

**Summary of the Recommendations by the Public Commission to Examine the
Maritime Incident of 31 May 2010 – The Turkel Commission**

Second Report, February 2013

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Recommendation	Turkel Commission's analysis
1: 'War Crimes' Legislation	<p><u>Summary</u></p> <ul style="list-style-type: none"> * The rules of IHL require countries to enact legislation enabling effective penal sanctions for anyone committing a war crime or instructing its execution. This requirement refers to the investigation of acts that are suspected of constituting serious violations of IHL. * In Israel, violations of IHL are indicted through offenses listed in Israeli law, in particular, the Penal Law, the Military Justice Law and in relevant command regulations... the only explicit reference to the term 'war crimes' in Israeli legislation is in the Nazis and Nazi Collaborators (Punishment) Law, 1950. * The list of crimes in Israeli law is only partial and does not include all acts defined as war crimes under IHL. * Offenses in Israeli law...do not reflect the severity of the violations under IHL. <p><u>Specific recommendations</u></p> <ul style="list-style-type: none"> * The Ministry of Justice should initiate legislation for all international law offenses that do not have a corresponding domestic offense in Israeli criminal law. Thus, for example, the Ministry should ensure that there is legislation to transpose clearly into law and practice the absolute prohibition in international law of torture and inhuman and degrading treatment. This is in order to enable 'effective penal sanction' for those committing war crimes, as required by international law. * Moreover, the Commission regards as important the specific inclusion of international 'war crimes' norms in Israeli domestic legislation. This is because such legislation goes beyond the practical needs (i.e., to charge and punish violators of IHL), and also serves a normative purpose (i.e., to promote deterrence and education). * The Commission wishes to emphasize the obvious, that the examination and investigation authorities in Israel must assess whether acts of security forces establish criminal responsibility even if they do not amount to a war crime.
2: Responsibility of Military Commanders and Civilian Superiors	<p><u>Summary</u></p> <ul style="list-style-type: none"> * IHL places a particular responsibility on military commanders and civilian superiors for violations that were committed by their subordinates... The responsibility of commanders and superiors is one of the most significant obligations codified in IHL and international criminal law.

	<p>* Israeli criminal law does not explicitly address the responsibility of commanders and superiors and their obligation to prevent offenses.</p> <p>* According to the MAG, “it is the obligation of each commander to prevent and suppress violations of the laws of war by his subordinates, insofar as these are incorporated in military orders”.</p> <p>* The question of the criminal liability imposed on commanders for the failure to prevent offenses of their subordinates: in most of the cases where IDF commanders were indicted for an offense of their subordinate, the commanders were charged with the crime that was committed, and not with the responsibility for the failure to prevent or the failure to report the offense to the appropriate authorities.</p> <p><u>Specific recommendations</u></p> <p>* Legislation should be enacted to impose direct criminal liability on military commanders and civilian superiors for offenses committed by their subordinates, where the former did not take all reasonable measures to prevent the commission of offenses or did not act to bring the matter to the attention of the competent authorities when they became aware of the offenses after the event.</p> <p>* Orders by commanders may in themselves (as distinct from omissions by commanders) also constitute violations of IHL. The Commission emphasizes that such orders by commanders should also be subject to examinations and investigations.</p>
<p>3: Reporting Duties</p>	<p><u>Summary</u></p> <p>* Military commanders have a general obligation to prevent and report violations of IHL and to ensure that appropriate measures are taken in response to suspected violations.</p> <p>* The obligation in the IDF to report suspected offenses is codified in the Military Justice Law.</p> <p>* In 2005, the Chief of Staff adopted a Reporting Procedure for Incidents in which Palestinian Civilians were Injured... According to the procedure, such incidents must be reported to the Chief of Staff, the Operations Branch and the MAG no later than 48 hours from the time of the incident’.</p> <p>* The Commission’s view is that the substance of the Reporting Procedure complies with Israel’s international legal obligations. However, its scope should be broadened beyond incidents during which an uninvolved person was killed or injured, to every incident involving the IDF or forces for which the IDF is responsible that raise questions as to whether a violation of IHL has occurred.</p> <p>* The Commission concludes that in practice the Chief of Staff’s Reporting Procedure is not implemented. It appears that the commanders do not fill out Preliminary Report Forms following incidents and that the relevant scenes are not documented, as required by the procedure... Delays in reporting even occurred when, at the time</p>

