

HEADQUARTERS
UNITED STATES EUROPEAN COMMAND
UNIT 30400
APO AE 09131

DIRECTIVE
NUMBER 45-1

27 June 2002

LEGAL

Law of War Program

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1. **Summary.** To implement the Department of Defense Law of War Program within the United States European Command (USEUCOM).
 2. **Applicability.** The provisions of this directive apply to Headquarters (USEUCOM), its component commands, and to such other United States military forces as may be subject to the command and control of this headquarters. This directive is applicable in both peacetime and wartime and shall apply to all military operations and related activities in armed conflict, however such conflicts are characterized.
 3. **Internal Control Systems.** This directive does not contain internal control provisions and is not subject to the requirements of the Internal Management Control Program. For HQ USEUCOM and subordinate joint activities, the applicable internal control directive is ED 50-8, Internal Management Control Program.
 4. **Suggested Improvements.** The proponent of this directive is ECJA. Recommendations for changes or corrections should be sent to HQ, USEUCOM, ATTN: ECJA, Unit 30400, APO AE 09131.
 5. **References.** See Appendix A.
 6. **Policy.** It is the policy of this command that:
 - a. The obligations of the United States Government under the law of war be observed and enforced by HQ USEUCOM, its component commands, and by such other United States military forces as may be subject to the command and control of this headquarters.
 - b. A program, designed to prevent violations of the law of war, be implemented by HQ USEUCOM and its component commands.

This directive supersedes ED 45-1, dated 23 August 1995.

c. Alleged violations of the law of war, whether committed by or against United States or enemy personnel or civilians, be promptly reported, thoroughly investigated, and, where appropriate, remedied by corrective action.

7. **Definition**. The law of war encompasses all international law concerning the conduct of armed conflict, binding on the United States or its individual citizens contained in either international treaties and agreements to which the United States is a party or applicable customary international law. Customary international law is the practice of states which has become accepted as legally binding upon states in their international relations.

8. **General Responsibilities**. Training to meet law of war standards is the responsibility of the Military Departments (paragraph 5.5.1, Reference B5, Appendix A). All USEUCOM component commands will initiate the necessary programs within their commands to train their personnel in the law of war and to establish an efficient and effective system for the proper disposition of alleged violations of the law of war. These programs will be reviewed and evaluated periodically in diverse ways, to include, for example, program review, staff assistance visits to subordinate units, operational readiness and other inspections, and exercises. The programs will include the following minimal elements:

a. Provide necessary and realistic training so that the principles and rules of law of war will be known to the members of the command, the extent of such knowledge to be commensurate with each individual's duties and responsibilities. To the maximum extent, such training should be integrated with realistic exercises or field training and include specific law of war scenarios to improve evaluation, response, and reporting procedures.

b. Ensure that all operational plans, policies, and rules of engagement (to include target selection) issued by their commands conform to the law of war.

c. Provide for the prompt reporting and investigation. Alleged violations of the law of war whether committed by or against United States, allied, or enemy personnel or civilians.

d. Provide for the appropriate disposition, under the Uniform Code of Military Justice, of cases involving alleged violations of the law of war by persons subject to courts-martial jurisdiction of their commands.

e. Provide for the appropriate disposition, in accordance with the 1949 Geneva Conventions and the delegation of responsibilities among Military Departments as provided in Reference a, of prisoners of war, those individuals asserting prisoner of war status, and other detainees.

f. Deficiencies recognized by this headquarters in joint operations exercises, or inspections will be reported to component commanders for corrective action.

9. **Reporting Violations of the Law of War.**

a. Alleged Violations Committed By or Against United States Personnel:

(1) All USEUCOM component commanders will promptly report, investigate, collate, collect, examine, evaluate, and record the evidence concerning alleged violations of the law of war committed by or against members of, or persons serving with or accompanying, the Armed Forces of the United States.

(2) Component commands will submit initial, progress, and final action reports of investigation by the most expeditious means through Service channels to the Military Department concerned.

