

TACTICAL LEGAL

# POLISH / UNITED STATES INTEROPERABILITY

HANDBOOK



CENTER FOR LAW AND MILITARY OPERATIONS



POLISH ARMED FORCES GENERAL COMMAND LEGAL DIVISION



USAREUR-AF OFFICE OF THE JUDGE ADVOCATE



Cover Page photo by Pvt. Natalia Wawrzyniak, Polish Land Forces, Swietoszow, Poland

This publication is available at The Judge Advocate General's  
Legal Center and School website:  
<https://tjaglcs.army.mil/publications>

## Acknowledgements

This U.S.-Polish Smartbook represents a monumental achievement in legal research and collaboration. It is the culmination of countless hours of dedicated work by our talented team of legal practitioners, researchers, and translators. Their expertise, combined with their unwavering commitment to providing accessible and comprehensive legal information, has resulted in this invaluable resource for practitioners on both sides of the Atlantic.

We are immensely proud of the work that has gone into creating this Handbook, and we are confident that it will serve as an indispensable tool for those navigating the complexities of U.S. and Polish law. We extend our sincere gratitude to everyone who contributed to this project.

We hope that this Smartbook will foster deeper understanding and cooperation between the legal communities of the United States and Poland.

Joseph B. Mackey  
Colonel, U.S. Army  
Director, The Judge Advocate General's Legal Center

# TACTICAL LEGAL POLISH / UNITED STATES INTEROPERABILITY HANDBOOK

## Contents

Acknowledgements .....	iv
Contents .....	v
Preface .....	vii
Selected References .....	viii
Poland .....	viii
United States .....	viii
Introduction .....	1
Purpose .....	1
Chapter 1 .....	3
OVERVIEW .....	3
Interoperability .....	3
Definitions of Interoperability and Legal Interoperability .....	3
Levels of Interoperability and Legal Interoperability .....	4
Domains of Interoperability .....	5
The Military Personnel Exchange Program (MPEP) .....	6
United States and Poland - National Authorities and Legal System .....	6
Legal Corps .....	7
International Humanitarian Law .....	12
Comparison of Treaty Membership .....	14
Reservations and Understandings .....	14
International Human Rights Law .....	15
Chapter 2 .....	16
SELECTED OPERATIONAL LAW TOPICS .....	16
Military Planning and Operations Overview .....	16
Rules of Engagement .....	18
Targeting .....	21
LEGAD involvement in each phase of the JTC .....	23
Internalization of IHL rules .....	23
Detention Operations .....	24
United States Investigations .....	26
Military Discipline .....	28
Environmental Considerations .....	31

Contracting support.....	32
Humanitarian Assistance and Disaster Relief.....	33
Soldiers’ Training on IHL.....	34
Intelligence Activities .....	35
<b>Chapter 3.....</b>	<b>37</b>
<b>UNITED STATES FORCES STATIONED IN POLAND.....</b>	<b>37</b>
<b>The NATO Status of Forces Agreement (SOFA) and Other Legal Documents Related to Facilitating United States Military Presence in Poland .....</b>	<b>37</b>
<b>Claims against the United States Department of Defense in Poland .....</b>	<b>38</b>
<b>Overview.....</b>	<b>38</b>
<b>Rationale for Article VIII.....</b>	<b>38</b>
<b>Article VIII Explained.....</b>	<b>38</b>
<b>Article VIII Process .....</b>	<b>40</b>
<b>U.S. Forces Responsibility.....</b>	<b>40</b>
<b>Definitions .....</b>	<b>41</b>
<b>Criminal Jurisdiction Over United States Forces in Poland .....</b>	<b>42</b>
<b>Environmental considerations for United States Rotational Forces.....</b>	<b>44</b>
<b>Chapter 4.....</b>	<b>45</b>
<b>REFERENCE INFORMATION.....</b>	<b>45</b>
<b>Armed Forces Task and Structure.....</b>	<b>45</b>
<b>Leadership, Command, and Services of the Polish Armed Forces.....</b>	<b>45</b>
<b>United States Military Roles and Structures .....</b>	<b>50</b>
<b>Annexes.....</b>	<b>51</b>
<b>Annex A – Comparison of Selected Substantive Interpretations.....</b>	<b>51</b>
<b>Annex B – United States Army Ranks.....</b>	<b>62</b>
<b>Annex C – Polish Land Forces Ranks.....</b>	<b>64</b>
<b>Annex D – Training Areas .....</b>	<b>65</b>
<b>Annex E – Table of Agreements .....</b>	<b>68</b>
<b>Annex F – Commander’s Duty Status Response Memo .....</b>	<b>70</b>
<b>Annex G – Notice of Incident (Article 14 Notice).....</b>	<b>72</b>
<b>Annex H – Official Duty Certificate.....</b>	<b>73</b>

## Preface

The Tactical Legal Polish / United States Interoperability Handbook provides best practices for U.S. and Polish judge advocates, legal advisors commanders, legal administrators, and paralegal soldiers interacting with allied nation across the spectrum of conflict.

The primary audience for this publication is U.S. JAGC personnel and Polish legal advisors who have limited multinational operational experience. The secondary audience for this publication is foreign military personnel conducting multinational operations with the U.S. Army or the Polish Armed Forces.

The proponent for this publication is the Center for Law and Military Operations, The Judge Advocate General's Legal Center and School (TJAGLCS), U.S. Army. Send written comments and recommendations on DA Form 2028 (*Recommended changes to Publications and Blank Forms*) directly to Director, CLAMO, The Judge Advocate General's Legal Center and School, U.S. Army, ATTN: CTR-FC, 600 Massie Road, Charlottesville, VA 22903-1781. Send comments and recommendations by e-mail to [usarmy.pentagon.hqda-tjaglcs.mbx.clamo-tjaglcs@army.mil](mailto:usarmy.pentagon.hqda-tjaglcs.mbx.clamo-tjaglcs@army.mil).

## Selected References

### Poland

1. Ustawa o obronie Ojczyzny (Homeland Defence Law), Ustawa z dnia 11 marca 2022 r. o obronie Ojczyzny (sejm.gov.pl)
2. Ustawa o radcach prawnych (Legal Advisers Law), Ustawa z dnia 6 lipca 1982 r. o radcach prawnych. (sejm.gov.pl)
3. Doktryna prowadzenia operacji połączonych DD-3(B), Szkol. 918/2015 (Joint Operations Doctrine),
4. Dowodzenie i kierowanie w działaniach lądowych DT-3.2.2, Szkol. 884/2014 (Commanding and leading in land operations)
5. Instrukcja o przygotowaniu i prowadzeniu ćwiczeń z dowództwami, sztabami i wojskami w SZ RP (DD/7.1.1 A) (Instruction on preparation and conducting exercise with headquarters, staffs and troops in PAF)
6. Organizacja szkolenia dowództw i sztabów w SZ RP (DD/7.1A) (Organisation of training of headquarters and staffs in PAF)
7. Postępowanie z zatrzymanymi, zdobytym wyposażeniem i dokumentami. DD/2.5 (Handling of captured gear and documents)
8. Poradnik do szkolenia z Międzynarodowego Prawa Humanitarnego Konfliktów Zbrojnych DU-7.0.1.1 (Handbook on LOAC teaching)

### United States

9. Department of Defense Law of War Manual. Department of Defense Law of War Manual (Updated July 2023)
10. Army Field Manual 6-27, The Commander's Handbook on the Law of Land Warfare
11. Joint Publication 1-04, Legal Support to Military Operations, JP 1-04, Legal Support to Military Operations (jcs.mil)
12. Army Field Manual 3-84, Legal Support to Operations,
13. Joint Publication 3-60, Joint Targeting, Joint\_Chiefs-Joint\_Targeting\_20130131.pdf
14. Army Field Manual 3-60, Army Targeting,



15. Chairman, Joint Chiefs of Staff Instruction 3160.01D, 21 May 2021, No-Strike and the Collateral Damage Estimation Methodology. (Controlled Unclassified Information, limited release).
16. DoD Directive 2310.01E, DoD Detainee Program
17. Army Regulation 190-8
18. Field Manual 3-63, Detainee Operations
19. Joint Publication 3-16, Multinational Operations, JP 3-16, Multinational Operations (jcs.mil)
20. Army Regulation 34-1, Interoperability, \*ARN19606\_AR34-1\_FINAL.pdf (army.mil)
21. Army Regulation 27-1, Judge Advocate Legal Services, AR27-1\_Web\_FINAL.pdf (army.mil)
22. Army Field Manual 2-22.3, Human Intelligence Collector Operations
23. Army Field Manual 5-0, Planning and Orders Production
24. Army Field Manual 6-0, Commander and Staff Organization and Operations

## **References**

Joint Publication 4-10, Operational Contract Support

[https://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/jp4\\_10.pdf](https://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/jp4_10.pdf)

Army Regulation 715-9, Operational Contract Support Planning and Management

[https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/pdf/web/ARN2772\\_AR715-9\\_Web\\_FINAL.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/ARN2772_AR715-9_Web_FINAL.pdf)

Army Regulation 700-137, Logistics Civil Augmentation Program (LOGCAP)

[https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/pdf/web/ARN2768\\_AR700-137\\_Web\\_FINAL.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/ARN2768_AR700-137_Web_FINAL.pdf)

# Introduction

## Purpose

This Handbook serves to improve legal interoperability at the tactical level between the United States Army and the Polish Army. It is designed to give legal advisors and professionals assigned to support tactical units in both nations' armies a basic understanding of each nation's approach to ensuring commanders and staff have access to legal advice. The authors of this Handbook hope that the improved understanding that this guide helps build will contribute to the rapid integration of U.S. and Polish land forces in multi-national operations.

The authors wrote this Handbook with a practical mindset based on the real-world experiences of legal professionals serving in both the U.S. and Polish Armed Forces. As a practical guide, this Handbook is a familiarization tool that assists legal professionals identify where to look when presented with a legal question. As such, this Handbook is not exhaustive and orients U.S. and Polish legal professionals to the combined environment in which they operate to facilitate issue spotting and resolution. The authors expect that this Handbook will serve as a tool that will help ensure that U.S. and Polish consult with relevant experts to help bring potential issues to a speedy resolution that respects each country's interests.

Legal advisors and professionals participating in international exercises and combined operations have a special obligation to share lessons learned and best practices. The Center for Law and Military Operations (CLAMO) nested within The Judge Advocate General's Legal Center & School (TJAGLCS), is responsible for collecting, analyzing, and disseminating lessons learned and best practices related to legal interoperability. The authors of this book encourage U.S. and Polish legal professionals to contribute to CLAMO's effort by sharing their experiences, giving due regard to rules governing the disclosure of information to foreign nationals.

In the Polish Armed Forces, training and gathering experience in the application of the law of armed conflict is generally the responsibility of the Legal Branch of the General Command of the Armed Forces, which is responsible for training soldiers, including in legal aspects, and preparing them for their tasks. At the time of this writing, the Polish Armed Forces have not established an entity with a mandate comparable to CLAMO's.

The establishment of legal exchange officers from Poland and the United States, located at TJAGLCS and the General Command, allowed for the first time a broad exchange of information and experience between Polish and U.S. legal advisors. This exchange was at the heart of the idea and creation of this publication.

This page is intentionally left blank

## Chapter 1

### OVERVIEW

#### Interoperability

- 1-1. U.S. Army interoperability doctrine is found in Army Regulation (AR) 34-1, Interoperability. It uses the term Unified Action Partner (UAP), which in a broad sense means not only the armed forces of other countries, but also other entities such as government agencies, non-governmental organizations and even private enterprises. In 2024, TJAGLCS published the “Best Practices of Multinational Legal Interoperability Handbook” (MLI Handbook). Although not doctrine, at the time of this writing, this is the most practical document the Corps has published on legal interoperability.
- 1-2. Polish doctrine uses language borrowed from NATO terminology. The most important documents are the “Allied Data Publication 34 (ADaTP-34) NATO Interoperability Standards and Profiles” (NISP) and STANAG 5524, which catalogs “Consultation, Command and Control” (C3) standards usable in NATO. The NATO definition coincides with the U.S. definition and considers not only armed forces, but also NGOs, universities and business entities as partners.

#### Definitions of Interoperability and Legal Interoperability

- 1-3. U.S. Army Regulation 34-1 defines interoperability as: “The ability to act together coherently, effectively, and efficiently to achieve tactical, operational, and strategic objectives.”
- 1-4. The MLI Handbook adapted this definition to suit the JAG Corps’ legal operations. It defines legal interoperability as:
- 1-5. “The achievement of sharing understanding of respective authorities, permissions, restrictions, obligations, and interpretations of international and domestic law and policy that enables the Combined Force to act together lawfully, coherently, effectively and efficiently to achieve tactical, operational and strategic objectives.”
- 1-6. The MLI Handbook emphasizes that the importance of legal interoperability is because it “facilitates lawful mission accomplishment by supporting Combined Force Commanders so they are ready to deploy, fight and win as part of a multinational force across the range of military operations and against the full spectrum of threats around the world.” Indeed, at its foundation, the core of any combined military operation rests on a legal agreement between the Troop Contributing Nations (TCNs).

- 1-7. Poland has not adopted its own national concept of interoperability. However, Poland (like all NATO Allies) agreed to the definition contained in “Allied Joint Doctrine for Air and Space Operations.”<sup>1</sup> AJP 3.3’s definition reads very similar to that contained in the TJAGLCS handbook. AJP 3.3 states:
- 1-8. “The effectiveness of Allied forces in peace, crisis or in conflict, depends on the ability of the forces provided to operate together coherently, effectively, and efficiently. Allied joint operations should be prepared for, planned, and conducted in a manner that makes the best use of the relative strengths and capabilities of the forces which members offer for an operation.”
- 1-9. Interoperability enables forces, units, or systems to operate together, allowing them to communicate and to share common doctrine and procedures, along with each other’s infrastructure and bases. Interoperability reduces duplication, enables pooling of resources and produces synergies among Allies and partners.<sup>2</sup>

## **Levels of Interoperability and Legal Interoperability**

- 1-10. Army Regulation 34-1 articulates four levels of interoperability. These are:
  - 1) Level 0: Not interoperable
  - 2) Level 1: Deconflicted
  - 3) Level 2: Compatible
  - 4) Level 3: Integrated
- 1-11. The MLI Handbook adapted these levels to legal operations. It defines the four levels as:
  - Level 0 - Not Legally Interoperable: The ally or partner has no demonstrated interoperability. The legal personnel of allies and partners operate independently from U.S. Army legal personnel, formations, and operations and do not have knowledge of the legal or policy issues of their allies or partners.
  - Level 1 – Legally Deconflicted: The ally or partner has very limited demonstrated legal interoperability. U.S. Army legal personnel and legal personnel of allies and partners do not interact. Requires alignment of legal capabilities and procedures to establish operational norms, enabling allies, partners, and the Army to complement each other’s operations.
  - Level 2 - Legally Compatible: The ally or partner has some demonstrated legal interoperability. U.S. Army legal personnel and legal personnel of allies and partners are able to interact with each other and are trained on the legal regimes and operational freedoms and

---

<sup>1</sup> AJP -3.3 at 2.2.1

<sup>2</sup> [https://www.nato.int/cps/en/natohq/topics\\_84112.htm](https://www.nato.int/cps/en/natohq/topics_84112.htm)

constraints of allied and partner nations, incorporating them into their own policies and procedures, and are able to operate in the same geographic area in pursuit of a common goal. Nations at this level however are unable to utilize interoperable personnel within their own TASKORG.

Level 3 – Legally Integrated: The ally or partner has substantially complete legal interoperability. Allies and partners are able to integrate into the TASKORG upon arrival into theater and are knowledgeable on the legal regimes and operational freedoms and constraints of other allies and partners, incorporate them into their own policies and procedures, and regularly and seamlessly exchange legally relevant information (security classification permitting) and legal personnel between their formations.

- 1-12. The authors of this Handbook recognize that the political, military, social, cultural, and historic bonds between the United States and Poland are so significant and growing that the leadership of our respective legal corps may want to continuously aspire to achieve Level 3 – Integrated legal interoperability. However, the authors also recognize that achieving such a level of legal interoperability is impossible. The authors believe and advocate that the continuous pursuit of Level 3 - Integration in the land domain remains a worthwhile effort, because it ensures that U.S. and Polish legal advisors and professionals keep pace with developments in the other's land forces, thereby continuously enhancing operational and tactical interoperability.

## **Domains of Interoperability**

- 1-13. Creating interoperability between armies is achieved by enhancing communication, cooperation, and understanding across three domains – human, procedural and technical. For legal professionals, creating interoperability begins with human-to-human contact. A simple handshake and introduction, in other words. However, it also entails establishing language training and building a technical understanding of each nation's legal context and operational processes. The technical domain focuses on communication and information sharing. This is often the most challenging obstacle in combined operations because it involves integrating Information Technology systems and security classification. Military legal advisors must have the right technical systems to communicate with commanders, staff, and each other.
- 1-14. The procedural domain focuses on operational planning processes and other doctrines, policies and standard operating procedures that enable interoperability between TCNs. The better the U.S. and Poland understand each other's operational planning process, the better they can ensure combined plans are developed to address legal requirements at an early stage. At the same time,

achieving interoperability in this domain is challenging because of the limited opportunities the U.S. and Poland must work together.

- 1-15. In the legal profession, the technical domain includes understanding legal battle rhythm events, battle drills and other procedures for responding to specific events, and synchronized information requirements between the legal advisors of the various TCNs. It also includes understanding how TCNs advise their commanders on international and national law.
- 1-16. The human domain consists of mutual understanding and respect, fundamental to joint effort and action. Even in legal interoperability, non-legal factors such as cultural and linguistic differences, and mutual communication are important, fostering trust and communication between individual TCNs. An essential element of interoperability is cyclical meetings and information exchange, allowing the building of an up-to-date operational picture - identical for each TCN. Discrepancies in the different TCNs' understanding of the law may be identified during these regular exchanges; if so, other stakeholders should be informed of the problem as necessary to ensure it is resolved as well as possible.

### **The Military Personnel Exchange Program (MPEP)**

- 1-17. The Military Personnel Exchange Program (MPEP) is a strategic U.S. Armed Forces program that seeks to increase interoperability and build strategic partnerships between mission partners and Allies. This program is vital to strengthening legal interoperability between the U.S. and its Allies.
- 1-18. Under the program, military members from the U.S. and other allied countries serve in positions directly with the armed forces of the other country. The exchange of legal advisors under the MPEP began in 2021, when a U.S. Judge Advocate began serving at the General Command of the Polish Armed Forces in Warsaw. A year later, a Polish military legal advisor began serving at TJAGLCS in Charlottesville, Virginia.
- 1-19. Since then, the exchange officers have been on duty, participating in exercises, conferences, and meetings in an effort to increase interoperability between the two countries' legal services. This Handbook is a part of these efforts.

### **United States and Poland - National Authorities and Legal System**

- 1-20. Poland and the United States are similar in that each country has a system of representative democracy whereby a written constitution establishes legislative, executive, and judicial branches. Also, both countries' constitutions establish the principle of civilian control over the military establishment. In both countries, the President as Commander-in-Chief of the armed forces. Through legislative act, both countries assign the Minister or Secretary of Defense as the senior civilian responsible for directing the military establishment. In Poland, the President does

not appoint the Minister of Defense. That function is given to the Prime Minister who, upon winning an election, is charged with forming a government whose membership consists of elected members of parliament. This is different in the U.S., where the President nominates the Secretary of Defense to the Senate for confirmation, and the Secretary serves as a member of the President's cabinet.

- 1-21. The system of civilian control over the military extends below the Minister/Secretary of Defense level, and both countries have established systems of appointing civilians as subordinate ministers overseeing all aspects of the militaries.
- 1-22. In the U.S., Article 1 Section 8 of the Constitution vests Congress with the authority to establish, fund, and regulate the Armed Services. Article II Section 2 of the U.S. Constitution, the Commander in Chief clause, states that "[t]he President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States. In Poland, the National Defense Commission has the right to control the activities of the armed forces, oversees the system and functioning of territorial defense and civil defense, the performance of duties in the field of defense consolidation, and the defense industry.
- 1-23. One important difference between the U.S. and Poland is the fact that Poland is a unitary state. Therefore, although U.S. military personnel may view governors of voivodships as similar to U.S. state governors, in fact they are appointed by the national government. Polish military personnel should bear in mind that U.S. state governors are elected by residents of those states and exercise command and control over their State's National Guard units when operating under state authority. Polish governors of voivodships have no such authority, which has important implications for how Poland utilizes its armed forces in support of domestic crisis (e.g., disaster relief) and structures the reserve component of its armed forces (e.g., the Polish National Guard).

## **Legal Corps**

### ***U.S. Army JAG Corps***

- 1-24. The U.S. Army JAG Corps is led by a lieutenant general (LTG/O-9/OF-8), referred to as TJAG, for "The Judge Advocate General". The "JAG Corps" refers to the uniformed members – judge advocates and enlisted paralegals. When including civilian attorneys and paralegals, the organization is referred to as the Judge Advocate Legal Services (JALS), comprised of around 10,000 people.



	<b>Active Component</b>	<b>U.S. Army Reserve</b>	<b>National Guard</b>
<b>Judge Advocates</b>	~1700	~1800	~800
<b>Warrant Officers (Legal Administrators)</b>	~100	~60	~50
<b>Enlisted Paralegals</b>	~1600	~1350	~800

- 1-25. Around 1,400 civilians, attorneys, and paralegals, support the Active Component. This includes around 20 attorneys and 60 paralegals licensed in allied and partner nations.

### ***Legal Office Structure***

- 1-26. Each U.S. Army corps and division is supported by an “Office of the Staff Judge Advocate” (OSJA). A colonel leads each corps-level OSJA. Division-level OSJAs are typically led by a colonel or a lieutenant colonel. Staff Judge Advocate (SJA) is the duty title for the senior officer leading an OSJA and directly advising the Commanding General.
- 1-27. The SJA is the principal legal advisor to the Corps or Division Commander. By a statutory requirement, SJAs have direct access to their commanders (e.g., they do not need to request meetings through an executive officer or a deputy). Normally commanders and SJAs form a close working relationship, where the SJA provides a fair amount of “prudential” advice in addition to strictly legal advice.
- 1-28. An OSJA has section “chiefs” in charge of various portfolios, with most sections having one or more action officers. The OSJA also has paralegals, including typically non-commissioned officer (NCO) paralegals in charge of the different sections. The graphic below outlines the structure of a typical Corps and Division level OSJA.
- 1-29. A brigade is typically the smallest unit with an assigned Judge Advocate. The exception is that Special Forces units typically have a Judge Advocate assigned at the battalion level. U.S. Army brigades are supported by a “Brigade Legal Section” (BLS), typically led by a Judge Advocate in the rank of major. This Judge Advocate’s duty title is “Brigade Judge Advocate” (often referred to as “BJA”). Subordinate to the BJA are typically one or two other Judge advocates, each normally holding the rank of captain. The BJA typically assigns each one of these Judge advocates a specific legal portfolio. The most common are “military justice” and “national security law”. The Brigade Legal Section includes at least one enlisted paralegal. The paralegal is typically a Non-Commissioned Officer holding the rank of Sergeant First Class (OR-7). Often battalion-sized units will have a junior ranking enlisted paralegal assigned to their formation. In such cases, this Soldier is typically a Specialist.

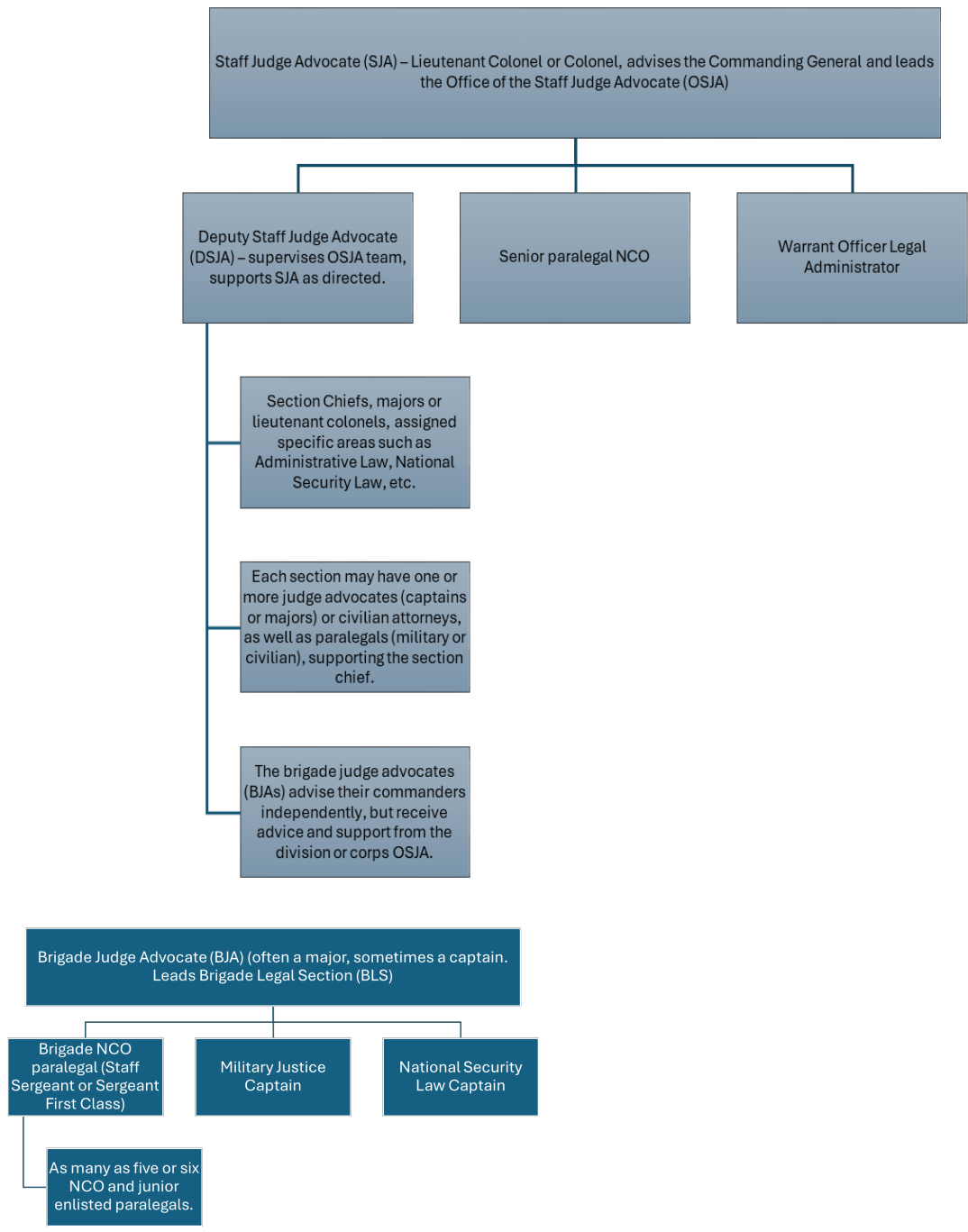


Fig. 1: U.S. Army JAGC Legal Office Structure

## ***The Justice and Legal Service Corps of the Polish Armed Forces***

1-30. The Justice and Legal Service Corps of the Polish Armed Forces ensures the military services adhere to Poland's national law and treaty obligations. The Justice and Legal Service Corps consists of two parts, the Military Justice and the Military Legal Service. Each is described below.

### ***Military Justice***

- 1-31. The Military Justice component comprises uniformed military judges and prosecutors. Defense counsels are civilian attorneys hired by soldiers to defend them. If they are found not-guilty costs related to defense against courts are reimbursed to them by the state.
- 1-32. Military prosecutors and judges are officers on active duty and administer justice in cases within their geographic jurisdiction. Both military judges and prosecutors are fully accredited lawyers that are licensed to represent clients (in this case, the Polish Republic) in court. At the same time, military prosecutors are embedded within the civilian prosecutor's structure in the military affairs departments. At times, they handle cases not related to military service. However, when they do so, they represent the Polish State in a civilian capacity. Military judges serve in separate military courts and are only authorized to oversee military court proceedings. Military judges are independent. Supervision of the organization and administrative activities of military courts and the prosecutor's office is exercised by the Minister of Justice. Supervision of the active military service of military courts is exercised by the Minister of Defense – only in matters related to their service as professional soldiers.
- 1-33. About 150 military prosecutors serve in the military prosecutor's office. They report to the civilian heads of general prosecutors' offices. The military prosecutor's office is headed by a civilian prosecutor – the Deputy Prosecutor General for Military Affairs Tomasz Janeczek.
- 1-34. About 50 military judges – soldiers – serve in military courts. They are subordinate, in terms of organization and administration, to the Department of Personnel and Organization of Common and Military Courts, whose director is a civilian – Marta Kożuchowska-Warywoda.

### ***Military Legal Service***

1-35. This component consists of both civilian and military legal advisors. The primary tasks of the Military Legal Service are the protection of the legal interests of the Ministry of National Defense and supporting the managers in the performance of their official tasks in accordance with the current legal status.

- 1-36. Supervision of the Military Legal Service is exercised by the Minister of Defense. The head of the Military Legal Service is a civilian - the Director of the Legal Department of the Ministry of National Defense, Maciej Odrobina. The senior ranking military officers assigned to the Military Legal Service are colonels assigned to the different sections of the General Staff, as well as to General Command and Operational Command.
- 1-37. The heads of the legal service at the most important commands - the General Command of the Armed Forces and the Operational Command of the Armed Forces are officers with the rank of colonel.
- 1-38. The Military Legal Service is composed of military personnel serving in the Polish Army or civilian employees in legal service positions. In addition, civilian legal advisors and attorneys may also advise based on contracts. However, these are not part of the Military Legal Service.
- 1-39. There are two types of civilian legal advisors. The first are those hired on a civil contract only provide legal services and are not part of the organization. The second is civilian legal advisors employed as if under an employment contract.
- 1-40. The Military Legal Service consists of about 200 soldiers. Typically, two legal advisors serve at the division level, and one at the brigade or regimental level. They also perform legal services for subordinate units. Usually, one legal advisor also serves in larger military institutions like the Hydrometeorological or Hydrographic Service. At times, smaller units will contract with private lawyers for representation on specific matters the Military Legal Service does not have the internal resources to provide. Notably, the Military Legal Service is a joint service, but in practice legal advisors will focus on a particular military branch (e.g., Army). The Polish Military Legal Service does not have a separate Warrant Officer or Enlisted Corps.
- 1-41. Each year, the Polish Military Legal Service recruits candidates seeking to serve as military legal advisors. Candidates must have a graduated from university with a five-year master's degree course in legal studies. Approximately a dozen candidates are accepted for a one-year course that prepares them for service in the armed forces. The course also includes many elements of general military law, including human rights law and the law of armed conflict. Upon completion of the course, the graduates receive their commission as a second lieutenant in the Polish Armed Forces and are accredited by commanders to provide legal advice to the command in which they are assigned. Authority to appoint a legal advisor depends on the rank of the appointee. For example, up to the rank of captain, the colonel commander of an independent unit designates. The countersignature of the head of the legal service of the General Command, the Operational Command or the Legal Department - depending on the subordination of the unit - is always needed. This course does not qualify the officers to represent the Polish Armed Forces in a civilian or military courts. In order to independently

represent clients in court, it is necessary to complete a 3-year civilian legal advisor's apprenticeship organized by chambers of legal advisors and completed by a professional examination. One then obtains the title "qualified legal advisor".

- 1-42. The Polish Military Legal Service does not have its own education institution comparable to TJAGLCS. However, the Academy of Military Arts hosts a resident law faculty. The Academy of Military Arts trains and prepares candidates for senior officer positions. This institution, including the law faculty, also accepts students from the civilian community. Currently, in cooperation with TJAGLCS, efforts are being made to open courses in operational law for Polish military legal advisors at the Academy of Military Art's law faculty.

### ***Polish Integration of LEGADS into Command Structures***

- 1-43. Polish military legal advisors perform tasks of advising commanders in their day-to-day duties. Usually these are matters of administrative law and procedure, in which commanders issue decisions to subordinate soldiers. They also conduct periodic training for soldiers on IHL/LOAC. In this sense, the role of a Polish LEGAD is very similar to a U.S. Army Judge Advocate.
- 1-44. An important difference between uniformed U.S. and Polish legal advisers is that Polish military legal advisors do not investigate the commission of crimes or offenses by soldiers. However, they may be engaged to assess - in case of doubt - whether an event fulfills the elements of a crime or misdemeanor. If confirmed, the case is forwarded to the military police, which conducts further actions.
- 1-45. Only military prosecutors appear before criminal courts, but they are not members of the Military Legal Service, nor are military judges. Candidates for prosecutors and military judges must complete two years of judicial and prosecutorial school after graduating from law school. Then they can apply for admission to a shortened officer's course, after which they are commissioned to serve in positions in prosecutors' offices and military courts.
- 1-46. Military legal advisors rarely appear before civilian courts. Instead, contracts with civilian contractors are concluded by so-called military economic branches operating at a certain level, and the units themselves are clients, recipients of the services so obtained. In such cases, military economic branches are represented by their own lawyers. In contrast, the bringing of lawsuits between bodies of state power in the Polish legal system is prohibited, and such cases are resolved in accordance with the competence of the bodies above them.

### **International Humanitarian Law**

- 1-47. Both Poland and the United States adhere to International Humanitarian Law (IHL). However, they are not party to the same IHL treaties, nor do they support

identical interpretations of the law for every question that might arise. Some of these differences are noted below.

## **Poland**

- 1-48. The 1997 Constitution clearly affirms that the Republic of Poland respects binding international law, and that a ratified international agreement, once published in the national “Journal of Laws”, becomes part of the internal legal order. Regarding International Humanitarian Law (IHL), Poland has ratified each of the Geneva Conventions and the Additional Protocols. Poland adheres to its legally binding international commitment and obligation to inform its population of its duties and instruct its Armed Forces on compliance. Where necessary, Poland has adopted legal or political measures to clarify or implement its commitments. Adopted national legislation includes provisions imposing criminal sanctions against those who commit or give the order to commit grave violations of the IHL.<sup>3</sup>
- 1-49. The Armed Forces of the Republic of Poland implement the nation’s affirmative legal obligations to act consistently with its binding international commitments regulating the methods and means of combat by:
- 1) Conducting classroom training on IHL at the organizational and tactical unit level;
  - 2) Conducting various forms of operational and tactical training and exercises that reinforce Poland’s positions on IHL;
  - 3) Ensuring that LEGADS review national rules governing the use of force for consistency with the country’s positions and commitments under IHL.
- 1-50. In addition, the Polish Armed forces review new materiel acquisitions to ensure that they are consistent with the country’s commitments regulating the means of combat.<sup>4</sup>

## **United States**

- 1-51. In the United States military, International Humanitarian Law (IHL) is also referred to as the “Law of Armed Conflict” (LOAC) and the “Law of War” (LOW). The different terms may emphasize different aspects or concepts, but they refer to the same body of law.
- 1-52. United States policy requires that all US military operations be conducted consistent with IHL principles and rules, without regard to the legal characterization of the situation.<sup>5</sup> That is, whether in International Armed Conflict

---

<sup>3</sup> International Humanitarian Law of Armed Conflicts, Military Center for Civic Education, 2014, p. 49

<sup>4</sup> IV Report on the implementation and dissemination of IHL in the Republic of Poland, Ministry of Foreign Affairs, 2018, p. 19

<sup>5</sup> Depart of Defense Directive 2311.01, 2 July 2020, *DoD Law of War Program*, paragraph 1.2, Policy.

or Non-International (Internal) Armed Conflict, and in situations not amounting to armed conflict.

- 1-53. National Security Law. Within the U.S. Army, IHL falls under the broader umbrella of “National Security Law”. The U.S. Army’s National Security Law Department (NSLD) has the mission to provide support “on all legal matters related to the Laws of War, international agreements, treaties and law, military operations, cyber and intelligence activities, information operations, and rule of law.”
- 1-54. Likewise, at TJAGLCS, IHL is taught by the Academic Department for National Security Law (ADN) faculty. TJAGLCS provides basic IHL instruction to new judge advocates and offers refresher and advanced IHL courses to more senior legal advisors.
- 1-55. In 2016, the US Department of Defense (DoD) published its “Law of War Manual” that provides the DoD’s position on a broad range of IHL issues or questions. The manual includes commentary and references to views taken by U.S. Allies, partner nations, and international governmental organizations such as the ICRC. The most recent update to this manual occurred in 2023.<sup>6</sup> The United States has ratified the four Geneva Conventions and the third Additional Protocol. It has signed but has not ratified Additional Protocols I and II.

### **Comparison of Treaty Membership**

- 1-56. Poland is party to nine IHL treaties that the U.S. is not party to. These include Additional Protocols I and II to the Geneva Conventions, the 1997 Anti-Personnel Mine Ban Convention, and the Rome Statute establishing the International Criminal Court. Others are the First and Second Protocols to the Hague Convention for the Protection of Cultural Property and the 2013 Arms Trade Treaty. For list of treaties adopted by each country (see Annex A).

### **Reservations and Understandings**

- 1-57. When conducting multinational operations, each TCN has an affirmative obligation to communicate to the others any limitations or restrictions on the operational use of that nation’s forces. These restrictions may either be legal (e.g., prohibition on the use of certain categories of weapon systems) or policy (e.g., restrictions on the deployment of forces outside certain geographical areas). Typically, these communications are made during the planning phase of an operation. The ramifications of these limitations or restrictions (often referred to as “caveats”) at the tactical level are not always immediately apparent. For this reason, it is important for U.S. and Polish legal advisers operating at the tactical

---

<sup>6</sup> Department of Defense Law of War Manual (Updated July 2023)

level to begin establishing legal interoperability early during the combined operation.

## **International Human Rights Law**

- 1-58. The United States views international human rights law as primarily applicable in peacetime and considers International Humanitarian Law to be *lex specialis* that plays a primary role in governing armed conflict. The U.S. is a Party to the International Covenant on Civil and Political Rights (ICCPR), but has long interpreted the ICCPR not to apply to U.S. forces operating outside US territory.<sup>7</sup> The U.S. is also a party to the Convention Against Torture, and agrees that the obligation to prevent torture and other inhumane treatment applies to “all places that the State Party controls as a governmental authority,” including during war.<sup>8</sup>
- 1-59. Poland is a party to the European Convention on Human Rights (ECHR), and Polish forces conducting international or multinational missions remain obligated to observe ECHR requirements. This has important implications for conducting military operations, particularly on missions that involve stability or peacekeeping. In such operations, U.S. Army judge advocates and Polish LEGADs need to regularly coordinate with each other to ensure both nations understand the permissions and restrictions imposed on their respective armed forces.

---

<sup>7</sup> DoD Law of War Manual, paragraph 1.6.3.3.

<sup>8</sup> DoD Law of War Manual, paragraph 1.6.3.4.



## Chapter 2

### SELECTED OPERATIONAL LAW TOPICS

#### **Military Planning and Operations Overview**

2-1. The earlier military planners and operators are made aware of potential legal issues, the more time and other resources they have available to avoid, solve, or mitigate them in order to identify potential legal issues as early as possible, the U.S. Army trains its Judge advocates to integrate themselves into their command's operational planning processes. Consistent with this training, U.S. Army doctrinal publications frequently reference the role of the Judge Advocate in operational planning and command decision-making processes.

#### ***United States***

2-2. The U.S. Army uses six interconnected but different processes to plan for military operations. (The U.S. has Joint (multi-service) planning doctrine which is very similar but not the same as the Army's.) The process most often used for operational planning at division and brigade levels is the Military Decision-Making Process (MDMP). Units establish working groups to implement these processes. U.S. Army Judge advocates attend working group meetings to ensure they have the opportunity to provide input in a timely manner to effectively shape the planned activity.

2-3. The six processes are:

- 1) **Operations process.** Plan, prep, execute, and assess.
- 2) **Commander's process.** Understand, visualize, describe, direct, lead, and assess.
- 3) **Military decision-making process (MDMP).** Army's primary planning process, which overlays on the understand, visualize, describe, and direct (UVDD) of the commander's process. MDPD consists of seven recurring steps: 1) Receipt of Mission; 2) Mission Analysis; 3) Course of Action (COA) Development; 4) COA Analysis; 5) COA Comparison; 6) COA Approval; 7) Orders production, dissemination, and transition. FM 3-84, Table 3-1, shows the key legal inputs and output for the MDMP.
- 4) **Intelligence preparation of the battlefield.** Intelligence preparation of the battlefield (IPB) is a subprocess within the MDMP focused on understanding the problem's operational environment (OE).
- 5) **Targeting process (decide, detect, deliver, and assess).** The framework that is embedded in the MDMP process and is overlaid on the describe and direct (DD) portion of the commander's process. It is discussed in greater detail at Section 22 below.

- 6) **Army design methodology.** Can feed the MDMP process by applying critical and creative thinking to understand, visualize, and describe problems and approaches to solving them.
- 2-4. Running Estimates. Most division staff sections, including many legal sections (OSJA or BLS), create and maintain a document known as a “running estimate”. Doctrinally, a running estimate is “the continuous assessment of the current situation used to determine if the current operation is proceeding according to the commander’s intent and if planned future operations are supportable.”
- 2-5. These running estimates very often serve as both an input to and an output from the various steps in the different planning processes. A staff section member uses the running estimate to provide information at a particular board meeting or working group, and then departs the meeting with updates or revisions to their running estimate.
- 2-6. Each section tailors their running estimate based on the particular unit and mission. An example legal running estimate is found in Field Manual 3-84, Legal Support to Operations, Appendix D. Typical information in the legal running estimate could include:
- 1) Location and activity of JALS personnel supporting operations.
  - 2) Special ROE or targeting constraints relevant to the operation.
  - 3) Number of personnel and units trained in the ROE.
  - 4) List and status of no-strike entities.
  - 5) Legally significant actions.
  - 6) Pending requests for information and legal opinions from staff and subordinate units.
  - 7) Assumptions that could impact the delivery of legal services, and requests for information pending.
  - 8) Update from higher echelon headquarters.
  - 9) Command relationships and authorities.
  - 10) Number, type, and status of legal investigations.
  - 11) Number of foreign claims intakes and payments.
  - 12) Military justice actions by type and offense.

### ***Poland***

- 2-7. The Polish Army generally follows NATO operational planning processes. All NATO operational planning is conducted under the Comprehensive Operational Planning Directive (COPD). NATO planning doctrine is found in AJP-5, Allied Joint Doctrine for the Planning of Operations. The NATO planning process is described in Chapter 4, The sequence of planning activities. Overall, NATO planning doctrine and processes are very similar to that used by the U.S. U.S.

legal professionals should be aware that there are differences in terminology. For example, U.S. doctrine uses “decision point (DP)” while NATO uses “decisive condition (DC)”. Of note, AJP-5 states that a commander’s initial guidance or warning orders should include “any appropriate applicable legal framework, current or anticipated.”<sup>9</sup>

- 2-8. In a deployed environment, the role of the Polish LEGAD may change depending on the context of the operation. In a U.S.–led multinational operation outside the NATO command structure, the Polish LEGAD will likely embed themselves with the OSJA to ensure they have sufficient situational awareness of developments to timely provide input to the multinational force about relevant Polish laws or caveats that potentially impact the operation. In a Polish operation, the LEGAD will follow national regulations.

## Rules of Engagement

### *Poland*

- 2-9. In the Polish legal system, the concept of Rules of Engagement (ROE) is relatively new. In 2010, the Polish Parliament (the “Sejm”) approved legislation underpinning the adoption of ROE by amending “The Act on the Principles of Use and Stay of the Armed Forces of the Republic of Poland Abroad.” The introduction of ROE into the Polish legal system was linked to the increased number of operations outside the country in which Polish soldiers participated. On the one hand, it was intended to bring Polish rules into line with those of organizations under the auspices of which foreign operations were conducted (e.g., NATO, the EU, and the UN). On the other hand, it was to provide greater legal certainty for soldiers, using understandable and accessible regulations.
- 2-10. The Polish legal system contemplates three (3) categories of operational conditions where the nation’s armed forces may need to adopt ROE. These are:
- 1) **Category 1:** The deployment of Armed Forces outside the country as part of a foreign mission.
  - 2) **Category 2:** The deployment of the Armed Forces in a peacetime environment to assist in a crisis situation. Examples include where the Armed Forces are deployed to deal with the effects caused by a natural disaster, respond to a terrorist act or activity, or protect property such as critical national infrastructure.
  - 3) **Category 3:** Armed Forces deploy to exercise their constitutional task of protecting the independence of the Polish state, securing the indivisibility of its territory, and ensuring the security and inviolability of its borders, against a hostile force. In this latter situation, normally martial law is declared.

---

<sup>9</sup> AJP-5, paragraph 4-7.

- 2-11. With reference to Category 1, the Minister of Defense shall issue the ROE for each foreign operation. The ROE shall include rules on the use of direct coercive measures and rules governing the use of weapons and other armaments. It shall also refer to the applicable principles of IHL and international agreements and direct military personnel to comply with these requirements. In practice, Poland's Operational Command prepares the draft set of ROE for approval by the Minister of Defense. The Operational Command also issues ROE cards for soldiers.
- 2-12. In Category 2, in general, Rules of Engagement are not issued, and the use of weapons and other means of coercion is carried out in accordance with the laws regulating the use of weapons by other services during individual states of emergency.
- 2-13. Concerning Category 3, the Polish Armed Forces have the right to use means of direct coercion, the use of weapons and other armaments, considering the necessity and purpose of performing these tasks, in a manner adequate to the threat and within the limits of the rules set forth in ratified international agreements binding on the Republic of Poland and international customary law. In the case of the imposition of martial law, the Rules of Engagement would likely be included in the annex to the plan for the use of the armed forces referred to in the Law on Martial Law.
- 2-14. The Rules of Engagement for the Polish Armed Forces are always classified in their entirety. Also, unlike for the U.S. Army, there are no "permanent" rules for the use of force. If the Polish Armed Forces operate within an alliance in international operations, the usage of ROE adopted by international forces in documents such as OPLAN, OPORD or FRAGO usually apply. The Polish side may in such cases raise its national reservations to them (Caveats).

### ***United States***

- 2-15. The U.S. views ROE as a commander's tool to regulate the use of lethal force and non-lethal capabilities to facilitate mission accomplishment. It is important to note that while ROE must always comply with IHL, ROE is a policy directive, executed via a military order, to ensure that U.S. Forces execute their mission consistent with the nation's policy objectives for that operation. U.S. Judge advocates play a key role in assisting commanders develop and maintain the ROE for a particular operation. To effectively advise commanders on ROE, Judge advocates must understand the commander's operational goals, the unit's weapon systems and their battlefield effects, the operational environment and concepts, and the law.
- 2-16. Every military operation will have ROE tailored to the specific needs of that mission. In general, however, a "competent military authority" issues the ROE. A competent military authority includes, but is not limited to, the President of the United States, Secretary of Defense, Chairman of the Joint Chiefs of Staff

(CJCS), or Combatant Commander. The starting point for all U.S. ROE is the Standing Rules of Engagement (SROE) published by the Chairman of the Joint Chiefs of Staff. These Standing Rules of Engagement (SROE) establish fundamental policies and procedures governing the actions to be taken by U.S. commanders and their forces during all military operations occurring outside U.S. territory.<sup>10</sup> For civil support operations within U.S. territory or law enforcement operations, the U.S. uses the term “Rules for the Use of Force” (RUF). There is a Standing Rules for the Use of Force (SRUF) developed and issued along with the SROE.

- 2-17. The SROE are classified, but there is an unclassified SROE authorized for distribution to commanders at all levels. This unclassified SROE is guidance for training and directing forces, to provide uniform planning and training.<sup>11</sup>
- 2-18. ROE address mission accomplishment and self-defense as two separate categories of operations, normally requiring separate rules.
- 2-19. When U.S. forces are acting in conjunction with multinational forces, U.S. policy is to make every effort to develop a common ROE.<sup>12</sup> However, U.S. policy also acknowledges that it may not be possible to do this in every instance. For mission accomplishment when assigned to the operational control of a multinational force, if approved by the Secretary of Defense, U.S. forces follow the multinational ROE.<sup>13</sup>
- 2-20. For self-defense, apparent inconsistencies between U.S. and multinational ROE are submitted through the U.S. chain of command for resolution. Pending resolution, U.S. forces continue to follow U.S. ROE.<sup>14</sup> U.S. forces will never interpret international agreements to limit U.S. Forces’ right of self-defense.<sup>15</sup> Unit commanders may limit individual self-defense by members of their unit.<sup>16</sup>
- 2-21. U.S. ROE Process. The U.S. generally includes mission-specific ROE in an annex to the operations plan (OPLAN). As the mission advances, the operational environment may change to such an extent that a commander will request a modification to the ROE. Typically, the commander requesting this modification will work the request through operations (S/G/J-3) channels. The Judge Advocate always reviews and issues an opinion on these requests. The review addresses

---

<sup>10</sup> Chairman, Joint Chiefs of Staff, Instruction (CJCSI) 3121.01B, Standing Rules of Engagement/Standing Rules for the Use of Force for US Forces (13 Jun 2005)

<sup>11</sup> SROE, CJCSI 3121.01B, Encl. A, para. 1.b.; Good example ROE for use for multinational training purposes is also found in a handbook now published by the US Naval War College, previously by the San Remo Institute for IHL: <https://digital-commons.usnwc.edu/ils/vol98/iss1/2/>.

<sup>12</sup> SROE, CJCSI 3121.01B, Encl. A, para. 1.f.(2).

<sup>13</sup> SROE, CJCSI 3121.01B, Encl. A, para. 1.f.(1).

<sup>14</sup> SROE, CJCSI 3121.01B, Encl. A, para. 1.f.(1).

<sup>15</sup> CJCSI 3121.01B, 13 Jun 2005, Encl. A, para. 1.g.

<sup>16</sup> CJCSI 3121.01B, 13 Jun 2005, Encl. A, para. 3.a.

the level of authority required to approve the request and whether the request is consistent with a national policy objective. Other staff sections may opine on technical aspects of the request. "Supplemental measures" are options that commanders can request or add to modify the SROE or mission ROE. The level of approval required varies based on the specific supplemental measure requested. Some require approval from the President, while other may be delegated below the Combatant Commander. Normally higher approval is required for permissive measures (allowing more use of force than the SROE do), and a lower level of approval is required for restrictive measures (allowing less use of force than the SROE do).

Normally a commander must ask permission to make ROE less strict or more permissive, but only needs to provide notification to make ROE more strict or less permissive.

## **Targeting**

### ***United States***

- 2-22. U.S. doctrine defines targeting as "the process of selecting and prioritizing targets and matching the appropriate response to them... Targeting seeks to create specific desired effects through lethal and nonlethal actions."<sup>17</sup> Targeting is conducted in multidomain operations. Ideally, this means that effects in the different domains (land, sea, air, cyber, information/cognitive) are coordinated.
- 2-23. U.S. Army divisions and corps use both joint and Army targeting processes, as appropriate. "Targeting is a top-down driven process with a substantial need for bottom-up refinement."<sup>18</sup>
- 2-24. The plan for target engagement is normally developed in the "working group" and then later approved at the "decision board". U.S. Judge advocates verify that a target nominated for a particular effect is consistent with the IHL and staffed to the right approval authority.

### ***Poland***

- 2-25. Targeting in the Polish Armed Forces mainly reflects the principles used in NATO. NATO STANDARD AJP-3.9 ALLIED JOINT DOCTRINE FOR JOINT TARGETING and NATO STANAG 2934 NATO Joint Fire Support Procedures for Land Operations are the principal NATO doctrinal publication in this realm. NATO follows a similar methodology, as described in the US Joint Publication 3-60

---

<sup>17</sup> Field Manual 3-60, [https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/ARN39048-FM\\_3-60-000-WEB-1.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/ARN39048-FM_3-60-000-WEB-1.pdf)

<sup>18</sup> FM 3-60, page 2-1.

(Joint Targeting), both are based on an approach that prioritizes targets based on strategic and operational value.

### Aims of the NATO Targeting process

- 1) Ensure compliance with NAC and SACEUR guidance
- 2) Comply with the objectives of the Joint Force Command (JFC)
- 3) Rapidly respond to targets that present limited opportunities for action
- 4) Assign the most appropriate capability to the proposed target
- 5) Coordinate / synchronize / deconflict actions
- 6) Fully integrate all capabilities
- 7) Expedite assessment of executed operations

### The joint Targeting Cycle (JTC)

#### Targeting vs combat engagement

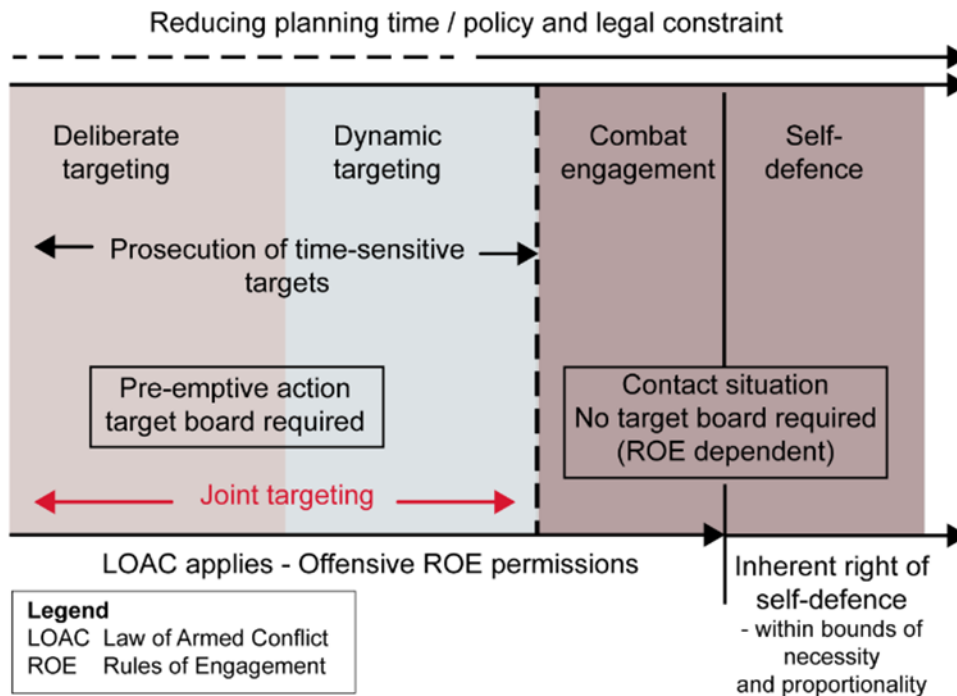


Fig. 2: Targeting vs combat engagement

### An iterative process

- 1) Determining the effects necessary to achieve the objectives;
- 2) Identifying the actions necessary to create them based on the means available;
- 3) Selecting and prioritizing targets;
- 4) Synchronizing capabilities; and then assessing their cumulative effectiveness, taking remedial action if necessary

- 5) A full-spectrum approach (generation of a range of physical and psychological effects)
- 6) Integration of legal rules throughout the cycle

### LEGAD involvement in each phase of the JTC

- 1) Development of guidance
  - (Plans, ROE, targeting directive)
- 2) Coordination with Intel / targeteers
- 3) Capabilities / weapons
- 4) Decision: participation in targeting boards
- 5) Conduct of operations
- 6) BDA and follow-up of military operations (recording / archives)

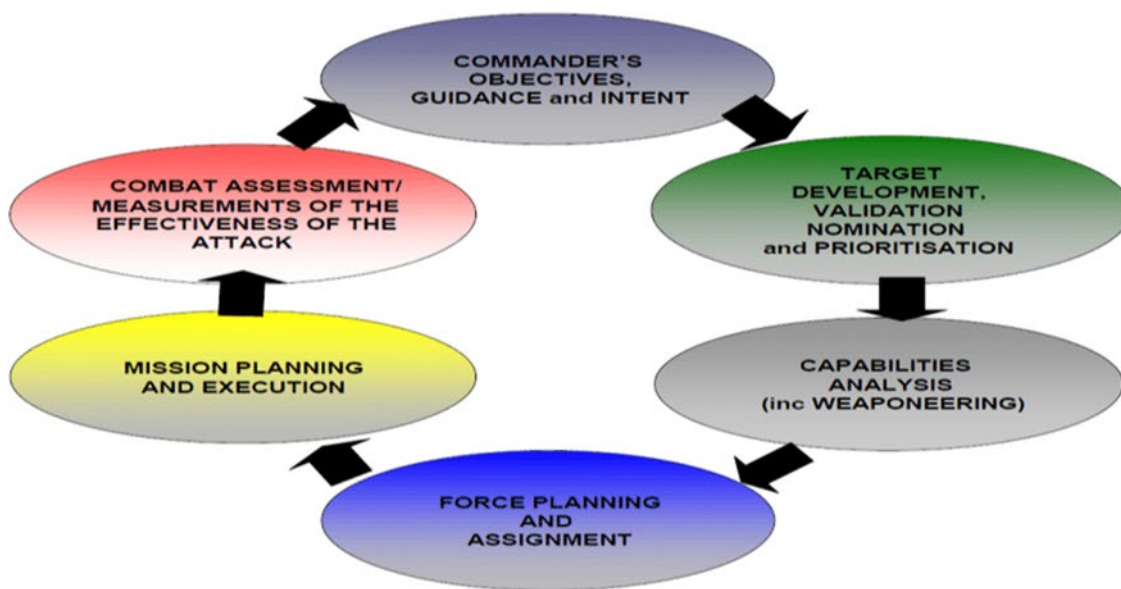


Fig. 3: The joint targeting cycle

### Internalization of IHL rules

- 1) Legal considerations: impose limits upon targeting decisions and actions
- 2) Integration of legal rules throughout the whole process



### 3) Advice vs. decision<sup>19</sup>

## **Detention Operations**

### ***Poland***

- 2-26. The Polish Armed Forces are designed to perform tasks related to the defense of state sovereignty and the protection of its borders. These are performed only after the declaration of martial law or the actual commencement of hostilities.
- 2-27. In this case, the primary category of persons detained by Armed Forces soldiers will be prisoners of war (POW). When prisoners of war are taken, the provisions of the International Humanitarian Law/Law of Armed Conflict apply to them. Poland is a party to the third Geneva Convention on the Treatment of Prisoners of War.
- 2-28. It should be borne in mind that since 1991 Poland has been a party to the ECHR. The ECHR applies during armed conflict and therefore the Polish Armed Forces must respect its provisions when executing military operations. Poland would only “take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation,” in accordance with Article 15 of the Convention. Members of the Polish Armed Forces would otherwise continue to comply with these provisions when detaining persons during armed conflict.
- 2-29. In general, the authority of soldiers of the Polish Armed Forces to detain persons other than prisoners of war is very limited (also retained or criminals). In principle, the Armed Forces in peacetime may be used to assist other state and local government bodies and services. However, in each peacetime instance that requires the deployment of the Polish Armed Forces, the Polish Government must authorize this operation. In such cases, the Armed Forces obtain partial powers of these bodies and services, including the ability to detain persons.
- 2-30. In Polish legal terminology, detention refers only to the short-term deprivation of a person's liberty. It can be carried out by various authorities, mainly police and security, for various reasons.
- 2-31. One common reason is in the case of the commission of a crime – either until related actions in order to prove one's innocence or guilt are carried out or temporary custody is applied to the detained person.
- 2-32. In addition, there is also preventive detention, which can be applied to people who, although they have not yet committed a crime, but who pose an obvious threat to themselves or others in order to deter them from committing a crime.

---

<sup>19</sup> COL Nathalie DURHIN (FR AF) ACO/SHAPE Office of Legal Affairs “The role of LEGAD in targeting operations: a NATO perspective” – material from Silent Leges Inter Arma - Conference IV Bruges, 30 September 2021

- 2-33. There are also other types of detentions, such as those of intoxicated persons or those aimed at bringing an individual before an administrative body, which, however, are of marginal importance in the performance of duties by soldiers of the Polish Armed Forces.
- 2-34. In addition to taking prisoners of war, detention powers are vested in soldiers of:
- 1) Military law enforcement agencies in strictly defined cases related to the performance of activities of protection and defense of military facilities, and powers related to pending criminal proceedings.
  - 2) Military police, which is the main body tasked with ensuring compliance with the law in the Armed Forces of the Republic of Poland.
  - 3) In the case of the use of the Armed Forces of the Republic of Poland in accordance with a special procedure to assist the Police, the Border Guard or to perform tasks in case of emergency situations. In such cases, soldiers have the right to detain persons under the provisions governing detention by other law enforcement services, such as the Police or Border Guard.
- 2-35. In addition to detention, there is also a legal concept of apprehension. This is the brief detention of a person used after he commits a crime or a misdemeanor, or in a pursuit to hand him over to the appropriate authorities. In cases not directly related to the conduct of hostilities (e.g., on suspicion of espionage or looting in occupied territory), this will be the most common form of detention used by soldiers of the Polish Armed Forces. Such persons are then handed over to the Military Police or other services for further action with them, including and appropriate detention and arrest.

### ***United States***

- 2-36. U.S. military personnel who initially detain a person on the battlefield are permitted to ask direct questions necessary in the immediate circumstances. (For example: Are you hurt? Are there others with you? Which direction? Are they armed?) This is considered “tactical questioning”, rather than interrogation.
- 2-37. However, the U.S. allows interrogation of detainees only by specially trained and certified personnel.<sup>20</sup> “Interrogation” means using intentional methods in order to obtain specific information (normally to help answer the commander’s intelligence requirements). If an operational team anticipates wanting to collect intelligence from a person immediately upon capture, they should include a trained and certified human intelligence collector (interrogator) on the mission.

---

<sup>20</sup> Field Manual 2-22.3, Human Intelligence Collector Operations, paragraph 1-7.  
[https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/pdf/web/fm2\\_22x3.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/fm2_22x3.pdf)

- 2-38. Normally formalized agreements are required in order for personnel from other U.S. or partner government agencies to have any interaction with captured persons held by the Department of Defense.
- 2-39. If possible, US forces will normally rely on Military Police units to collect evidence.
- 2-40. NATO, as such, considers detention to be a national responsibility, the alliance having made important efforts to define nonbinding standard operating procedures.<sup>21</sup>
- 2-41. Transfer of Captured Persons. The transfer of detainees is a legally complex process covered by bilateral agreements between the powers involved. “Although the United States continues to have significant concerns with many aspects of Additional Protocol I, Article 75 of that Protocol sets forth fundamental guarantees for persons in the hands of opposing forces in an international armed conflict. The U.S. Government has chosen out of a sense of legal obligation to treat the principles set forth in Article 75 as applicable to any individual it detains in an international armed conflict, and we expect all other nations to adhere to these principles as well.”<sup>22</sup>

## United States Investigations

- 2-42. There are three main kinds of investigation in the U.S. Army – Administrative, Criminal, and those conducted by Inspectors General.
- 2-43. Administrative. Administrative investigations are directed by a commander in order to discover and record the facts of an event or a situation occurring in the commander’s unit, and to collect evidence showing those facts.
- 2-44. The commander normally appoints an Investigating Officer (IO, “eye-oh”) by memorandum. The appointment memo states the question(s) to be answered and provides other guidance as to how the investigation should be conducted. Often the commander will ask the IO to provide recommendations for action, in addition to making findings of the relevant facts.
- 2-45. Most investigations are conducted in accordance with Army Regulation 15-6.<sup>23</sup> These are commonly referred to as “15-6s”. “Fifteen-sixes”. E.g., “Have they done a 15-6?”, “Who appointed the 15-6?”. Many 15-6s are “Preliminary Inquiries”, conducted under Chapter 4 of the regulation.

---

<sup>21</sup> See for the International Security Assistance Force (ISAF) in Afghanistan, SOP 362, Standards Operating Procedures: Detention of Non-ISAF Personnel, 4th Edition, 31 August 2006.

<sup>22</sup> Remarks at a Meeting of the Sixth Committee on Agenda Item 81: Status of the Protocols Additional to the Geneva Conventions of 1949 - United States Mission to the United Nations (usmission.gov)

<sup>23</sup> [https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/pdf/web/r15\\_6.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/r15_6.pdf)

- 2-46. The IO conducting a 15-6 investigation must consult with a legal advisor. Usually, the legal advisor is assigned to the investigation in the same memo that appoints the IO.
- 2-47. Besides AR 15-6, there are other regulations that provide specific guidance for investigations into, for example, injuries to military personnel; loss or damage to property; and accidents.<sup>24</sup>
- 2-48. Criminal. The U.S. Army has two types of criminal investigators. MPI (Military Police Investigators) investigate less serious crimes, and CID (Criminal Investigation Command) agents investigate more serious crimes.<sup>25</sup> In particular, CID “is the sole agency within the U.S. Army responsible for the criminal investigation of felonies (offenses punishable by death or confinement for more than 1 year) ...” On the other hand, “Barracks larcenies of property of a value of less than \$1,500, simple assaults occurring in unit areas and not resulting in hospitalization...will be reported to [law enforcement] for statistical and crime reporting purposes, but a [law enforcement] investigation is not required. Unit commanders will take appropriate action on these incidents.”
- 2-49. It sometimes happens that potentially criminal misconduct is discovered in the course of an administrative investigation. In these cases, the possible crimes must be referred to the appropriate agency for a criminal investigation. Often the administrative investigation is temporarily stopped, so as not to interfere with the criminal one.
- 2-50. In Poland, U.S. and Polish criminal investigators cooperate and assist each other in accordance with arrangements and upon request. They must consider reports or evidence provided by their counterparts. (EDCA, Article 14, paragraph 8).
- 2-51. Inspectors General<sup>26</sup> Among other tasks, Inspectors General (IGs) are responsible for investigating allegations against a command. For example, a junior soldier who believes his leadership is not following a certain regulation or policy correctly may bring his or her concerns anonymously to the IG and is not required to go in person to his direct superiors who may be at fault. An Army unit commanded by a General Officer normally has an IG assigned to it. The IG and the Staff Judge Advocate typically cooperate closely.
- 2-52. Witnesses, Subjects, and Suspects’ Rights. A witness is someone with relevant information. A witness may have learned facts about an event in other ways besides having witnessed it. A subject-matter expert could serve as a witness, for example.

---

<sup>24</sup> [https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/ARN39679-AR\\_600-8-4-002-WEB-4.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/ARN39679-AR_600-8-4-002-WEB-4.pdf);  
[https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/ARN1611-AR\\_735-5-000-WEB-1.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/ARN1611-AR_735-5-000-WEB-1.pdf), Chapter 13;  
[https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/ARN32017-PAM\\_385-40-000-WEB-1.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/ARN32017-PAM_385-40-000-WEB-1.pdf)

<sup>25</sup> [https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/ARN39302-AR\\_195-2-001-WEB-3.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/ARN39302-AR_195-2-001-WEB-3.pdf), See Appendix B.

<sup>26</sup> [https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/pdf/web/ARN8255\\_AR20-1\\_FINAL.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/ARN8255_AR20-1_FINAL.pdf)

- 2-53. A subject is someone whose conduct is being investigated and who could face adverse action as a result. A subject is not suspected of committing a crime, but may have failed to comply with a duty, obligation, or regulation.
- 2-54. A suspect is suspected of committing a crime.
- 2-55. Military members, civilian employees, and contractor employees all have the right not to incriminate themselves. That is, they may refuse to provide information that might cause them to be found guilty of a crime. They must be reminded of this right by 15-6 IOs and IG investigators before they are interviewed.<sup>27</sup>
- 2-56. However, these military-affiliated witnesses may be commanded or directed to cooperate with an investigation if they might incriminate others (but not themselves) in doing so.
- 2-57. In Poland, U.S. forces and Polish authorities must assist each other in producing witnesses. (EDCA, Article 14, Criminal Jurisdiction, paragraphs 6 and 7).
- 2-58. U.S. forces representatives may be present during – but may not participate in – interrogations or interviews of U.S. personnel conducted by Polish authorities. U.S. representatives shall have access to statements or transcripts from the proceedings. (EDCA, Article 16, Detention, Control and Access, paragraph 4)

## **Military Discipline**

### ***Poland***

- 2-59. The system of military discipline in the Polish Armed Forces is fully integrated into the service and executed by the suspected offender's relevant superiors. Provisions on military discipline are an integral part of the Law on Defense of the Fatherland<sup>28</sup>, which is the basic legal act that regulates all issues related to the defense system of the State.
- 2-60. According to the disciplinary regulations, soldiers are liable to disciplinary action for committing a disciplinary offense involving a violation of military discipline. Violations of military discipline can take various forms. They are partially enumerated in the law, such as conduct unbecoming a soldier, lying to a superior, failure to carry out an order, or disclosure of information obtained in connection with the performance of duty.
- 2-61. Misdemeanors and offenses committed by soldiers are not subject to disciplinary proceedings. Soldiers are liable for them before the military or civilian judiciary, depending on whether they were related to service. In cases of lesser gravity, the prosecutor or the court may discontinue the proceedings for a misdemeanor or

---

<sup>27</sup> AR 15-6, paragraph C-3(d)(1); AR 20-1, paragraph 7-1g(3).

<sup>28</sup> Law of March 11, 2022 on Defense of the Fatherland (Journal of Laws 2022, item 655, as amended).

felony committed by a soldier and refer the case for disciplinary consideration by the military authorities. The soldier must then be disciplined.

- 2-62. Commanders, Officers-in-Charge, Supervisors, and other leaders have an obligation to their subordinates to respond to violations of discipline. Depending on the nature and circumstances of the act, this may take a less formal form, such as drawing attention, through formal punishment "on the spot" - but without conducting full-blown disciplinary proceedings. Such proceedings resemble a criminal trial - there is an accuser, the soldier may have a defense attorney, and the decision to punish or to discontinue the process is made by a superior of the appropriate level. The soldier can appeal against this decision. In disciplinary proceedings, punishments can range from a warning to a fine, and from a warning of unsuitability for service to dismissal from service.
- 2-63. The rules of soldierly behavior and relations between soldiers of different corps and ranks are regulated by the General Regulations of the Polish Armed Forces of 2023<sup>29</sup>. It contains regulations on military service but does not address off-duty relations between soldiers. Unlike U.S. regulations, for example, it does not regulate the issue of borrowing money or renting property between soldiers.
- 2-64. Such issues are partly regulated by the 2008 Honor Code for the Professional Soldier<sup>30</sup>. However, it is merely a set of certain general moral principles that provide guidelines for conduct by professional soldiers, both on and off duty. Their violation does not result in disciplinary or criminal liability. At the request of the aggrieved party, the case of a violation of honor and dignity may be reviewed by a meeting of the relevant personnel corps (officers, non-commissioned officers, privates). The assembly may oblige the offended soldier to apologize or repair the damage, but there is no legal mechanism for enforcing such a decision.

### ***United States***

- 2-65. The U.S. military justice (MJ) system allows commanders to prosecute and punish soldier misconduct, whether military-specific crimes such as disrespect, disobedience, and unauthorized absences, or common crimes such as a theft or assault.
- 2-66. Senior commanders often withhold certain disciplinary authorities from their subordinates. For example, a division commander may require subordinate brigade commanders to forward cases involving certain offences (for example, drug use) or allegations against certain personnel (for example, officers) to the

---

<sup>29</sup> General Regulations of the Armed Forces Annex to Order No. 7/MON of the Minister of Defense dated April 28, 2023 (item 49).

<sup>30</sup> Kodeks Honorowy Żołnierza Zawodowego Wojska Polskiego (Professional Soldier Code of Honor), Konwent Dziekanów Korpusu Oficerów Zawodowych Wojska Polskiego, Warszawa 2008.

division commander for initial consideration. These requirements are normally published in memos called “Withholding Policies”.

- 2-67. When cases of misconduct are withheld to a higher level by policy, normally a subordinate commander may request to dispose of the case at his or her level if the subordinate commander desires to do so. In any case, subordinate commanders of the soldier being disciplined will provide input for consideration by higher commanders.
- 2-68. Military Justice jurisdiction does not always strictly align with operational or administrative command and control lines. In some cases, jurisdiction is instead organized by geographic areas or some other method. Also, apart from established jurisdictions, court-martial convening authorities may agree to transfer a specific case between each other, for various reasons.
- 2-69. At the end of 2023, special military prosecution offices were established to deal with certain specified offences.<sup>31</sup> It is now these Judge Advocate prosecutors, rather than the accused’s commanders, who determine whether to prosecute soldiers suspected of murder, rape, kidnapping, and similarly serious crimes identified in the law.
- 2-70. For less serious misconduct, a commander may take “administrative” or “non-judicial” action against a soldier. These kinds of actions usually require less time and fewer resources. They offer the soldier fewer procedural protections and impose less severe consequences.
- 2-71. Courts-martial may be prosecuted at a deployed unit’s location “downrange” but may also be sent back to the unit’s rear detachment in the US. The decision where to convene a court-martial depends on various factors, including the location of evidence and the logistical resources available forward and in the rear.
- 2-72. Conduct between soldiers of different grades is subject to regulations that address specific conduct.<sup>32</sup> For example, an officer and enlisted member may not lend or borrow money from each other, but they are permitted to enter into landlord/tenant agreements.
- 2-73. The concept of “Unlawful Command Influence” is peculiar aspect of the U.S. system established by Article 37 of the Uniform Code of Military Justice.<sup>33</sup> In essence, commanders are prohibited from unlawfully influencing the military justice process. Each commander must exercise independent judgment. For example, as noted above, it is permissible for a division commander to decide to deal with certain cases of misconduct at the division level. However, it would be

---

<sup>31</sup> <https://www.army.mil/ostc>, Office of Special Trial Counsel (OSTC), pronounced “oh-stick”.

<sup>32</sup> Army Regulation 600-32, Conduct Between Soldiers of Different Grades; DA Pamphlet 600-35, Chapter 2, Examples of Proper and Improper Relationships

<sup>33</sup> <https://www.armfor.uscourts.gov/digest/VA1.htm>

unlawful command influence for a division commander to order or instruct a brigade commander to take a certain action in a certain case.

