbol that repeatedly features on medical buildings/vehicles. [Note: In the ICRC document, one sometimes sees countries where only one of the distinctive emblems (e.g., the red crescent) is used. No further legal analysis of the distinctive emblems is required for this question.]
 - 2) Secondly, please consult the **Annex of the Questionnaire**, which sets forth examples which display some of the commonly used healthcare symbols worldwide (i.e., the star of life, the rod/staff of Asclepius, the green cross (for pharmacies) and the white cross on a green background (for first aid)). These signs have been identified as the most used ones in medical practice from a transnational perspective, besides the distinctive emblems. Therefore, it is assumed they might also be relevant to your country. If these symbols do not appear in connection with the directions provided in the "preliminary scan" document or in connection with the Google images search mentioned in part (3) below), we would request that you note that fact. However, we would also ask that you quickly perform a legal search for references to these widely used signs/symbols (as described in Step 2).
 - **Specific Note on the star of life:** Based on a preliminary scan, it appears that many countries seem to use the star of life on their ambulances. The star of life was originally trademarked by the US Department of Transportation. The US now only allows use of the star of life if ambulances adhere to a large number of requirements. For those countries that allow/mandate the use of the star of life on ambulances (or elsewhere), it would be interesting to know not only if (and how) the country regulates the (mis)use of this symbol but whether the laws/rules/regulations pertaining to the star of life make mention of the US trademark.



- 3) Finally, please visit <https://images.google.com/> and enter “pharmacy”, “hospital”, and “ambulance” in the (main) language(s) of the studied country. Make sure to click on “quick settings” and subsequently “advanced search” to limit the region in which the search is conducted to the studied country. Take a brief moment to verify whether there are any commonly used healthcare symbols that feature on a pharmacy, hospital or ambulance. To the extent this is the case, and the symbol is not mentioned in the annex to this questionnaire, please provide a graphic of the sign. Consider this sign as one of the commonly used healthcare symbols for the studied country. A typical example could be the emblem of the Department of Health.
 - **Step 2: Legal Research** – For **each** of the **commonly used healthcare symbols** other than the ICRC’s distinctive emblems, do the studied country’s laws set forth the parameters for its proper use? Does the country set forth punishments (civil and/or criminal) for its misuse?
 - The laws can be situated in various areas of the legal system. The use of an emblem on ambulances might be regulated in laws on road safety and transport law. The emblems on a pharmacy may be regulated through medical law or that profession’s own sectoral regulations or deontological rules. The use of certain other emblems may be based on IP law and so forth.

ICRC distinctive emblems:



ICRC distinctive signals: e.g., blue flashing light on a plane, distinctive radio signal, electronic identification. Essentially situations in which the emblems are of little use.



Healthcare symbols, some examples:



Examples of emblems of military medical personnel:

