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Legal Services
Law of War Program

***This regulation supersedes AE Regulation 27-8, 15 June 2009.**

For the Commander:

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Summary. This regulation implements the DOD Law of War Program in the European theater and describes the process for reporting and investigating Law of War violations.

Summary of Change. This revision incorporates administrative changes.

Applicability. This regulation applies in both peacetime and wartime to—

- U.S. Army units and personnel in the USEUCOM area of responsibility.
- All military operations and related activities in armed conflict, however such conflicts are characterized.

Supplementation. Organizations will not supplement this regulation without Office of the Judge Advocate (OJA), HQ USAREUR (AEAJA-ILOD), approval.

Forms. AE and higher level forms are available through the Army in Europe Library and Publishing System (AEPUBS) at <https://aepubs.army.mil/>.

Suggested Improvements. The proponent of this regulation is the OJA (AEAJA-ILOD, DSN 370-6048/8996). Users may suggest improvements to this regulation by sending DA Form 2028 to the OJA (AEAJA-ILOD), Unit 29351, APO AE 09014-9351.

Distribution. C (AEPUBS).

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SECTION I GENERAL

1. PURPOSE

This regulation implements the DOD Law of War Program in the European theater.

2. REFERENCES

Appendix A lists references.

3. EXPLANATION OF ABBREVIATIONS AND TERMS

a. Abbreviations.

CG, USAREUR	Commanding General, United States Army Europe
CID	criminal investigation division
DOD	Department of Defense
HQDA	Headquarters, Department of the Army
HQ USAREUR	Headquarters, United States Army Europe
JA	judge advocate
MTOE	modification table of organization and equipment
SJA	staff judge advocate
U.S.	United States
USAREUR	United States Army Europe
USEUCOM	United States European Command

b. Terms.

Law of War

That part of international law that regulates the conduct of armed hostilities. It is often called the “law of armed conflict.” The Law of War encompasses all international law for the conduct of hostilities binding on the United States or its individual citizens, including treaties and international agreements to which the United States is a party and applicable customary international law.

reportable incident

A possible, suspected, or alleged violation of the Law of War for which there is credible information, or conduct during military operations other than war that would constitute a violation of the Law of War if it occurred during an armed conflict.

4. POLICY

Soldiers and leaders require Law of War training throughout their military careers commensurate with their duties and responsibilities. U.S. Army commanders in the European theater will ensure that the requirements of the Law of War are taught, observed, and enforced at every level.

a. Commanders will—

(1) Plan and implement programs to train their personnel in the Law of War and to prevent violations.

(2) Ensure reportable incidents are promptly reported, thoroughly investigated, and remedied by corrective action when appropriate.

b. Staff judge advocates (SJAs) will make their personnel available to U.S. Army commanders to advise them on Law of War matters and to serve as qualified instructors for Law of War training.

5. RESPONSIBILITIES

a. Commanders will ensure programs are initiated in their commands to train their personnel in the Law of War and to establish an effective and efficient system to properly handle reportable incidents. These programs must include at least the following:

(1) Realistic training that ensures Law of War principles and rules are known by each member of the command and understood to the degree appropriate to each person's duties and responsibilities. Commanders will establish specific training objectives and conduct training as explained in paragraph 12.

(2) Requirements for all modification table of organization and equipment (MTOE) units to conduct Law of War training each year and before any deployment directed by a deployment order.

(3) SJA review of operation plans, operation orders, contingency plans, policy, and rules of engagement (including target selection) to ensure they conform to the Law of War.

(4) Provisions for prompt reporting and investigation of reportable incidents (whether committed by or against U.S., Allied, or enemy military or civilian personnel) and for taking disciplinary or corrective action when appropriate.

(5) Provisions for the appropriate disposition of cases under the Uniform Code of Military Justice involving reportable incidents committed by persons subject to courts-martial jurisdiction in the command.

(6) Provisions for the appropriate disposition of prisoners of war, individuals asserting prisoner-of-war status, and other detainees according to the 1949 Geneva Conventions (app A, sec I), applicable regulations, and national policy.

b. All U.S. Army military and civilian personnel, including contractor personnel, will report reportable incidents through channels prescribed by implementing directives in their commands. Reports normally will be made through command channels. If command channels are unavailable or if a commander is suspected of a Law of War violation, the following personnel may receive and transmit the reports:

(1) Chaplain.

(2) Criminal investigation division (CID).

(3) Inspector general.

(4) Judge advocate (JA).

(5) Provost marshal.

c. SJAs at corps, divisions, and separate brigades will—

(1) Help commanders develop and carry out Law of War training programs.

(2) Establish procedures with other staff elements, law-enforcement agencies, and commanders to ensure the SJA is advised of reportable incidents.