	<p>of the incident, the IDF units involved in the operation already knew the outcome</p> <p>* Reporting duties are enshrined in international law... A failure to comply with the obligation to report hinders the ability to initiate any necessary examination or investigation.</p> <p><u>Specific recommendations</u></p> <p>* The 2005 Reporting Procedure determined by the Chief of Staff, following an undertaking to the High Court of Justice, has not been implemented. The Reporting Procedure should be incorporated into the Supreme Command Orders and shall apply to every incident involving the IDF or forces for which the IDF is responsible. The Reporting Procedure should be implemented and sanctions should be imposed on commanders who do not comply with it.</p> <p>* The Reporting Procedure should require documentation of the scene of an incident. This obligation includes seizing all exhibits and documents that may assist the examination and investigation, and storing the exhibits (such as clothing, ammunition or weapons) in conditions that will best preserve them for proper examination at a later date.</p>
<p>4: Grounds Giving Rise to an Obligation to Examine and Investigate</p>	<p><u>Summary</u></p> <p>* IHL establishes the obligation to investigate when there is a credible accusation or a reasonable suspicion of the commission of a war crime.</p> <p>* When the information is partial or circumstantial and it does not establish a reasonable suspicion that requires an investigation, a fact-finding assessment must be held in order to clarify whether there is a need to investigate.</p> <p>* According to the IDF's current investigation policy, an investigation by the Military Police Criminal Investigation Division (CID) is opened immediately when complaints raise a prima facie suspicion of criminality (e.g. looting).</p> <p>* The CID will also usually investigate operations in the West Bank that result in the death of a person, except when the incident involves 'actual combat'. In these cases, the decision to open an investigation is delayed until the operational debrief is transferred to the MAG, who then examines whether the circumstances of the incident justify an investigation. This policy was developed without explicit basis in Israeli law.</p> <p><u>Specific recommendations</u></p> <p>* The Investigation Policy in the IDF, whereby a CID investigation is not begun immediately following the death of a person during combat operations unless there is a reasonable suspicion that an offense has been committed, is consistent with Israel's obligations under international law. However, this policy is not properly enshrined in Israeli law. It should therefore be enshrined in appropriate rules and guidelines.</p>

	<p>* In order to expedite the investigation of complaints, initial reports should be classified according to the legal framework of each incident, namely whether the incident occurred during combat operations and is therefore subject to the rules regulating hostilities, or whether it is it any other incident subject to law enforcement norms.</p>
<p>5: Fact-Finding Assessment</p>	<p><u>Summary</u></p> <p>* The purpose of a fact-finding assessment is to collect information in order to provide data on which it is possible to decide whether to open an investigation. If a reasonable suspicion of the commission of a war crime is revealed, a decision will be made to open an investigation.</p> <p>* In Israel, when complaints or claims of IHL violations are filed as a consequence of an incident involving ‘actual combat’, the decision to commence an investigation is delayed until an ‘operational debrief’ is received, allowing the MAG to consider whether the circumstances of the incident justify the opening of an investigation. The operational debrief is conducted within the framework of the IDF unit being investigated.</p> <p>* There is also an ‘experts debrief’, which is conducted in cases of complicated incidents at the discretion of the commanding ranks. An experts debrief is conducted by individuals possessing the appropriate expertise in the matter, who are not part of the chain of command and were not involved in the incident in question.</p> <p>* Academics and representatives of the human rights organizations who testified before the Commission, raised reservations about the MAG’s reliance on the operational debriefs as a basis for subsequent decisions on opening an investigation for reasons of conflicts of interest, fears of ‘coordination of testimonies’ by the debriefed soldiers, causing delays to an investigation, lack of evidence from complainants or other witnesses, unprofessionalism, and lack of a right of appeal.</p> <p>* The MAG uses the operational debrief for the purpose of fulfilling his obligation to conduct a fact-finding assessment. However, the Commission discerned a number of difficulties in using the operational debrief for assessing the existence of a reasonable suspicion of a ‘serious violation’ of IHL, including issues of unreasonable delay of an investigation and the fact that the operational debrief is not focused on questions of criminality.</p> <p><u>Specific recommendations</u></p> <p>* An operational debriefing is not designed for deciding whether to begin an investigation. A mechanism should be established for carrying out a fact-finding assessment, which should form the basis for the MAG’s decision as to whether an investigation is necessary. This mechanism should be established to conduct a fact-finding assessment that will enable conducting an assessment that complies with the international legal requirements, i.e., a prompt and professional assessment that which facilitates a potential investigation and does not hinder it.</p>

