

**Comments by AUSTRIA**

on

**Referral to the Committee Within the Framework of the Implementation of  
Article 27(1)(c) of the Second Protocol**

(Document CLT-13/9.COM/CONF.203/XX of 17 April 2014)

The current draft operational and procedural arrangements seem to provide for a rather inactive role by the Committee being dependent exclusively upon a request by a Party to the conflict and on a negotiated agreement between the parties to an armed conflict or involved in military occupation on the dispatch, as well as on the terms of reference of any specific course of action by the Committee.

Such cautious approach is not required by the Second Protocol, which attributes to the Committee the task to “monitor and supervise” the implementation of the Second Protocol, without further restricting its courses of action. And such approach does not seem to be advisable to follow. As is shown in one of the preliminary background documents produced during the consultation process facilitated by the Government of Switzerland and the International Committee of the Red Cross on Strengthening Compliance with International Humanitarian Law (IHL), most of the existing compliance mechanisms in IHL building upon the consent of the Parties to an armed conflict have never been triggered or, if triggered, have never been launched due to the failure of the parties involved to reach consensus or their unwillingness to negotiate an agreement.

In view of this experience it is suggested to consider a more active role for the Committee, in particular in cases where an agreement between the parties to an armed conflict or involved in military occupation cannot be reached.

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