## Environmental Considerations

- 2-74. The U.S. considers protection of the environment to be an important concern during military operations. Therefore operations orders (OPORDs) or plans (OPLANs) include a specified Annex L, Environmental Considerations. Judge advocates are involved in writing Annex L in order to make sure it accounts for applicable law and policy.
- 2-75. U.S. forces operating outside of the United States and not in Poland are generally governed by Department of Defense Instructions<sup>34</sup>, primarily 4715.05, Environmental Compliance at Installations Outside the United States, and 4715.22, Environmental Management Policy for Contingency Locations.
- 2-76. Army policies are found in Army Regulation 200-1, Environmental Protection and Enhancement.<sup>35</sup> Basic policy includes that “all Army organizations and activities will...[f]oster an ethic within the Army that takes us beyond environmental compliance to sustainability.” Paragraph 2-1b(1).
- 2-77. Multinational Treaties. The U.S. and Poland are both party to the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques (ENMOD), and so undertake “not to engage in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects as the means of destruction, damage or injury” to other treaty members, and “to take any measures [they] consider[] necessary...to prohibit and prevent any activity in violation...of the Convention anywhere under [their] jurisdiction or control.”<sup>36</sup> (emphasis added).
- 2-78. Poland is also a party to AP 1, which requires that “[c]are shall be taken in warfare to protect the natural environment against widespread, long-term and severe damage. This protection includes a prohibition of the use of methods or means of warfare which are intended or may be expected to cause such damage to the natural environment and thereby to prejudice the health or survival of the population.” [Article 55(1)] (emphasis added)

---

<sup>34</sup> <https://www.denix.osd.mil/international/policy/dodi/>

<sup>35</sup> [https://armypubs.army.mil/epubs/DR\\_pubs/DR\\_a/pdf/web/r200\\_1.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/pdf/web/r200_1.pdf)

<sup>36</sup> <https://treaties.unoda.org/t/enmod>



## Contracting support

- 2-79. The United States Army relies on services provided by private industry to support its domestic and overseas operations. The term “Contractor” may refer either to a business organization or to an individual employee, depending on the context.
- 2-80. Soldiers are most familiar with services provided by private companies under the Logistics Civil Augmentation Program (LOGCAP). LOGCAP contracts provide basic life support and logistics services (e.g., billeting, sanitation, food, and laundry) to military personnel. LOGCAP contract support is normally included in the ordinary course of logistics and sustainment planning and is included in the OPORD or OPLAN.
- 2-81. The U.S. Army has specific rules for assigning military personnel with contracting authority. In general, only specially appointed contracting officers can legally commit the United States to a contract with a private entity, whether to purchase goods, services, or anything else. Commanders direct and oversee the contracting processes based on operational requirements. However, commanders cannot unilaterally form (or modify) contracts. Commanders of certain logistics units are sometimes appointed as contracting officers, but their command authority and their contracting authority are two separate and distinct competencies.
- 2-82. U.S. Army Judge advocates serving at Brigade and higher echelons (Brigade Judge Advocates and Staff Judge Advocates) are expected to advise their unit’s resource managers (e.g., G-8, S-8) on procurement issues where a legal opinion is required. Tactical units below the brigade level generally do not have contracting authority and rely on the support coordinated and obtained at higher echelon or by specialized logistics support units. A U.S. combat brigade does not normally solicit its own contracted support independently.
- 2-83. The Army’s Judge Advocate General’s Corps has a robust cadre of civilian and uniformed attorneys that specialize in contract and fiscal law. These personnel generally focus on high-value procurement actions that are handled by higher echelon legal offices or certain specialized logistics or sustainment units.
- 2-84. U.S.-Poland Agreements. The Enhance Defense Cooperation Agreement provides rules for U.S. forces stationed in Poland. Relevant provisions are found in Articles 33, Contracting Procedures; 34, Status of Contractors; and 35, Labor. The current implementing arrangement for Contracting Procedures is from 2015.
- 2-85. The most recent Acquisition and Cross-Servicing Agreement (ACSA) between the U.S. and Poland is from 2012. The purpose of the ACSA is to facilitate Polish and U.S. forces providing each other reciprocal logistics support, “primarily during combined exercises, training, deployments, port calls, operations, or other cooperative efforts, or for unforeseen circumstances or exigencies...” It permits both cash payments for support and also the exchange of support of equal value.

## Humanitarian Assistance and Disaster Relief

2-86. International humanitarian assistance and disaster relief operations are normally conducted by civil society groups and civilian agencies, not military or defense forces. However, military forces are sometimes involved in such efforts. Most often, military forces are called to assist with sudden disasters like earthquakes or floods, when they have overwhelmed infrastructure in the affected area to a degree that prevents civilian agencies from providing immediate relief. The UN Office for Coordination of Humanitarian Assistance (OCHA) leads most international humanitarian assistance efforts.<sup>37</sup>

### United States

2-87. U.S. doctrine is found in Joint Publication 3-29, Foreign Humanitarian Assistance.<sup>38</sup> It includes an Appendix A, Legal Issues, which surveys various topics and provides references to related publications and authorities. Judge advocates advise commanders closely to ensure military operations in this area comply with law and policy.

2-88. U.S. commanders have an “immediate response authority”, which permits an on-scene commander to use military assets to conduct life-saving civil assistance operations during the first 72 hours of an emergency, without needing other permission from higher authorities.<sup>39</sup> The commander should obtain concurrence from the affected country and the U.S. embassy’s Chief of Mission, and of course must notify higher command and seek guidance as the situation develops.

### Poland

2-89. Poland does not have separate doctrine applicable to humanitarian relief. It generally follows NATO doctrine. In line with this, NATO has issued AJP 3.4.3., Allied Joint Doctrine for the Military Contribution to Humanitarian Assistance. NATO doctrine “is instructive to, and provides a useful framework for, operations conducted by a coalition of NATO, NATO partners, non-NATO nations, and to enhance interaction with other organizations.” AJP 3.4.3., paragraph 0001.

2-90. Humanitarian assistance conducted by NATO forces can occur either simultaneously with other NATO missions and operations, or else as a separate operation solely in support of an international humanitarian assistance mission. As a separate solely humanitarian assistance mission, “NATO assistance to international disaster relief operations (IDRO) will be by exception and will not occur without the consultation of the Strategic Commanders, recommendation by

---

<sup>37</sup> <https://www.unocha.org/civil-military-coordination>

<sup>38</sup> [https://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/jp3\\_29.pdf](https://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/jp3_29.pdf)

<sup>39</sup> See JP 3-29, Appendix B, paragraph 5.

the Military Committee (MC), and approval by the North Atlantic Council (NAC).”  
Paragraph 0004.

## **Soldiers’ Training on IHL**

### ***United States***

- 2-91. U.S. Army Law of War training requirements are found in AR 350-1, Army Training and Leader Development, under Table F-2. All US Soldiers are required to receive IHL/LOAC training during their initial military training and throughout their career, so long as they remain in the Army.
- 2-92. For “Level A”, the most basic IHL/LOAC training, IHL/LOAC is summarized into a basic set of ten rules called “The Soldier’s Rules”:
- 1) Soldiers fight only enemy combatants.
  - 2) Soldiers do not harm enemies who surrender. They disarm them and turn them over to their superior.
  - 3) Soldiers do not kill or torture any personnel in their custody.
  - 4) Soldiers collect and care for the wounded, whether friend or foe.
  - 5) Soldiers do not attack medical personnel, facilities, or equipment.
  - 6) Soldiers destroy no more than the mission requires.
  - 7) Soldiers treat civilians humanely.
  - 8) Soldiers do not steal. Soldiers respect private property and possessions.
  - 9) Soldiers should do their best to prevent violations of the law of war.
  - 10) Soldiers report all violations of the law of war to their superior.
- 2-93. “Level B” training, conducted annually in combat units or units preparing to deploy, must be led by judge advocates or paralegal non-commissioned officers.

### ***Poland***

- 2-94. IHL training in the national defense ministry is regulated by Decision of the Minister of Defense No. 163/MON dated November 27, 2020. It specifies in detail the bodies responsible for training, the military units, and institutions where IHL training is conducted, and the qualifications of the lecturers necessary to conduct such training. Details of IHL training are described in the Handbook on Training in the International Humanitarian Law of Armed Conflict DU-7.01.1. Szkol. 923/15.
- 2-95. The Handbook is a training document, implementing the regulations contained in the publication Training in the Law of Armed Conflicts, ATrainP-2. It is a document designed to support IHL training of soldiers and military personnel in legal or tactical training in military units, as well as supplementary training of soldiers and military personnel in cells and organizational units of the Ministry of Defense.

- 2-96. The guide sets minimum standards for IHL training based on agreements with other NATO countries (STANAG 2449). It does not in any way limit the possibility of conducting classes with higher standards than those indicated therein.

## **Intelligence Activities**

- 2-97. U.S. judge advocates oversee and advise on the intelligence activities of their organizations.<sup>40</sup>
- 2-98. In accordance with AR 380-10, paragraph 1-6, US commanders must receive legal advice – including a written legal review – whenever requesting intelligence operation authorities, and prior to using any special collection technique. In addition to legal advisers, Intelligence Oversight Officers (IOOs) also assist commanders “in ensuring the unit’s intelligence activities are conducted and consistent with applicable law, [directives, and policy].” (AR 380-11, paragraph 1-22.c.)
- 2-99. An important point to note in this area is that certain other operational activities may closely resemble intelligence activities but are not actually intelligence activities as defined in law and policy.<sup>41</sup> For example, obtaining “tactical intelligence” and the “operational preparation of the environment” are “traditional military activities” rather than intelligence activities, and are conducted pursuant to operational authorities rather than intelligence authorities.
- 2-100. It is also important to remember that positive authority to conduct actual military intelligence activities comes through command channels. The processes involved are described in DoDM 5240.01, Procedures Governing the Conduct of DoD Intelligence Activities, and AR 380-10, The Conduct and Oversight of U.S. Army Intelligence Activities. But this guidance does not in itself provide authority to conduct specific activities. Rather, anyone “engaging in an intelligence activity must have documented mission and authorities to conduct such activities. Any intelligence activity conducted without properly documented mission and authorities must be reported and investigated as a possible QIA [Questionable Intelligence Activity].” AR 380-10, paragraph 2-2.a.
- 2-101. A QIA is any “intelligence or intelligence-related activity when there is reason to believe such activity may be unlawful or contrary to [directives or policy].” Reporting requirements for QIAs are found in AR 380-10, Chapter 4.
- 2-102. Counterintelligence. Poland has a military counterintelligence service (Służba Kontrwywiadu Wojskowego, SKW) which reports directly to the Ministry of Defense.<sup>42</sup>

---

<sup>40</sup> FM 3-84, paragraph 4-43.

<sup>41</sup> FM 3-84, paragraph 4-44.

<sup>42</sup> <https://www.skw.gov.pl/en/index.html>

2-103. The different U.S. military services each have their own counterintelligence activities, which cooperate with each other, civilian agencies, and partner nations according to various directives and agreements.

## Chapter 3

### UNITED STATES FORCES STATIONED IN POLAND

#### **The NATO Status of Forces Agreement (SOFA) and Other Legal Documents Related to Facilitating United States Military Presence in Poland**

- 3-1. The basis for the stay of foreign troops in a host country is usually an international agreement, which defines the rules of stay, mutual relations between the host and guest states, the use of local infrastructure, settlements, compensation, the right to use weapons, and other matters.
- 3-2. The NATO SOFA (1951) provides the legal basis by which the United States and Polish Armed Forces enter and maintain a presence in the other country's territory. In 2020, the United States and Poland concluded the Agreement on Enhanced Defense Cooperation (EDCA) to complement and expand on the provisions of the NATO SOFA. Two other important agreements which facilitate interoperability between U.S. and Polish Armed Forces are the 2012 Acquisition and Cross-Servicing Agreement (ACSA) and the 2007 Agreement Concerning Security Measures for the Protection of Classified Information in the Military Sphere.
- 3-3. In addition to these agreements, at the time of this writing, the United States and Poland have concluded 65 additional legal instruments related to managing specific concerns related to maintaining a large U.S. military presence in Poland. These agreements cover topics such as access to medical care, the provision of telecommunication services, and contracting of services.
- 3-4. Many important Implementing Arrangements pre-date the EDCA, and they remain valid and in effect in accordance with the EDCA, Article 37, paragraph 4.
- 3-5. Poland maintains a registry of the agreements it has concluded with the United States in the defense sphere at <https://traktaty.msz.gov.pl>.
- 3-6. The U.S. Army Europe and Africa G8 "International Agreements" Division maintains a similar repository. U.S. personnel should contact the Office of the Judge Advocate for U.S. Army Europe and Africa for further information:  
Outside Germany: +49-611-143-537-0600  
Within Germany: 0611-143-537-0600  
DSN: 314-537-0600
- 3-7. These agreements are often saved as a single file including both English and Polish versions, either with Polish first and English second, or vice versa.

- 3-8. An important Implementing Arrangement for U.S. judge advocates to be familiar with is the one dealing with Security.<sup>43</sup> Generally, it provides that U.S. and Polish security forces should cooperate closely together, in accordance with local SOPs. Article 2 lists specific security measures that U.S. forces may implement within the Agreed Facilities and Areas.

## **Claims against the United States Department of Defense in Poland**

### **Overview**

- 3-9. All claims for damages or injury caused by the U.S. forces or civilian component in Poland are processed in accordance with Article VIII of the NATO SOFA. This includes damages to U.S. personnel caused by other members of the U.S. forces or civilian component. All Article VIII claims in Poland must be filed with the Polish Receiving State Claims Office (RSCO).