	<p>* A special fact-finding assessment team shall be established in the IDF with expertise in the theatres of military operations, international law and investigations. In case he decides (based on the Preliminary Report Form) that information is required in order to determine whether there is reasonable suspicion of criminal activity, the MAG, will order this team to provide him with as much information as possible, within a period of time stipulated in procedures, in order to enable the MAG to decide whether to begin an investigation.</p> <p>* The fact-finding assessment should include, insofar as possible, the questioning of complainants and additional witnesses that are not military personnel.</p>
<p>6: The Decision on Whether to Open an Investigation</p>	<p><u>Summary</u></p> <p>* One of the principles required for an ‘effective investigation’ is promptness, and therefore the decision on whether to open an investigation must satisfy this requirement.</p> <p>* There is no defined timeframe for the MAG’s decision to open an investigation. Occasionally, the decision to begin an investigation lingers for a long time. One of the factors that may contribute to this is the MAG’s obligation to consult the commanding officer responsible for the unit involved in the incident (though discretion remains with the MAG).</p> <p>* According to Israeli law, the MAG must provide reasoning for his decisions. From the files surveyed by the Commission, it appears that the reasoning behind these decisions is not always given.</p> <p>* Sometimes, command sanctions must be considered in order to draw operational conclusions and ensure compliance with IHL.</p> <p><u>Specific recommendations</u></p> <p>* Procedures should establish a timeframe of a few weeks during which the MAG decides whether to begin an investigation on the basis of the material in his possession.</p> <p>* The MAG should not be <i>obliged</i> to consult with the Major-General responsible for the unit involved in the incident, but rather he shall be <i>allowed</i> to consult with <i>any</i> commander as he sees fit. The MAG’s authority to order an investigation should not be made conditional upon consulting the commanding officer responsible for the unit involved in the incident, but the MAG should be allowed to consult any commander as he sees fit.</p> <p>* Every decision of the MAG not to open an investigation should state the reasons for the decision.</p> <p>* At the end of an examination process and at the end of a CID investigation, irrespective of the outcome, the MAG should consider referring the relevant material to the commanding officers.</p>
<p>What constitutes an ‘effective investigation’</p>	<p><i>An investigation must comply with the international legal principles of independence, impartiality, effectiveness and thoroughness,</i></p>

