

**Draft International Convention on the Condition and Protection of Civilians of
enemy nationality who are on territory belonging to or occupied by a belligerent.
Tokyo, 1934.**

Chapter I

Qualification of enemy civilian (enemy alien)

Article 1.- Enemy civilians in the sense of the present Convention are persons fulfilling the two following conditions:

- a) that of not belonging to the land, maritime or air armed forces of the belligerents, as defined by international law, and in particular by Articles 1, 2 and 3 of the Regulations attached to the Fourth Hague Convention, of October 18, 1907, concerning the Laws and Customs of War on Land;
- b) that of being the national of an enemy country in the territory of a belligerent, or in a territory occupied by the latter.

Chapter II

Enemy civilians in the territory of a belligerent

Section I: General Provisions

Permission to leave.

Article 2.- Subject to the provisions of Article 4, enemy civilians who may desire to leave the territory at the outset of military operations shall be granted, as rapidly as possible, the necessary authorizations, as well as all facilities compatible with such operations.

They will have the right to provide themselves with the necessary funds for their journey and to take with them at least their personal effects.

Administrative evacuation.

Article 3.- In the event of the departure of civilians being administratively organised, they shall be conducted to the frontier of their country or of the nearest neutral country.

These repatriations shall be effected with due regard to all humanitarian considerations.

The manner of such repatriations may form the subject of special agreements between belligerents.

Detention of Civilians.

Article 4.- Only civilians falling within the following categories may be held:

- a) Those who are eligible for immediate mobilisation or mobilisation within a year, under the laws of their country of origin or of the country of residence;
- b) those whose departure may reasonably be opposed on grounds involving the security of the Detaining Power.

In either case, appeal to the Protecting Power shall always be admitted. This Power shall have the right to demand that an inquiry be opened and the result communicated to it within three

months of its request.

Detainees.

Article 5.- Those who are in preventive imprisonment or condemned to a sentence depriving them of liberty shall, on their liberation, benefit by the provisions of the present Convention.

The fact that they belong to an enemy State shall not increase the severity of the regime to which they are subjected.

Treatment of Civilians.

Article 6.- Enemy aliens who have remained in the territory, as those who have been held in application of Article 4, shall receive the treatment to which aliens are ordinarily entitled, except for measures of control or security which may be ordered, and subject to the provisions of Section III.

With these reservations, and in so far as military operations permit, they will have the possibility of carrying on their occupations.

Article 7.- Subject to the measures applied to the population in general, enemy civilians shall have the possibility of giving news of a strictly private character to next of kin, and of receiving such news.

With the same reservation they shall also have the possibility of receiving relief.

Recognized Relief Societies.

Article 8.- Enemy civilians shall have every facility for application to duly recognised Relief Societies, whose object is to act as intermediaries in welfare activities.

These Societies shall receive, for this purpose, all facilities from the authorities, within the limits compatible with military necessities.

Protection.

Article 9.- Enemy civilians shall be protected against measures of violence, insults and public curiosity.

Prohibitions.

Article 10.- Measures of reprisal directed against them are prohibited.

Article 11.- The taking of hostages is forbidden.

Section II. Enemy civilians brought into the territory of a belligerent

Newcomers.

Article 12.- Enemy civilians who for any reason may be brought into the territory of a belligerent during hostilities shall benefit by the same guarantees as those who were in the territory at the outset of military operations.

Section III. Compulsory residence and internment

General Principles.

Article 13.- Should a belligerent country judge the measures of control or security mentioned in Article 6 as inadequate, it may have recourse to compulsory residence or internment, in conformity with the provisions of the present Section.

Confinement.

Article 14.- As a general rule, the compulsory residence of enemy civilians in a specified district shall be preferred to their internment. In particular, those who are established in the territory of the belligerent shall, subject to the security of the State, be thus restricted.

Internment.

Article 15.- The internment of enemy civilians in fenced-in camps may only be ordered in one of the following cases:

- a) where civilians eligible for mobilisation under the conditions set forth in Article 4 (a) of the present Convention are concerned;
- b) where the security of the Detaining Power is involved;
- c) where the situation of the enemy civilians renders it necessary.

Separate Camps and Health Conditions.

Article 16.- Internment camps for enemy civilians shall be separate from internment camps for prisoners of war.

These camps cannot be set up in unhealthy districts, nor where the climate would be harmful to the internees' health.

Application of PoW Convention.

Article 17.- Furthermore, the Convention of July 27, 1929, concerning the treatment of Prisoners of War is by analogy applicable to Civilian Internees.

The treatment of civilian internees shall in no case be inferior to that laid down in the said Convention.

Chapter III

Enemy civilians in territory occupied by a belligerent

Observation of the Hague Regulations.

Article 18.- The High Contracting Parties undertake to observe, as regards the condition and protection of enemy civilians in territory occupied by a belligerent, the provisions of Section III of the Regulations annexed to the Fourth Hague Convention, of 1907.

Additional Provisions.

