

# **ANNEX 1**

Public

## Non-exhaustive list of relevant international sources relating to the right of victims to reparation

- **Customary Law:**

- Customary International Humanitarian Law, Rule 150: “A State responsible for violations of international humanitarian law is required to make full reparation for the loss or injury caused.” This rule applies both in situations of international and non-international armed conflicts.<sup>1</sup>

- **Universal Treaties:**

- Hague Convention (IV) Respecting the Laws and Customs of War on Land, 18 October 1907, art. 3: “A belligerent party which violates the provisions of the said Regulations shall, if the case demands, be liable to pay compensation.[...]”;
- Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, art. 51/ Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, art. 52 / Convention (III) relative to the treatment of prisoners of war, art. 131 / Convention (IV) relative to the Protection of Civilian Persons in Time of War, 12 August 1949, art. 148: “No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.”;

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<sup>1</sup>[http://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule150](http://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule150); Henckaerts (J.M.), Doswald-Beck (L.), *Customary International humanitarian Law*, vol. I – *Rules*, ICRC-Cambridge University Press, Cambridge, 2005, pp. 537-550 and examples of reparations sought directly by individuals mentioned at pp. 541-545; vol. II – *Practice*, pp. 3530-3610.

- Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, art. 91: “A Party to the conflict which violates the provisions of the Conventions or of this Protocol shall, if the case demands, be liable to pay compensation. [...]”;
- United Nations Convention on Transnational Organized Crime (“UNTOC”), 2000, article 14(2): “[...] States Parties shall, to the extent permitted by domestic law and if so requested, give priority consideration to returning the confiscated proceeds of crime or property to the requesting State Party so that it can give compensation to the victims of the crime or return such proceeds of crime or property to their legitimate owners”;
- United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UNTOC, article 6(6): “Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.”;
- **UN Resolutions and Declarations:**
  - UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Res. 40/34, 29 November 1985, Sect. 8-13;
  - UN Declaration on the Protection of all Persons from Enforced Disappearance, Res. 47/133, 18 December 1992, art. 19;
  - UN Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters, UN ECOSOC Res. 2002/12;
  - UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime, UN ECOSOC Res. 2005/20, 2005, Sect. 35-37;

- UN Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Res. 60/147, 16 December 2005, sect. 19-25;<sup>2</sup>

- **Regional Instruments:**

- **Africa:**

- Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, 9 June 1998, art. 27(1);

- **America:**

- American Convention on Human Rights ("Pact of San Jose, Costa Rica"), 22 November 1969, art. 63(1);
    - Comprehensive Agreement on Human Rights in Guatemala, 29 March 1994, art. VIII;

- **Europe:**

- European Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 4 November 1950, art. 41;
    - Council of Europe Convention on the Compensation of Victims of Violent Crimes, Strasbourg, 24 November 1983, CETS 116;
    - Council of Europe Recommendation R(85)11 on the Position of Victim in the Framework of Criminal Law and Procedure, 28 June 1985, sect. 10-12;

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<sup>2</sup>Already referred to by this Chamber in Decision ICC-01/04-01/06-1119, para. 35 and Dissenting Opinion by Hon. Judge Blattman, paras. 4-5.

- Council of Europe Recommendation Rec(2006)8 on Assistance to Crime Victims, 14 June 2006, sect. 7.1-7.2, 8.1-8.9;
- European Union Framework Decision on the Standing of Victims in Criminal Proceedings (2001/220/JHA), 15 March 2001, Sect. 9;
- European Union Council Directive 2004/80/EC on Compensation to Crime Victims, 29 April 2004;
- **Former Yugoslavia:**
  - Annex 7 of Dayton Peace Accords: Agreement on Refugees and Displaced Persons, 1995, art. 1(1) (right to restoration of property), VII and XI (creation of a Commission for real property claims of displaced persons and refugees in Bosnia and Herzegovina).