	<p><i>promptness, as well as transparency. An investigation that conforms to these principles is considered an 'effective investigation'.</i></p>
<p>7: Independence of the MAG</p>	<p><u>Summary</u></p> <ul style="list-style-type: none"> * In order to comply with the requirement of independence, an investigation in the military justice system of a reasonable suspicion for a 'serious violation' of IHL must be conducted outside the chain of command. * Complaints of violations of IHL directed at IDF soldiers are investigated by the military justice system headed by the MAG. While the MAG is subordinate to the Chief of Staff in rank, from a professional perspective he is subordinate to the guidance of the AG. * In Israel, the MAG is appointed by the Minister of Defense, on the recommendation of the Chief of Staff. Thus, the Chief of Staff and the Minister of Defense must be in agreement in order to appoint a MAG. * The MAG's tenure is not fixed and the last two MAGs were promoted to the rank of Major-General during their tenure. <p><u>Specific recommendations</u></p> <ul style="list-style-type: none"> * The fact that the MAG is subordinate to the authority of the AG in professional matters is consistent with the principle of independence as established in international law. However, legislation and organizational arrangements are required in order to safeguard this professional subordination, which is not sufficiently institutionalized (see below). * The MAG should be appointed by the Minister of Defense, upon the recommendation of a public professional committee. In order to institutionalize the professional subordination of the MAG to the AG; the latter should be the chairman or a member of the public committee. * The MAG's term of office should be fixed, like that of the AG, at one term of six years without any possibility of extension. The MAG should also be given a fixed rank.
<p>8: The MAG's 'Dual Hat'</p>	<p><u>Summary</u></p> <ul style="list-style-type: none"> * The principle of impartiality is intended to ensure that the investigation is conducted objectively and without bias. As distinct from the principle of independence, impartiality focuses on the performance of the investigator. * The MAG wears a 'dual hat' as the head of the military prosecution system, and the legal advisor to the military authorities. There is a potential conflict of interest given the MAG's 'dual hat' in investigations relating to decisions that he himself made, inconsistent with the principle of impartiality. * Of the two arms that the MAG is in charge of – the military prosecution system and the legal advice system – The Chief Military Prosecutor (CMP) heads the military prosecution, and his role is to assist the MAG and his deputy in utilizing their powers in the criminal sphere. However, only the legal advice system may give legal advice to the various military

	<p>authorities, and therefore the MAG argued that a potential for a conflict of interest remains only with the MAG and his deputy and does not extend throughout the military justice system.</p> <p>* Currently, the CMP has no unique status and he is appointed just like any military prosecutor. This is contrary to the equivalent role in the civilian system, the State Attorney.</p> <p><u>Specific recommendations</u></p> <p>* In order to prevent any appearance of partiality due to the MAG's dual hat – as head of the military prosecution and as the chief legal advisor to the military – the status and independence of the Chief Military Prosecutor (CMP) should be strengthened.</p> <p>* The CMP should be appointed by the Minister of Defense, upon the recommendation of a committee chaired by the MAG. The CMP's term of office and rank should be determined in advance.</p>
<p>9: CID Investigations</p>	<p><u>Summary</u></p> <p>* One of the requirements that can be derived from the principle of effectiveness and thoroughness is that an investigation be conducted professionally.</p> <p>* In the Military Police Criminal Investigation Department (CID), there is no investigative unit that is equivalent to the MAG Corps for Operational Matters, which specializes in the investigation of complaints about offenses arising from operational activity of the IDF, and offenses of IDF soldiers committed against a civilian population in territory administered by the IDF or during combat.</p> <p><u>Specific recommendations</u></p> <p>* A Department for Operational Matters should be established in the CID to work with the MAG Corps for Operational Matters with bases in the areas where the incidents under investigation occur, in order to promote the CID's accessibility to complainants. The investigators should include persons that are fluent in Arabic, in order to ensure direct communication with witnesses, complainants and other relevant parties to the investigation.</p> <p>* The military police officers that will be appointed to the CID for Operational Matters shall undergo training in IHL, generally, and the obligations on investigating violations of IHL in particular.</p>
<p>10: Establishing the Investigation Timeframe</p>	<p><u>Summary</u></p> <p>* The principle of promptness includes the obligations to quickly commence and conduct an investigation in a timely manner.</p> <p>* In Israel there is no time limit allotted to an investigation, and from the files surveyed by the Commission, it appeared that the duration of these investigations sometimes extends over many years.</p> <p>* Recently operative AG Guideline 4.1202 calls for the shortening of the duration of criminal proceedings (until the submission of an indictment) in the Public Prosecution; the rationales (including public confidence in</p>