Article 19.- The High Contracting Parties further undertake to observe the following provisions:

- a) In the event of it appearing, in an exceptional case, indispensable for an occupying Power to take hostages, the latter shall always be treated humanely. Under no pretext shall they be put to death or submitted to corporal punishments;
- b) Deportations outside the territory of the occupied State are forbidden, unless they are evacuations intended, on account of the extension of military operations, to ensure the security of the inhabitants;
- c) Enemy civilians shall have the possibility of giving news of a strictly private character to next of kin in the interior of occupied territory and of receiving such news. The same possibility shall be granted for correspondence with the exterior, subject to the measures applied to the population of the occupying Power, in general. With the same reservation enemy civilians shall have the possibility of receiving relief.
- d) Enemy civilians shall also benefit by the provisions of Article 8 of the present Convention.

Chapter IV

Section I. Execution of the Convention

Application and Execution.

Article 20.- The provisions of the present Convention shall be respected by the High Contracting Parties in all circumstances.

In the event that, in time of war, one of the belligerents should not be a party to the Convention, its provisions shall nevertheless remain obligatory between the belligerents parties thereto.

Article 21.- The text of the present Convention and of the special Conventions foreseen in Article 3 shall be posted up in all civilian internment centres and shall be communicated, at their request to those who are unable to consult it.

Article 22.- The High Contracting Powers shall exchange, through the intermediary of the Swiss Federal Council, the official translations of the present Convention, as well as the laws and regulations which they may be called upon to adopt to ensure its application.

Section II. Organisation of Control

Protecting Power, Delegates.

Article 23.- The High Contracting Parties recognise that the full execution of the present Convention implies the cooperation of Protecting Powers; they declare themselves ready to accept the good offices of these Powers.

To this end, the Protecting Powers may nominate delegates, apart from their diplomatic staff, among their own nationals or among the nationals of other neutral Powers. These delegates shall be subject to the agreement of the belligerent to which their mission accredits them.

The representatives of the Protecting Power or its accepted delegates shall be authorised to visit all places of civilian internment, without exception. They shall have access to all buildings occupied by civilian internees and be allowed to converse with them, as a general rule without witnesses, personally or by the intermediary of interpreters.

The belligerents shall facilitate to the greatest possible extent the task of the representatives or

of the recognized delegates of the Protecting Power. The military authorities shall be informed of their visits.

The belligerents may agree between themselves to allow persons of the same nationality as that of the civilian internees to participate in the journeys of inspection.

Interpretation of the Convention; Conferences.

Article 24.- In case of disagreement between belligerents concerning the application of the provisions of the present Convention, the Protecting Powers shall, as far as possible, exercise their good offices with a view to settling the difference.

To this end, each of the Protecting Powers may, in particular, propose to the belligerents concerned a meeting of their representatives, possibly on properly selected neutral territory. The belligerents shall be under the obligation to take action on the proposals made to them to this effect. The Protecting Power may, if judged desirable, submit to the approval of the Powers concerned the name of a person belonging to a neutral Power, or of a personality delegated by the International Committee of the Red Cross, who shall be called upon to participate in this meeting.

International Committee of the Red Cross.

Article 25.- The above provisions do not constitute an obstacle to the humanitarian activity which the International Committee of the Red Cross may exercise for the protection of enemy civilians, with the approval of the belligerents concerned.

Section III: Final provisions

Article 26.- The present Convention, which bears the date of this day, is open for signature until, in the name of all the countries represented at the Conference.

Article 27.- The present Convention shall be ratified as soon as possible. The ratifications shall be deposited in Bern.

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to the Governments of all the countries in whose name the Convention has been signed or whose accession has been notified.

Article 28.- The present Convention shall come into force six months after not less than two instruments of ratification have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

Article 29.- From the date of its coming into force, the present Convention shall be open for accession in the name of any country in whose name the Convention has not been signed.

Article 30.- Accessions shall be notified in writing to the Swiss Federal Council and shall take effect six months after the date on which they are received. The Swiss Federal Council shall communicate the accessions to the Governments of all the countries in whose name the Convention has been signed or whose accession has been notified.

Article 31.- A state of war shall give immediate effect to the ratifications deposited and accessions notified by the belligerent Powers before or after the beginning of hostilities. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from belligerent Powers.

Article 32.- Each of the High Contracting Parties shall be at liberty to denounce the present Convention. The denunciation shall not take effect until one year after the notification thereof has been made in writing to the Swiss Federal Council.

The Swiss Federal Council shall transmit the notification to the Governments of all the High Contracting Parties.

The denunciation shall have effect only in respect of the denouncing High Contracting Party.

Moreover, the denunciation shall not take effect during a war in which the denouncing Power is involved. In such a case, the present Convention shall continue to have effect, beyond the period of one year, until peace has been concluded and, in any event, until repatriation operations have been completed.

Article 33.- The Swiss Federal Council shall deposit a certified copy of the present Convention in the archives of the League of Nations. The Swiss Federal Council shall also inform the League of Nations of the ratifications, accessions and denunciations that have been notified to it.