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INTERNATIONAL COMMITTEE OF MILITARY MEDICINE
Reference Centre of Education of International
Humanitarian Law and Ethics

Directorate

CONFERENCE PROGRAMME

April 18th 2013 to April 20th 2013

Forum Lilienberg, Ermatingen



3rd ICMM Workshop on Military Medical Ethical Dilemmas in Disaster Relief, Humanitarian Missions and Conflict

Patronage

Major General (ret.) Roger van Hoof
Major General Andreas Stettbacher, MD
Prof. Dr. phil. Peter Schaber

Scientific Coordination

COL Hans Ulrich Baer, MD, MOE
Dr. phil. Daniel Messelken

Course Organisation

Swiss Armed Forces, Medical Services Directorate

Plenary Session I

Chairperson

Introduction to Law, Battlefield Experiences

MG R. van Hoof

ICMM

0930 – 0940 Welcome Address MG (ret) R. van Hoof, ICMM

0940 – 1000 Introduction D. Messelken/ H.U. Baer ICMM

1000 – 1045 Ethical origins of the Law of Armed Conflict Bill Boothby GBR

1045 – 1100 *Coffee Break*

1100 – 1200 Experience and questions from the Battlefields J. Ricard CAN

1200 – 1300 *Lunch*

Plenary Session II

Chairperson

The Notion of “Necessity” in War in Ethics and IHL

COL J. Crouse

RSA

1400 – 1405 Introduction H.U. Baer ICMM

1405 – 1530 Military Necessity and Military Medical Ethics M. Gross ISR

1530 – 1600 *Coffee Break*

1600 – 1730 Necessity and proportionality in IHL C. von Einem DEU

1830– 2000 Dinner

Afterwards Gathering & Drinks



Friday 19 April 2013

0730 – 0830 *Breakfast*

Plenary Session III

Ethics in Disaster Response and PKO

Chairperson

COL H.U. Baer

ICMM

0900 – 0905 Introduction

D. Messelken

ICMM

0905 – 1030 Ethics in Disaster Response

C. Clarinval

CHE

1030 – 1045 *Coffee Break*

**1045 – 1200 Military Medical Ethics in Peace
Keeping Operations (PKO)**

L. Németh

HUN

1200 – 1300 *Lunch*

Plenary Session IV

Ethical Aspects of Intercultural Encounter

Chair and Moderation

Dr. A. Ahmad

GBR

1400 – 1405 Introduction

H.U. Baer

ICMM

**1405 – 1530 Panel Discussion
Intercultural interactions in disaster
medicine**

A. Ahmad (Moderation/Chair)

GBR

Min Yu, M. Barilan, S.H. Al Shayea

R. Allani, M. Merlin

1530 – 1600 *Coffee Break*

Plenary Session V.1

Ethical Challenges for the Medical Officer

Chairperson

B. Koch

DEU

1600 – 1605 Introduction

H.U. Baer

ICMM

**1605 – 1730 Mercy Killing – Legal and
Moral Aspects**

S. Fournier

CAN

D. Messelken

DEU

1830 – 2000 Dinner

Afterwards *Gathering & Drinks*



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0730 – 0830 *Breakfast*

Plenary Session V.2

Ethical Challenges for the Medical Officer

Chairperson

MG M. Merlin

ICMM

0900 – 0905 Introduction

D. Messelken

ICMM

0905 – 1030 Triage and Prioritization

M. Barilan

ISR

1030 – 1045 *Coffee Break*

1045 – 1130 The ethics of Amputation

A. Stettbacher

CHE

Closing Remarks

1130 – 1200 Closing Remarks

COL. H.U. Baer

ICMM

MG A. Stettbacher

CHE

1200 – 1300 *Lunch*

Afterwards *Check-Out and departure*



Chatham House Rule

CHATHAM HOUSE RULE

The world-famous “Chatham House Rule” is invoked at meetings to encourage openness and the sharing of information. The whole workshop shall be held under the “Chatham House Rule”. It reads as follows:

"When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed".