	<p>the law enforcement and prosecution systems) detailed in this Guideline are also valid for investigations into violations of IHL.</p> <p><u>Specific recommendations</u></p> <p>* The MAG, in coordination with the AG, should set a maximum period of time between the decision to begin an investigation and the decision to adopt legal or disciplinary measures or to close the case. The MAG should publish, at least once a year, statistical data on the period of time taken to handle cases.</p>
<p>11: Transparency of Proceedings</p>	<p><u>Summary</u></p> <p>* The principle of transparency has two aspects: the first is intended to guarantee the rights of the victims, and the second ensures public scrutiny of the investigative and prosecutorial processes.</p> <p>* The first aspect of the principle of transparency does not apply to investigations into incidents of ‘actual combat’.</p> <p>The Rights of Victims of Crime Law – 2001 regulates the rights of victims of crime to access information about a criminal proceeding and therefore does not apply to offenses investigated by the CID.</p> <p>* In relation to the second aspect of the principle of transparency, the Commission found that in some of the MAG Corps’ files that were examined, the documentation in the file was overly brief, and in some of the cases it did not accurately reflect the procedures that were performed.</p> <p>* The MAG Corps’ files form a base of information that facilitates periodic internal checks and reviews by the MAG Corps. This base of information can also be relied on by oversight and review mechanisms. Documentation also assists and guides prosecutors in administering files.</p> <p><u>Specific recommendations</u></p> <p>* The arrangements provided in the Rights of Victims of Crime Law – 2001, relating to the receipt of information on criminal proceedings should also be applied, mutatis mutandis, to persons injured by law enforcement operations of the security forces that are investigated by the CID.</p> <p>* The MAG Corps should implement a strict documentation procedure for all examination and investigation actions carried out in a file and for all the decisions made, especially in cases involving investigations of alleged violations of IHL.</p>
<p>12: Oversight of the Legal Advice given by the MAG Corps</p>	<p><u>Summary</u></p> <p>*The AG has the authority to give professional guidance to the MAG. Attorney General Guideline 4.5000 determines that the professional independence of the MAG is ‘internal’.</p> <p>*Criticisms heard of the AG’s performance in exercising his powers of oversight: Professor Eyal Benvenisti: “In practice the Attorney-General is satisfied with a broad and full delegation of his power in the vital area of the laws of war and by so doing abdicates his duty.” B’Tselem:</p>

	<p>“unfortunately in all of our attempts to conduct a conversation with the Attorney-General regarding questions of policy, he referred us to the MAG.” Deputy State Attorney (Special Assignments): “the expertise in IHL lies primarily in the military.”</p> <p>*The advice in the field of IHL is decentralized and is spread out over various bodies in the civil system. There is no advisory body within the Ministry of Justice that coordinates the international legal aspects of the security forces activity. In contrast, in the legal advice system at the MAG Corps there is an International Law Department (ILD).</p> <p><u>Specific recommendations</u></p> <p>* In order to strengthen the AG in exercising his oversight powers over the legal advice given by the MAG, a unit specializing in IHL should be established in the Advice and Legislation Department at the Ministry of Justice.</p>
<p>13: Individual and Systemic Review of the Military Prosecution System</p>	<p><u>Summary</u></p> <p>* There is a requirement to regulate the review of the civilian system over the military system on issues that bear ‘special interest to the public’ or that ‘their implications exceed beyond the areas of the military framework’.</p> <p>* The AG has review discretion over the military justice system. According to the Supreme Court: fatal accidents in the IDF bear ‘special interest to the public’ in which there is room for the AG to intervene. The AG’s authority to intervene in such cases is expressed in a designated guideline, according to which a complainant can object to the AG the MAG’s decision not to investigate or not to indict due to a fatal accident.</p> <p>* However, an appeal procedure has never been formally regulated and the MAG is against institutionalizing such a procedure in legislation on the ground that it could erode his own authority and status. The Commission is unaware of any decision by the AG to open an investigation against the MAG’s position.</p> <p>* Over the past few years, public debate has arisen over whether an over-arching review body of the civilian enforcement system should be established, i.e. a systemic review as opposed to an individual procedure for review of a specific case. A summary report prepared by the Team for Examining the Establishment of a Complaints Commission for the Civilian Prosecution recommended designing ‘a designated review mechanism that deals with proactive and constant review over the prosecution system’. The AG recently transferred this report to the Knesset State Control Committee. Amongst the justifications for establishing the complaints commission, it was emphasized that there is ‘a serious deficiency specifically in systemic review’.</p> <p>* The MAG’s decision not to open investigation is of course subject to the review of the Supreme Court within the framework of petitions submitted to the Court. In practice, however, the ability of the Court to review such decisions is rather limited because, inter alia, a petition to</p>