(3) Send by the fastest means possible initial reports of reportable incidents. Initial reports must be sent directly to the USAREUR JA (AEAJA) with an information copy to intermediate headquarters.

(4) Help CID, provost marshal, and other investigative personnel conduct prompt and thorough investigations.

(5) Send final full reports of investigations directly to the USAREUR JA (AEAJA) with an information copy to intermediate headquarters where they exist.

SECTION II REPORTS, INVESTIGATIONS, AND COMPLIANCE

6. SCOPE

The investigation and reporting requirements of this section apply to every reportable incident committed by or against—

- a. U.S. military personnel.
- b. Allied military personnel.
- c. Enemy personnel, whether lawful or unlawful combatants.
- d. Civilian personnel, whether U.S., Allied, or other nationality.

7. CONCEPT

The International Law and Operations Division, Office of the Judge Advocate, HQ USAREUR, will supervise the identification and reporting of reportable incidents directly or indirectly involving any U.S. Forces personnel in the USEUCOM area of operations.

8. REPORTS

The International Law and Operations Division will monitor the investigation and disposition of reportable incidents. Commanders having an SJA on their staffs will be responsible for implementing the Law of War Reporting System as follows:

- a. Initial reports will use the standard format for serious incident reports in AR 190-45. These reports will have the phrase “Suspected Law of War Violation” in the first position of the subject line. The commander or provost marshal will send completed reports to the USAREUR JA (AEAJA).
- b. If a reportable incident was committed by or against Allied military or civilian personnel and did not involve U.S. Forces personnel, an initial report stating that U.S. Forces personnel were not involved must be made and sent as prescribed in paragraph 5c(3).

9. INVESTIGATIONS

- a. Reportable incidents normally will be investigated by CID, provost marshal, and military-intelligence personnel, or Judge Advocate General service organization war-crimes teams, if deployed. Reports of investigations will be in the standard format prescribed by directives governing the particular investigating agency. Commanders may also appoint an investigating officer according to AR 15-6.
- b. Investigations of incidents involving U.S. Forces military or civilian personnel will be conducted as quickly and as thoroughly as circumstances permit.
- c. When initial investigations reveal that U.S. Forces personnel were not involved (para 8b), the situation will not be subject to further U.S. investigation unless directed by the CG, USAREUR.

10. REPORTS TO HIGHER HEADQUARTERS

The International Law and Operations Division will send reports to HQDA and HQ USEUCOM according to DOD Directive 2311.01E and USEUCOM Directive 45-1.

11. INTERNATIONAL COMMITTEE OF THE RED CROSS

Requests for cooperation from the International Committee of the Red Cross or contact with the International Committee of the Red Cross should be coordinated through the USAREUR JA (AEAJA-ILOD). The USAREUR JA will coordinate the matter with USEUCOM (ECJ5).

SECTION III

TRAINING, PLANS, AND OPERATIONS

12. TRAINING AND EXERCISES

a. Law of War training in the European theater will be conducted according to Army training requirements. These requirements are in Chairman of the Joint Chiefs of Staff Instruction 5810.01D and DOD Directive 2311.01E. Law of War training is conducted in three levels:

(1) Level A training is conducted during initial entry training for all enlisted personnel and during basic courses of instruction for all warrant officers and officers.

(2) Level B training is conducted in MTOE units (b below).

(3) Level C training is conducted in the Army School System.

b. USAREUR MTOE units will conduct level B training as follows:

(1) Formal training for every Soldier will be conducted each year and again before any deployment directed by a deployment order or appropriate authority.

(2) Commanders will establish specific training objectives. A qualified instructor will conduct training in a structured manner and evaluate performance using established training conditions and performance standards. For the purposes of this formal training, a “qualified instructor” is defined as a Judge Advocate General’s Corps officer or a paralegal noncommissioned officer certified to conduct this training by a Judge Advocate General’s Corps officer.

(3) The training must reinforce the principles taught in level A training (a(1) above). The training must also emphasize the proper treatment of detainees, to include the “Five S’s and T” rule (search, segregate, silence, safeguard, speed, and tag). Soldiers will be required to perform tasks to standard under realistic conditions. Training for all unit leaders must stress their responsibility to establish supervision and control processes that ensure detainees are properly treated and to prevent abuse of detainees.

(4) Training will be designed around current missions and contingency plans (including anticipated geographic areas of deployment or rules of engagement). Detainee-operations training will integrate military police and military intelligence personnel where doctrinally appropriate.

c. In addition to the level B training in subparagraph b above, training on the Law of War and detainee operations will be integrated into other appropriate unit training activities, field training exercises, and unit external evaluations at home station, combat training centers, and mobilization sites. Maximum realism must be applied to tactical exercises consistent with good safety practices. For field and exercise training, the following applies:

(1) SJAs at corps, divisions, and separate brigades will—

(a) Attend planning conferences for unit exercises and should, when appropriate, develop specific Law of War scenarios to be included in exercise documents. These scenarios should evaluate knowledge of and compliance with the Law of War and should test procedures for reporting and investigating alleged Law of War violations.