EXPLANATION OF THE RULE

The Chatham House Rule originated at Chatham House with the aim of providing anonymity to speakers and to encourage openness and the sharing of information. It is now used throughout the world as an aid to free discussion. Meetings do not have to take place at Chatham House, or be organized by Chatham House, to be held under the Rule.

Meetings, events and discussions held at Chatham House are normally conducted 'on the record' with the Rule occasionally invoked at the speaker's request. In cases where the Rule is not considered sufficiently strict, an event may be held 'off the record'.



Abstracts of the Presentations

Session I

B. Boothby - *Ethical origins of the law of armed conflict*

As the law of armed conflict has evolved over the last century and a half, ethical considerations have been a constant consideration. The law reflects, however, a balance between military necessity and humanitarian concern, and this balance has been at the core of the evolving law since its earliest beginnings. Bill Boothby's presentation traces the development of that law, and of its important protections of all affected by warfare, showing how the ethical basis of the law of armed conflict remains as valid today as it was in the mid-nineteenth century.

Jacques Ricard - *Ethical Dilemmas facing the Commander of a Medical Facility in a War Zone*

Medical Staff are always well prepared to face the challenges of treating Friendly Coalition Forces in a Military Hospital. This presentation will explore the added ethical dilemmas brought by having to deal with detainees, civilian Nationals and the Host Nation Security Forces. All this while taking into account resources that are limited in capability and capacity. The presentation will be illustrated with actual cases dealt with by the Speaker in Kandahar, Afghanistan while he commanded the Role 3 Multinational Medical Unit for NATO.

Session II

Michael Gross – *Military Necessity and Military Medical Ethics*

Military necessity often guides the practice and ethics of war and, by extension, the practice of medicine in war. Military necessity, however, is not absolute. Only a nation or people fighting aggression may invoke military necessity. Moreover, military necessity cannot override the basic rights of combatants and noncombatants. However, military necessity may override certain requirements of international law such as the duty to treat all according to medical need and the prohibition against attacking noncombatants directly. Military necessity may also override some principles of medical ethics including those that prohibit medical personnel from developing weapons and those that demand absolute respect for patient autonomy. Several cases illustrate the conflict between military necessity and medical ethics and include battlefield triage, the development of medicalized weapons, enhancement technologies and dual use research. In each case, a resolution about proper behavior depends upon a careful balance between military necessity and the principles of medical ethics

Cord von Einem – *Necessity and Proportionality in IHL*

The aim of this lecture is to outline two principles, which are part of the foundation of the humanitarian law (IHL). The IHL is consistent with the economic and efficient use of force and is intended to minimize the horrors of conflict, while not inhibiting the military activities of the parties in their aim of achieving victory.

No principles are more central to IHL, nor more misunderstood, than those of military necessity and proportionality. They have been proffered both to justify horrendous abuses during armed conflicts and to impose impractical and dangerous restrictions on those who fight. Contemporary conflicts, as well as ongoing efforts to clarify IHL's application therein, have further muddled the waters.

Session III

C. Clarinval – *Ethics in Disaster Response*

Disasters affect large populations and for lives to be saved require rapid and adequate responses. Managing disaster response is a challenge in and of itself and has turned into a profession over the past decade, whereby the ethical drivers of disaster response appear to be very broad and heterogeneous across the different actors.

The first aim of this presentation is to share a new concept that defines the different phases of a disaster to allow stakeholders to improve their understanding of the current situation. The second aim is to discuss the values that appear to underlie disaster response and to examine possible consequences from an ethical perspective.

L. Németh – *Military Medical Ethics in Peace Keeping Operations*

Hungary and its Armed Forces being a member of NATO since 1999 faced new ethical challenges in combat health support. Working in multinational atmosphere we must know that International Humanitarian Law and ethical rules are the same for medical officers of all countries but at the same time the perception and the ability to act ethically may differ.

The presentation 1) outlines the place of PKO in war hierarchy and shows how the nature of war can influence and determine the rise of ethical issues; 2) summarizes the published knowledge concerning ethical dilemmas in PKO-s; 3) analyses the ethical problems from viewpoint of military medical officer in a country with a changed political system.