	<p>the Court is usually submitted long after the incident in question.</p> <p><u>Specific recommendations</u></p> <p>* Legislation should provide a procedure to appeal decisions of the MAG to the AG. This legislation should determine the period of time for filing an appeal and for the AG to make a decision. This legislation should determine the period of time for filing an appeal and for the AG to hand down his decision on the appeal.</p> <p>* When the Complaints Commission for the Civilian Prosecution is established, it should be authorized to review all the branches of the military prosecution, including monitoring the bodies of the IDF that conduct examinations and investigations, in order to ensure that the MAG's regulations and policy are being implemented <i>de facto</i>.</p>
<p>14: The Handling of Complaints against Police Officers</p>	<p><u>Summary</u></p> <p>*The Police Internal Investigations Department at the Ministry of Justice (PIID) investigates complaints filed against police officers, including complaints of violations of IHL. It therefore appears that investigations of complaints against police officers are not conducted within the police.</p> <p>*However, there are exceptions to this rule, the one being shooting incidents by the Border Police in the West Bank, which are <i>de facto</i> still investigated by the police (Judea and Samaria District), despite a decision in 2007 by the State Attorney that the investigation of shooting incidents that occur in the West Bank should be made by the PIID.</p> <p>* According to the Security Provisions Order, police activity in the West Bank is subordinate to the IDF commander in the region, and their powers are equivalent to the powers of IDF soldiers.</p> <p>*In addition to the difficulty posed by the fragmented handling of complaints – especially between the IDF and the police – the Commission was presented with material suggesting practical difficulties in the way the Judea and Samaria District actually manages investigations.</p> <p><u>Specific recommendations</u></p> <p>* The examination and investigation of complaints against <i>police officers operating under IDF command</i> for violations of IHL in the West Bank should be carried out by the IDF, rather than by the Israel Police or by the PIID.</p>
<p>15: The Handling of Complaints against ISA Interrogators</p>	<p><u>Summary</u></p> <p>*According to international law, an investigation does not necessarily mean a criminal investigation, and investigations of soldiers, police officers or other security agents can take various forms as long as the investigation adheres to the principles of an 'effective investigation'.</p> <p>*In 1992 Israel established a special investigative mechanism to examine complaints against ISA interrogators made by interrogated persons. According to this mechanism, the complaints are transferred to</p>

the Interrogatee Complaints Comptroller (Mavtan) who is a senior ISA employee who has never worked in the Investigations Department of the ISA, and who is authorized as a disciplinary investigator. The Mavtan investigates the complaints and transfers his findings to 'the Mavtan's Supervisor'. The Mavtan's Supervisor formulates a recommendation on whether there is a basis for opening a criminal investigation, whether it should be referred to disciplinary proceedings, whether the matter should be investigated further or whether the file should be closed. The findings of the Mavtan and the recommendation of the Mavtan's Supervisor are transferred to the AG, who makes a decision on whether to open a criminal investigation. If it is decided to open a criminal investigation, the file is transferred for the PIID to investigate.

* The Mavtan and the Mavtan's Supervisor have never recommended that a criminal investigation be initiated on the basis of a complaint, and the AG has never instructed that such a criminal investigation be opened.

*In 2007, the State Attorney's Office conducted an examination of this investigation mechanism which was prompted by criticism leveled against the Mavtan. The examination's conclusions included the finding that **the Mavtan 'is very limited in his skills as an investigator' and his questions are 'laconic', and that the investigation process of the Mavtan takes too much time.**

* **ISA interrogations are not sufficiently documented**, and this lack of documentation creates a difficulty for the Mavtan's investigations, according to the examination. Documenting ISA interrogations would reinforce the thoroughness and effectiveness of the Mavtan's investigation. **The head of the ISA suggested that visual recording of ISA interrogations should be seriously considered. In his words: 'even if not everyone always likes it I think that it would be proper'.**

*Following the conclusions of this examination, in 2010 the AG decided that the Mavtan would no longer be an ISA employee, but an employee of the Ministry of Justice, because (a) a problem of performance, connected to the fact that he is an employee of the ISA, and (b) a problem of perception, related to a situation in which an individual who is perceived to be internal to ISA examines complaints – ostensibly criminal – against his colleagues, i.e. a conflict of interests. **To date, the AG's decision has not been implemented.**

*The flaws described above raise serious doubts about the ability of the Mavtan to conduct an 'effective investigation'. There are serious failures in the effectiveness and thoroughness and also in the promptness of the investigation process.