(3) Information copies of all component command reports, to include initial, progress, and final reports of investigations, will be simultaneously submitted by most expeditious means through normal command channels to HQ USEUCOM (ATTN: ECJ5). ECJ5 will ensure such reports are provided to appropriate joint staff principals. In turn, HQ USEUCOM will provide an information copy of all reports to the Joint Chiefs of Staff (ATTN: Inspector General, OJCS).

b. Alleged Violations Committed By or Against Allied Military Personnel, Enemy Personnel, or Civilians:

(1) All USEUCOM component commanders will ensure that alleged violations of the law of war which may have been committed by or against allied military personnel, enemy personnel, or civilians or their property are immediately investigated to determine whether United States personnel are involved.

(a) If United States personnel are involved, either as perpetrators or as victims, follow-up reporting and investigation will be accomplished as provided in paragraph 6a, above.

(b) If no United States personnel are involved, either as perpetrators or as victims, follow-up reporting and investigation will be accomplished as provided in paragraph 6a, above. In the absence of involvement of United States personnel, an investigation may nevertheless be required in order for United States military authorities to satisfy other obligations under the law of war, for example, respecting treatment of civilians in occupied territory. Guidance may be sought from HQ USEUCOM (ATTN: ECJS and ECJA). ECJS and ECJA will be kept fully informed of these investigations.

(2) Cooperation with appropriate allied authorities will be provided in the investigation of alleged violations of the law of war involving allied military or civilian personnel.

10. **International Committee of the Red Cross (ICRC).**

a. The ICRC serves as a neutral intermediary in time of armed conflict to protect victims of war in accordance with the 1949 Geneva Conventions. ICRC delegates visit and inspect prisoner of war camps, arrange for transport and delivery of mail and food packages to detainees, distribute emergency relief, and provide staff and supplies for medical care. The ICRC also operates a central tracing agency which serves as a universal information bureau concerning prisoners of war and conducts an international tracing service to search for persons missing because of wars and civil strife.

b. Requests for cooperation from the ICRC or contact with the ICRC by component commands and such other United States military forces as may be subject to the command and control of this headquarters should be reported to HQ USEUCOM (ATTN: ECJ5) with a request for guidance.

11. **Legal Guidance and Review.** USEUCOM commanders will obtain legal review and guidance with respect to plans, policies, directives, and rules of engagement (to include target selection) covered by this directive as well as in the preparation of reports and investigations pertaining to alleged violations of the law of war. Such advice on law of war compliance shall be provided in the context of the broader relationships of international, United States and Allied domestic law to military operations and, among other matters, shall address not only legal restraints upon operations but also legal authorities to employ military force.

12. **Planning for Operations and Exercises.**

a. Legal advisors and judge advocates should be assigned to battle staffs and response cells for the planning and execution of military operations. All operation plans (including preplanned and adaptively planned strategic targets), concept plans, rules of engagement, execute orders, deployment orders, policies, and directives should be reviewed by the legal advisor or judge advocate to ensure compliance with domestic and international law.

b. Legal advisors and judge advocates should attend planning conferences where rules of engagement and other related topics are discussed incident to planning and execution of exercises. Where appropriate, specific law of war scenarios or interest items should be developed and included in exercises to evaluate knowledge of, and compliance with, the law of war. Procedures for reporting and investigating alleged violations of the law of war should also be exercised.

c. Legal advisors and judge advocates are encouraged to consult periodically with their allied counterparts about the law of war in conjunction with combined operations and exercises.

d. Legal advisors and judge advocates are encouraged to attend, local funding permitting, professional conferences on law of war subjects hosted, for example, by the respective military Services, the Hague Academy of International Law, the San Remo International Institute of Humanitarian Law, the Henry Dunant Institute, the International Law Association, the Federal Bar Association, the American Bar Association, and the American Society of International Law. Permissive temporary duty (TDY) is encouraged to the extent authorized by applicable directives and regulations.

e. Mobilization planning shall include provision for the sufficient numbers of legal advisors and judge advocates to support each commander's mission.

13. **Essential Element of Information (EEI)**. An essential element of information (EEI) requirement shall be established for alleged law of war violations and for policies, attitudes, and practices that may lead to violations.

14. **Primary Point of Contact within HQ USEUCOM**. Within this headquarters, the Office of the Judge Advocate (ECJA) has been designated as primary point of contact for all matters involving this directive.