Session IV

Panel Discussion (Moderation: A. Ahmad) – Ethical Aspects of Intercultural Encounter

Session V.1

S. Fournier/ D. Messelken – *Mercy Killing*

Battlefield euthanasia, the purposeful killing of wounded soldiers (or even civilians) in order to hasten their foreseeable death, has been an issue in military medicine and in soldiers' moral codes at all times. During conflicts since antiquity, there have been severely wounded who would not die immediately but whose fate seemed clear, nevertheless. But can it ever be morally or legally justified to kill those wounded out of mercy in order to end their suffering? Can death ever be the better option? And if so, what conditions have to be fulfilled?

The presentation wants to look at mercy killing and investigate some of its legal and moral aspects. As it is clear that no simple solution to this complex issue can be found, we want to analyse some exemplary cases in order to shed light on some facets, at least. Analogies to physician-assisted suicide in civil settings, which is legal in some countries, will be drawn and contrasted with the additional aspects that the military environment adds to the problem.

Session V.2

M. Barilan – *Triage and Prioritization*

The presentation will be comprised of four parts

1. basics of distributive justice
2. The history of triage and the various approaches to prioritization
3. Key ideas about ethics in triage
4. Cutting edge moral problems regarding triage

A. Stettbacher – *The Ethics of Amputation.*

Speakers

Dr. A. Ahmad

Ayesha Ahmad is a philosopher with a PhD in philosophy of medicine/ medical ethics. She also has a background in religion and psychoanalysis, where she specialises in trauma. She is a Tutor at University College London, and a Clinical Ethics Committee Member at Great Ormond Street Hospital in London. She holds several international research collaborations in South Africa, Finland, and Serbia, and is a member of a research project entitled 'Disaster Medicine Bioethics'.

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Prof. Michael Barilan, MD

Michael Barilan is a physician, expert in internal medicine and associate professor of ethics and medical education. He served a reservist doctor in the Israeli army (1996-2006). He recently published a book on human dignity and rights in bioethics (MIT Press). Barilan is a member of the steering committee of the COST action on ethics in disaster medicine.

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Dr. Bill Boothby

Bill Boothby retired in 2011 as Deputy Director of Legal Services (RAF) after a 30 year career in the Royal Air Force Legal Branch. In 2009 he completed his Doktor juris in international law at the University of Frankfurt (Oder) publishing his first book, Weapons and the Law of Armed Conflict, with OUP the same year. In 2012 he published his second book, The Law of Targeting, with the same publisher. He is currently working on his third book in which he will look to future trends in the conduct of hostilities and in the evolution of international humanitarian law and the law of human rights.

He teaches at Royal Holloway College, University of London, at the Australian National University and at the University of Durham. He is an Associate Fellow of the Geneva Centre of Security Policy.

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Caroline Clarinval, MPH

Caroline Clarinval joined the ICRC where she managed large-scale relief operations in contexts affected by conflict and natural disasters. During these deployments she studied for her Masters degree in Public Health at the University of Liverpool UK. Since 2011 she works as a research assistant at the Institute of Biomedical Ethics at the University of Zurich in Switzerland and this is also where she started her PhD. In her PHD she focuses on elaborating an ethical framework to assist humanitarian aid workers in their decision-making process. As such, she aims at building on her 10 years of field experience and her interest in ethical theories aiming at assisting humanitarian aid workers in their difficult task to allocate scarce resources.

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Sylvain Fournier, LL.M.

Sylvain Fournier is lawyer member of the Quebec Bar. During the last few years he provided International Humanitarian Law (IHL) and NATO legal training for different organizations including, HPCR International, the NATO School, the Defense Institute of International Legal Studies (DIILS) and the International Committee of Military Medicine (ICMM). For 22 years he served as a military officer in the Office of the Judge Advocate General in the Canadian Forces, occupying different legal positions and serving on operational deployments in Macedonia, East Timor and Bosnia Herzegovina. His last military assignment was at NATO HQ in Brussels where he served as legal advisor to the Chairman of the Military Committee. In 2012 he completed a consultancy project for NATO Allied Command Transformation developing an experimental web Portal for the NATO legal community. He is member of the Editorial Board of The Military Law and Law of War Review.