(b) Provide umpires or controllers for exercises when appropriate.

(c) Provide Law of War advice to participants.

(d) Evaluate Law of War training in their organizations.

(e) Supervise the reporting and investigation of exercise problems involving Law of War violations.

(f) Provide the USAREUR JA (AEAJA-ILOD), Unit 29351, APO AE 09014-9351, after-action reports, comments, and reports on identified systemic issues on Law of War problems handled during exercises.

(2) Corps, division, and separate brigade training and operations personnel will—

(a) Help JA personnel insert and monitor Law of War problems in field training down to the brigade level.

(b) Implement, with JA assistance, Law of War training at battalion level and below.

(c) Order and distribute, with JA assistance, copies of AE Pamphlet 350-27 for unit training at the battalion level and below.

d. The annual and predeployment Law of War training requirements (b(1) above) do not preclude units from conducting additional Law of War training in forums such as common task training or Sergeants Time Training. Training done in addition to the required training does not require a JA officer or paralegal noncommissioned officer, though units should contact their servicing legal center for support in structuring this additional training.

e. The USAREUR JA will ensure JA personnel in the European theater are prepared to conduct training in subordinate commands. The International Law and Operations Division will provide technical advice and training for JA personnel on the Law of War.

f. SJAs will provide enough qualified instructors for unit training events. These instructors must be either Judge Advocate General's Corps officers or certified paralegal noncommissioned officers.

13. PLANS REVIEW

a. The USAREUR JA will review plans, standing operating procedures, policy, directives, rules of engagement, and similar documents drafted or implemented by HQ USAREUR to ensure they comply with the Law of War and other legal requirements. This review will verify that an essential element of information has been established for alleged Law of War violations or practices that may lead to such violations.

b. Staff and command JAs will conduct legal reviews similar to those in subparagraph a above for their assigned and supported units. Records of reviews must be maintained as long as the reviewed document remains in effect.

14. OPERATIONS

a. Commanders and the Deputy Chief of Staff, G3, USAREUR, will ensure that JAs and legal advisors are included on battle staffs and crisis-action teams for planning and executing military operations. Commanders also will ensure that operation and contingency plans are reviewed for legal sufficiency within battlefield constraints.

b. Deployment and mobilization planning by operations personnel will take into account the requirement for enough JAs and legal clerks to support each commander's mission.

c. When combined operations and exercises are planned with Allied forces, JAs and legal advisors should periodically consult with their Allied counterparts about the Law of War in conjunction with those exercises.

APPENDIX A REFERENCES

SECTION I INTERNATIONAL AGREEMENTS

Hague Convention No. IV, Respecting the Laws and Customs of War on Land, 18 October 1907

Hague Convention No. V, Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land, 18 October 1907

Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or Other Gases, and of Bacteriological Methods of Warfare, 17 June 1925

1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, 14 May 1954

Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 August 1949

Geneva Convention for the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, 12 August 1949

Geneva Convention Relative to the Treatment of Prisoners of War, 12 August 1949

Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, 10 April 1972

Protocol I Additional to the Geneva Conventions Relative to the Protection of Victims of International Armed Conflicts, 12 December 1977 (The United States is not a party.)

Protocol II Additional to the Geneva Conventions Relative to the Protection of Victims of Non-International Armed Conflicts, 12 December 1977 (The United States is not a party.)

Convention on Prohibitions or Restrictions of the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects, 10 October 1980

Protocol on Non-Detectable Fragments (Protocol I); Geneva, 10 October 1980

Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II); Geneva, 10 October 1980 as amended on 3 May 1996 (Protocol II as amended on 3 May 1996)

Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III); Geneva, 10 October 1980

Protocol on Blinding Laser Weapons (Protocol IV), 13 October 1995

Protocol on Explosive Remnants of War (Protocol V), 28 November 2003

Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, 13 January 1993

SECTION II
DIRECTIVES, REGULATIONS, AND PUBLICATIONS

Chairman of the Joint Chiefs of Staff Instruction 5810.01D, Implementation of the DOD Law of War Program

Uniform Code of Military Justice

DOD Directive 2311.01E, DOD Law of War Program

AR 15-6, Procedures for Investigating Officers and Boards of Officers

AR 190-45, Law Enforcement Reporting

USEUCOM Directive 45-1, Law of War Program

AE Pamphlet 350-27, The Law of War: Soldiers Rules

SECTION III
FORM

DA Form 2028, Recommended Changes to Publications and Blank Forms