15. **Effective Date and Implementation**. This directive is effective immediately. USEUCOM component commanders will forward two copies of all implementing directives or regulations to this headquarters, ATTN: ECJA.

FOR THE COMMANDER IN CHIEF:

OFFICIAL:

DANIEL J. PETROSKY
Lieutenant General, USA
Chief of Staff

AVA N. WEBB-SHARPLESS
Lt Col, USAF
Adjutant General

Appendix
A- References

DISTRIBUTION:
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Appendix A References

A. International Agreements.

1. Hague Convention No. IV Respecting the Laws and Customs of War on Land, 18 October 1907, 36 Stat. 222; TS 539; Bevans 631.

2. Hague Convention No. V Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land, 18 October 1907, 36 Stat. 2310; TS 540; Bevans 654.

3. Hague Convention No. X Concerning Bombardment by Naval Forces in Time of War, 18 October 1907, 36 Stat. 2351; TS 542; Bevans 681.

4. Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, 17 June 1925, 26 UST 571; TIAS8061; 94 LNTS 65.

5. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 August 1949, 6 UST 31124; TIAS 3363; 75 UNTS 135.

6. Geneva Convention for the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, 12 August 1949, 6 UST 3217; TIAS 3363; 75 UNTS 85.

7. Geneva Convention Relative to the Treatment of Prisoners of War, 12 August 1949, 6 UST 3316, TIAS3364; 75 UNTS135.

8. Geneva Convention Relative to the Protection of Civilian Persons in Time of War, 12 August 1949, 6 UST 3516, TIAS3365; 75 UNTS 287.

9. Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, 10 April 1972, 26 UST 583; TIAS 8062; 1015 UNTS 163.

10. Protocol I Additional to the Geneva Conventions Relative to the Protection of Victims of International Armed Conflicts, 12 December 1977 (United States is not a party). Protocol reprinted in Vol XVI, International Legal Materials 1391, Document A/32/144, 15 August 1977.

Appendix A (cont)
References

11. Protocol II Additional to the Geneva Conventions Relative to the Protection of Victims of Non International Armed Conflicts, 12 December 1977 (United States is a party). Protocol reprinted in Vol XZI, International Legal materials 1442 (1977), and as UN Document A/32/144, 15 August 1977.

B. Directives, Regulations, and Publications.

1. DoD Directive 2310.1, 18 August 1994, DoD Program for Enemy Prisoners of War and Other Detainees (Short Title: DoD Enemy POW Detainee Program).

2. DoD Directive 5100.77, 9 December 1998, DoD Law of War Program.

3. CJCSI 5810.01B, 7 January 2002, Implementation of the DoD Law of War Program.

4. CJCS Manual 3150.03, 19 June 1998, Joint Reporting Structure Event and Incident Reports.

5. Army Field Manual 27-10, The Law of Land Warfare.

6. Army Pamphlet 27-1, Treaties Governing Land Warfare.

7. Army Regulation 27-53, Review of Legality of Weapons Under International Law.

8. Naval Warfare Publication 9, The Commander's Handbook on the Law of Naval Operations.

9. Air Force Publishing Directive 51-4, Compliance with the Law of Armed Conflict.

10. Air Force Instruction 51-401, Training and Reporting to Insure Compliance with the Law of Armed Conflict.

11. Air Force Instruction 51-402, Review of Weapons for Legality Under International Law.

12. Air Force Instruction 51-710, Law of Armed Conflict and Air Operations.

13. Air Force Pamphlet 110-34, Commander's Handbook on the Law of Armed Conflict.

Appendix A (cont)
References

C. Other Publications.

1. Pictet, Jean S., Commentary on 1949 Geneva Conventions, in four volumes published between 1952 and 1960 by the International Committee of the Red Cross.

2. Index of International Humanitarian Law, published 1987 by the International Committee of the Red Cross.

3. Whiteman Digest of International Law, Volume 10, published in 1968 by the U.S. Department of State (with annual yearly supplements published in the Digest of United States Practice in International Law).

4. Law of War Handbook, Army JAG School.

D. Websites

1. jagcnet.army.mil

2. aflsa.jag.af.mil

3. adtdl.army.mil