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Prof. Michael Gross, Ph.D.

Michael Gross has published in medical ethics, military ethics and military medical ethics. His articles have appeared in the *American Journal of Bioethics*, *The Journal of Military Ethics*, *The Cambridge Quarterly of Healthcare Ethics*, *The Hastings Center Report*, *the Journal of Medical Ethics*, and *the Journal of Applied Philosophy*.

His books include *Ethics and Activism* (Cambridge 1997), *Bioethics and Armed Conflict* (MIT 2006), *Moral Dilemmas of Modern War*: (Cambridge 2010) and an edited volume with Don Carrick, *Military Medical Ethics for the 21st Century* (Ashgate Publishing, Military and Defense Series, 2013). He is currently writing: *Ethics and Insurgency: The Moral Bounds of Contemporary Guerrilla Warfare*.

Michael Gross has been a visiting fellow at The University of Chicago, and the European University Institute in Florence, Italy. He serves on bioethics committees in Israel and has led workshops on military medical ethics for the Dutch Ministry of Defense, The US Army Medical Department, The US Naval Academy, and the Medical Corps and National Security College of the Israel Defense Forces.

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Dr. phil. Daniel Messelken

Daniel Messelken has studied Philosophy and Political Science in Leipzig and Paris (1998-2004). He has written his master thesis in 2004 on „Just Wars Today?“. He finished his doctoral thesis on „The Notion of Interpersonal Violence and its Moral Evaluation“ in 2010.

From 2004-2009 he worked as an assistant to Prof. G. Meggle at the Institute for Philosophy at the University of Leipzig. Since 2009 he is a Research Assistant on “Military Medical Ethics” at the Ethics Centre of Zurich University (Cooperation with ICMM and Swiss Armed Forces) and Scientific Coordinator at the ICMM Reference Centre of Education of International Humanitarian Law and Ethics. Since 2012, he is also member of the Board of Directors of the European Chapter of the International Society for Military Ethics (www.EuroISME.org) and member of the Steering Group of the COST action “Disaster Bioethics” (www.disasterbioethics.eu). His main research fields include Just War Theory and ethics of violence, Military Medical Ethics and Disaster Bioethics, Political Philosophy, and Applied Ethics in general.

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LTC Lajos Németh, Dr. med.

Dr. Lajos Németh has been working as a military physician for Hungarian Armed Forces since his medical graduation in St. Petersburg in 1979. He is a qualified internist, cardiologist, specialist in aviation and disaster medicine. He received his MSC degree of healthcare law at Eotvos Lorand University Budapest in 2006. Currently he is the Head of Medical Evaluation Department of Military Hospital examining and qualifying soldiers for missions and positions assigned to NATO and EU.

Dr. Lajos Németh has been elected onto several Ethical Committees of the Hungarian Medical Chamber. He is a doctoral candidate in philosophy of military science and military medical ethics at National University of Public Service, Budapest.

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COL Jacques Ricard, Dr. med.

Colonel Jacques Ricard is a family physician who spent his whole medical career as a Medical Officer in the Canadian Armed Forces. During those 33 years, he has been deployed on numerous UN, NATO and Coalition deployments (Syria, Iran, Somalia, Bosnia and Afghanistan). His latest deployment was as Regional Command (South) Medical Director for ISAF in Kandahar for 9 months. During that time he was also the Commanding Officer of the Multinational Hospital. For that mission, he was awarded the NATO Meritorious Service Medal.

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MG Andreas Stettbacher, Dr. med.

Andreas Stettbacher has studied medicine in Berne and specialized in surgery. He has worked as a surgeon and medical director of the department of surgery in several hospitals in Switzerland and South Africa. He has also taught in the fields of surgery, traumatology, disaster medicine, and war surgery at different national and international hospitals and universities, including e.g. the Swiss Academy for War Surgery and Disaster Medicine, and NATO school in Oberammergau.

Since 2009, he is Surgeon General of the Swiss Armed Forces. He has been deployed on missions in Bam/Iran (DEZA), Sarajevo/ Bosnia-Herzegovina (OSZE), and Kosovo (KFOR/NATO).