Specific recommendations

* The role of the ISA Interrogatee Complaints Comptroller should be transferred from the ISA to the PIID at the Ministry of Justice, so that the Mavtan's Supervisor will be the Head of the PIID. (The AG will continue to decide whether to open a criminal investigation on the basis

	<p>of the findings of the Mavtan and the recommendation of the Mavtan’s Supervisor. Transferring the Mavtan’s role to the PIID creates consistency with the other investigative processes in which the discretion to open an investigation is limited to the AG.)</p> <p>* All ISA interrogations shall be fully videotaped, in accordance with rules that will be determined by the AG in coordination with the head of the ISA.</p>
<p>16: The Handling of Complaints against Wardens</p>	<p><u>Summary</u></p> <p>* The National Prison Wardens Investigation Unit (NPWIU) is responsible for examining and investigating claims of criminal offenses by members of the IPS, including claims concerning violations of IHL.</p> <p>* Most of the investigators of this unit are appointed to the position after training as police investigators and serving in the National Unit for International Investigations.</p> <p><u>Specific recommendations</u></p> <p>* The head of the Investigations and Intelligence Department at the police should ensure that during investigators’ training, proper emphasis is placed on the relevant rules of international law, especially CAT, the UN Standard Minimum Rules for the Treatment of Prisoners, the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and the Istanbul Protocol. This recommendation applies to all of the bodies that deal with investigations into incidents to which international law applies.</p>
<p>17: The Handling of Complaints against the Civilian Echelon</p>	<p><u>Summary</u></p> <p>* In Israel, aside from the criminal examination and investigation process, the government establishes, when necessary and at its discretion, State or Government Commissions of Inquiry, to investigate subjects of special importance. These include commissions that dealt with issues concerning violations of IHL (e.g. Kahan, Winograd, Turkel itself).</p> <p>* A commission of inquiry is an example of an effective investigation that is not criminal, but is recognized by international law. The fact that the government establishes a commission of inquiry does not, in itself, compromise the independence of the commission.</p> <p>* The Israeli commissions of inquiry system allows those commissions to meet the requirements of an ‘effective investigation’.</p> <p><u>Specific recommendations</u></p> <p>* The system of investigating senior decision makers by commissions of inquiry and examination, which is well established in Israel, satisfies Israel’s obligations under international law to investigate acts, decisions or omissions that give rise to a suspicion of serious violations of IHL.</p> <p>* The government must take steps to ensure that a commission’s terms of reference guarantee that it will operate in an independent fashion and that the members of a commission have no conflict of interest with</p>

	<p>the subject of the investigation. Moreover, the terms of reference must ensure an effective and thorough investigation, by appointing professional members with experience and knowledge in the subject of the commission's mandate, as well as by defining the commission's powers, including allowing access to all evidence. It is desirable that when investigating a subject of alleged violations of international humanitarian law, a term shall be set in advance for the duration of the commission and the submission of its recommendations.</p>
<p>18: Implementation of the Commission's Recommendations</p>	<p><u>Specific recommendations</u></p> <ul style="list-style-type: none"> * The MAG should publish a comprehensive and updated handbook for the examination and investigation mechanisms in the IDF. The handbook should lay down guidelines for the examination and investigation mechanisms with regard to the handling of complaints and claims of violations of IHL. The MAG's guidelines should incorporate the guidelines and procedures that will be formulated pursuant to the recommendations of this Report. The handbook should be available to the public. * The Commission recommends that the Prime Minister should appoint an independent implementation team that will monitor the implementation of the recommendations in this Report and report periodically to the Prime Minister.