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LTC Cord von Einem, LL.M.

Cord von Einem studied Law in Germany from 1988 to 1993. From 1993 to 2005 he worked for several Management Consulting Companies in Germany, Europe and the US. Since 2005 he is entrepreneur and CEO of an Investment Management Company in Switzerland as well as member of the supervisory boards of a number of project companies. Mr. von Einem is as well Reserve Officer of the German Armed Forces since 1986, now in the rank of lieutenant colonel, he had positions up to deputy regiment commander in the Division for Specialized Operations, Deputy Branch Chief G9 German Army Force Command and CIMIC Specialist in the Operational Staff of the German Federal Ministry of Defence. Since 2012 he is Section Chief of the Lessons Learned Section of the CIMIC Center of Excellence, Enschede (NLD). Four times he has been deployed on missions in Bosnia and Afghanistan as Company Commander, Branch Chief J9 and CJ9 and thus has been deeply involved in the planning and conduct of operations with high intensity on tactical and operational level.

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Cases for selected session

Session I

Case I.1 (contributed by J. Ricard)

You have admitted a Local National who suffered a gun shot wound from crossfire during a firefight between your Forces and insurgents. The patient now suffers from uncontrollable bleeding after multiple transfusions. You have a few vials of Factor VII at 10,000\$ a dose. Will you use it for this patient?

Case I.2 (contributed by J. Ricard)

Your hospital has a capacity of 12 regular beds and 4 Intensive Care beds. Your status is presently 8 regular beds filled and 2 Intensive Care beds filled. There has been an IED event with 3 Local National injured. A request has been put in for evac to your facility. Should you accept them and bring your bed status to maximum occupancy?

Session III

Case III.1 (contributed by L. Németh) - *Patient or detainee in hospital?*

The 30th anniversary commemorating the end of the revolution was approaching. The patient AA from the defeated side was intending to participate in the forbidden commemoration of the revolution. At this time a referral was handed for him by the SSA (State Secret Agency) to a provincial rehabilitation hospital. A few days earlier, he had been treated for angina pectoris and he had given consent to accept the referral. During hospitalisation his intention of being sent home through indiscipline was unsuccessful.

8 years later (2 years after the political system had changed) it was suspected that his doctor BB justified hospitalisation estimating an ergometric test as positive, which was negative by the estimation of three independent experts. An ethical investigation started and Dr. BB was threatened with dismissal from his workplace but after a short time the process was interrupted by the (natural) death of Dr BB.

Case III.2 (contributed by L. Németh) - *Overriding patient wishes?*

Soldier „X” is a member of the police staff in a peacekeeping operation. He is going to take part in a mini-marathon organized for soldiers when off duty.

The military doctor has recommended „X” not to participate because of the excessively high temperature and the fact that „X” has varicosity on his legs. These two risk factors seemed too dangerous for thromboembolic disease. Despite the doctor’s recommendation, soldier „X” participates and after half of the distance he needs resuscitation after a pulmonary embolism. „X” survives and is evacuated by MEDEVAC.

Would it have been ethically justifiable, if the doctor had asked help from the commander to avoid the participation of soldier „X” in the mini-marathon?

Session V.1

Case V.1.1 (contributed by S. Fournier)

Blackland is at war against Whiteland a state where euthanasia is illegal. A wounded female pilot from Whiteland has been made POW in a camp located in Blackland where assisted suicide is legal. After years in captivity the pilot has been diagnosed with a rare form of incurable disease extremely painful. You are the medical officer in charge of the POW camp and she comes to ask you to be assisted to commit suicide as quick as possible and before she becomes incapable of expressing her will.

1. Should you grant her request to be assisted to commit suicide?
2. Should euthanasia be legal in Whiteland would your decision be different?

Case V.1.2

Inspired by a situation LCol John Masters a British Commander faced while engaged with Japanese's forces in Burma in 1944

You are a medical officer in charge of a field ambulance belonging to Blackland where euthanasia is legal. After 17 days of constant fighting the units you are supporting retired following their defeat. Early in the retreat 5 wounded you have been carried deemed to be terminal. They suffered from extensive head wounds and multiple amputations and one soldier in particular had lost the lower half of his body. Another 7 wounded could be saved if the stretcher-bearers carrying the 5 severely wounded could care for them. Your commanding officer is ordering that the 5 wounded near death condition to be put to death immediately rather than abandoned to die of their wounds or at the hands of captors. You are about to give them morphine before they will be shot.

1. Discuss the order

Case V.1.3

As medical officer, your Commanding Officer have ordered you to euthanize a wounded soldier of your own forces possessing military information of great significance. The commanding officer is extremely worried that the capture of the wounded soldier would result in greater losses or defeat.

1. Discuss the issue of tactical euthanasia

Case V.1.4 (contributed by D. Messelken, adapted from literature)

You are a medical officer accompanying a patrol.

Your patrol gets into an ambush. After a short but intense firefight, two attackers are found dead and a third one is gravely injured. With the means at your disposition you won't be able to save his life and you are sure he will die painfully within the next one or two hours.

As the general situation is not secure, your patrol commander decides to leave the scene even if there is no immediate threat. You cannot take the wounded with you and your call for air evacuation of the patient has been declined for lack of resources.

As there won't be any medical help available for the wounded fighter and his fate seems clear to you, you think of relieving his pain by giving him a high dose of morphine which will probably also hasten his death. On the other side, you would have to use up the morphine stocks that you have with you...

What should you do?

Session V.2

Case V.2.1 (contributed by M. Barilan)

A relatively isolated medical unit has a very limited supply of coagulation factor. (A new and expensive infusion that can stop massive bleeding and save life). Eight enemy soldiers are brought in, some with massive hemorrhages. A paramedic suggests to keep the coagulation factor for the sake of one's own soldiers who will certainly need it in the coming few days. An officer thinks that at least one injured enemy officer must be treated because his later interrogation might produce valuable information that can save many lives.

Case V.2.2 (contributed by M. Barilan)

A medical unit is deployed in a disaster stricken poor and malfunctioning country. Triage is tough. Only one out of ten is admitted for life-saving care. A diplomatic vehicle appears with an injured girl. Her condition is serious, but many victims in a similar situation have been rejected by triage. She is the daughter of your ambassador's chauffeur. The ambassador calls you on the telephone asking, almost ordering, you to treat the girl "as if she was one of our soldiers".

Registration

Contact Adele Renfer: Adele.Renfer@vtg.admin.ch
Workshop Fee CHF 600 (additional night 17./18.04.13 with dinner can be booked for 198 CHF)

① All participants must register in advance. No participation is possible without registration.

Scientific Coordination

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Workshop Organisation

Swiss Armed Forces Medical Services Directorate
Prof. Dr. Dr. h.c. Martin Oberholzer-Riss: oberholzerm@bluewin.ch
Adele Renfer: Adele.Renfer@vtg.admin.ch

Workshop Language

The official language of the workshop is English. No translation is provided during the workshop.

Dress Code

Military Office Uniform
Civilian No Code

Arrival to the venue: Forum Lilienberg

Address Blauortstr. 10, CH 8272 Ermatingen, Switzerland
Airport Zürich Kloten (ZRH)
Railway Station Ermatingen
Shuttle Transport in cars from the Airport to the conference venue will be organised. Please register early.



Venue: Forum Lilienberg, Ermatingen (CH)

Aims of the Foundation

- Advancement of cultural and social activities of all kind
- Preserve liberal business ideas

Venue

- of encounter, discussion
- entrepreneurial education and culture

Forum

- Environment for thoughts
- Platform for discussions
- Forum of liberal spirit, everything may be thought, everything may be voiced, everyone learns from the others

Overview map of the venue



- | | | |
|-------|----------------------|------------------------|
| • (1) | "Stiftung Lindeguet" | Guest rooms 1-6 |
| • (2) | "Zentrum" | Plenary Hall |
| • (3) | "Forum" | Reception & Restaurant |
| • (4) | "Gästehaus" | Guest rooms 10-35 |

Emergency-Number Forum Lilienberg
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