### **Rationale for Article VIII**

- 3-10. The drafters of the NATO SOFA recognized that, with the presence of troops moving and exercising in foreign nations, there was a high probability of damage to public and private property. As it is a general rule of customary international law that sovereign governments cannot be sued, the drafters decided to craft a mechanism through which those suffering damage or injury could seek compensation. Their deliberations led to the drafting of Article VIII, which provides a comprehensive process for adjudicating and paying meritorious claims.

### **Article VIII Explained**

#### ***“In Scope” Claims:***

- 3-11. Article VIII sets forth the rules for claims for four distinct types of damage when the damage is caused by members of the sending state force or civilian component in the performance of official duties (commonly referred to as “in scope claims”). Those four categories are based on the status of the damaged property or person, and are as follows:

Para 1. Military Property (owned by the contracting party and used by their armed forces)

Para 2. Property of a Contracting Party (other than military property)

---

<sup>43</sup> Implementing Arrangement Concerning Security

Para 4. Injury or Death of Contracting Party Servicemembers

Para 5. Third-Party Property Damage or Injury (other than Contractual)

- 3-12. The rules for compensation on these four categories vary, but the responsibility of adjudicating and paying for damages arising out of acts or omissions of members of a force or civilian component done in the performance of official duties, resides with the government of the Receiving State (e.g., Poland). After coordination with the US Army Claims Service Europe (USACSEUR), the RSCO will pay the claimant the amount they determine to be appropriate according to the law of the receiving state. The RSCO will then request reimbursement from USACSEUR for the appropriate percentage in accordance with Article VIII, paragraph 5e - which is usually 75%.

***“Out of Scope” Claims:***

- 3-13. Article VIII, paragraph 6 also provides a mechanism for compensation for damages caused outside the scope of the performance of official duty. These are commonly referred to as “Ex Gratia” claims. These claims commonly arise from off duty misconduct such as barfights or assaults. The injured party or damaged property can be either governmental or third party.
- 3-14. “Out of Scope” claims are also filed with the RSCO, but the RSCO does not adjudicate and pay these claims. The RSCO reviews them and submits a recommendation for disposition to USACSEUR who adjudicates the claim and decides whether to pay and, if so, how much. The USACSEUR will then pay 100% of that amount and the receiving state will pay nothing.

***Scope Certificates:***

- 3-15. In order to determine whether a claim is “in scope” or “out of scope,” the RSCO will request certification from USACSEUR prior to adjudication. This process is formalized in Poland in the Implementing Agreement on Claims between Poland and the United States.<sup>44</sup> Issuance of such certification allows USACSEUR the opportunity to state whether U.S. forces were involved and to share any information it has about the claim that will be helpful in the adjudication, such as the involvement of other sending states that could affect the percentage of reimbursement. USACSEUR will issue a certificate with one of the following determinations:
- 1) U.S. forces were involved and the act or omission was in the performance of official duty;

---

<sup>44</sup> Implementing Arrangement Concerning Settlement of Claims on Account of Damages Caused by the United States Forces in the Territory of the Republic of Poland



- 2) U.S. forces were involved and the act or omission was NOT in the performance of official duty;
  - 3) U.S. forces were NOT INVOLVED;
  - 4) Claim is not cognizable under Article VIII, paragraph 5 because the claim is contractual in nature;
- 3-16. Scope certificates are not an admission of liability. The RSCO must still adjudicate and find liability in accordance with the Polish law on any “in scope” claims that involve U.S. forces.
- 3-17. In certain cases, USACSEUR will return the action to the RSCO without issuing a certificate. This occurs when the claim is not cognizable or compensable under Article VIII of the NATO SOFA. Some reasons for returning a claim without certificate are:
- 5) The claim arises from the operation by U.S. forces of a Personally owned vehicle or a rental vehicle. In these cases, the claim should be against the operator’s or rental company’s liability insurance – not the U.S. forces.
  - 6) The claim is for damage to property owned by the contracting party and used by their armed forces. Pursuant to Article VIII, paragraph 1, these claims are waived when damaged in the performance of official duty.

**Article VIII Process**



Fig. 4 The Article VIII Process

**U.S. Forces Responsibility**

- 3-18. The NATO/PfP (Partnership for Peace [countries]) Claims Packet provides guidance on how to handle potential claims events and the contact information

for the RSCOs of the NATO/PfP nations in the USAREUR-AF Area of Responsibility.

- 3-19. When a member of the U.S. forces or its civilian component is involved in a potential claims event (e.g., a car accident involving an NTV or during convoy operations, maneuver damage to a private field, precautionary landing on private land, or fuel leakage outside of a military installation) all efforts should be made to provide the injured party sufficient information to file a claim, including where to file it.
- 3-20. It is also important to document potential claims events as thoroughly as possible and provide early and accurate notification of such events through the chain of command to the USACSEUR.
- 3-21. A detailed checklist on how to respond to a potential claims event is included in the packet. Adherence to this checklist will assist the injured party in an expeditious resolution and will assist the unit in addressing any potential public relations issues caused by the event.
- 3-22. Members of the U.S. forces or civilian component involved in accidents will not be held personally liable for damages to the property of others arising from the performance of official duty. However, leaving the scene of an accident or failing to report an accident is a serious offense. Those involved in incidents should report the damage to their chain of command as soon as possible to avoid disciplinary action by the unit or local authorities.

## **Definitions**

- 3-23. Receiving State – The NATO or Partnership for Peace (PfP) nation in which the sending state forces are located and in which the damage or injury occurs. For the purposes of this information paper, the receiving state is Poland.
- 3-24. Sending State – The NATO or PfP nation whose forces are in the receiving state. There can be many sending states engaged in a single receiving state at any time. When U.S. troops are operating in Poland, the U.S. is a sending state.
- 3-25. Receiving State Claims Office (RSCO) – The designated office in the receiving state that is responsible for the receipt, adjudication, and payment of claims pursuant to Article VIII of the NATO Status of Forces Agreement. In Poland, the office is part of the Ministry of National Defense, and the contact information can be found in the NATO/PfP Claims Packet.
- 3-26. Sending State Claims Office (SSCO) – The designated office for the sending state responsible for the administration and payment/reimbursement of claims. For the U.S. forces in Poland, the SSCO is USACSEUR.

- 3-27. Contracting Party – The national government of a NATO/PfP nation. For the purposes of Article VIII, the contracting party does not include political subdivisions such as states or cities.

## **Criminal Jurisdiction Over United States Forces in Poland**

- 3-28. *Poland's waiver of its primary right to exercise jurisdiction subject to notice and withdrawal.* Under the EDCA, Article 14, Poland, in recognition of the particular importance of U.S. forces authorities' disciplinary control over members of the U.S. forces and the effect such control has on operational readiness, has waived its primary right to exercise criminal jurisdiction in concurrent jurisdiction cases subject to two conditions:
- 3-29. First, U.S. forces shall promptly notify Polish authorities of each case subject to Poland's waiver.
- 3-30. Second, prior to but no later than 30 days after receiving notification, Poland may withdraw its waiver in specific cases of particular importance to Poland. A copy of a Notification of Offense is attached as Annex G.
- 3-31. The United States Legal Liaison Office (USLLO) is responsible for submitting Notifications of Offense to the Polish Ministry of Justice and engaging with Polish criminal justice officials on all criminal jurisdiction matters in Poland involving members of the U.S. forces, which include service members and members of the civilian component (e.g., Department of the Army Civilians).
- 3-32. *Mutual Assistance.* U.S. forces and Polish authorities shall assist each other in obtaining the appearance of persons needed for proceedings. Polish and U.S. authorities are to cooperate in carrying out investigations, including the collection of evidence. (EDCA, Article 14, Paragraphs 6-8)
- 3-33. *Treatment of Victims and Witnesses.* In U.S. proceedings concerning offenses committed in Poland, all victims and witnesses shall be afforded the same rights and privileges afforded to U.S. victims and witnesses in accordance with U.S. law and regulations. (EDCA, Article 14, Paragraph 9)
- 3-34. *Exemption from Fines.* Members of the U.S. forces are exempt from the payment of fines, penalties and similar assessments imposed by Polish authorities on matters arising out of the performance of their official duty. (EDCA, Article 14, Paragraph 10)
- 3-35. *Criminal Jurisdiction in Official Duty Cases.* In accordance with NATO SOFA Article VII, paragraph 3.a.ii., the United States has the primary right to exercise jurisdiction in concurrent jurisdiction cases where the alleged offenses arise out of an act or omission done in the performance of official duty.
- 3-36. In accordance with EDCA, Article 15, the appropriate U.S. military authority shall submit a certificate ("Official Duty Certificate") attesting that the act or omission

that may have given rise to the alleged offense was done in the performance of official duty, and this will constitute conclusive proof of the fact.

- 3-37. The USLLO is responsible for submitting Official Duty Certificates to the Polish Ministry of Justice after obtaining a "Duty Status Memorandum" confirming the official status from the respective U.S. military authority (e.g., the commander of an accused service member) with the assistance of the command legal advisor for the subject. Polish authorities may present any information bearing on the official duty determination for consideration by U.S. authorities, and Polish authorities may seek review of the determination through consultation between U.S. and Polish authorities. Copies of the Commander's Duty Status Response Memorandum and of an Official Duty Certificate are attached as Annexes F and H.
- 3-38. *Detention, Control, and Access (EDCA Article 16)*. When Poland has the exclusive right to exercise jurisdiction, U.S. authorities have the obligation to inform Polish authorities when a member of the U.S. forces or a dependent has been detained by U.S. authorities.
- 3-39. Polish and U.S. authorities are to assist each other in the arrest of members of the U.S. forces and dependents and transfer to the authority exercising jurisdiction.
- 3-40. Polish authorities are to notify U.S. forces authorities immediately when a member of the U.S. forces or a dependent has been arrested or detained by Polish authorities, and U.S. authorities shall be granted prompt access to such individual upon their request.
- 3-41. A U.S. forces representative is permitted to be present (but may not participate) during all proceedings, including interrogations, involving a member of the U.S. forces or a dependent by Polish authorities, whether the US person is a suspect, victim, or other witness. U.S. forces authorities are also entitled to access statements and transcripts of U.S. forces members and dependents, as well as judgments and law enforcement reports where U.S. forces members or dependents are involved as victims.
- 3-42. Poland is obligated to provide the services of a competent interpreter to members of the U.S. forces and dependents – whether a defendant, suspect, witness, or victim – during all official proceedings, investigations, and interviews by Polish authorities, and to provide written English translations of documents essential for the proceeding, investigation, or trial for parties to the trial. U.S. forces members and dependents may provide statements in English and cannot be required to provide statements in Polish.
- 3-43. U.S. forces members and dependents under investigation or pending trial by Polish authorities will remain or be placed under U.S. authorities' control, if requested by U.S. authorities, until the conclusion of judicial proceedings. U.S.

forces authorities are obligated to ensure the appearance of members of the U.S. forces, and to make best efforts to ensure appearance of dependents, at Polish proceedings.

- 3-44. *Trial in absentia*. Trials in absentia are not permitted without the consent of the accused unless the accused has wrongfully avoided appearance after properly receiving notice of the trial date and has improperly absented themselves from U.S. forces authorities.
- 3-45. When a U.S. forces member or a dependent has been sentenced by a Polish court to confinement, U.S. authorities may maintain control over the accused until the conclusion of all appellate proceedings. A sentence to confinement may be served in Poland or the U.S. subject to agreement between Polish and U.S. authorities.

### **Environmental considerations for United States Rotational Forces**

- 3-46. Environmental protection during US military operations outside of the US is often governed by treaties. For US forces stationed in Poland, baseline environmental protection standards are found in the EDCA. Some provisions worth noting:
- 1) The US and Poland have agreed “to pursue a preventative rather than reactive approach to environmental protection.” (Article 31, paragraph 1)
  - 2) US authorities must educate their personnel about Poland’s environmental laws.
  - 3) “The environmental standards applied by the United States shall accurately reflect the more protective of United States, Republic of Poland, or applicable international agreement standards.” (Article 31, paragraph 4)
  - 4) “The United States shall promptly undertake to inform the Republic of Poland about potential environmental, health, and safety emergencies arising from its activities within the territory of the Republic of Poland and take prompt action to respond to such emergencies, advising the Republic of Poland of the actions to be taken.” (Article 31, paragraph 10)
  - 5) Notification requirements for the Basel Convention regarding moving hazardous waste across international borders. (Article 31, paragraph 12)

## Chapter 4

### REFERENCE INFORMATION

#### **Armed Forces Task and Structure**

##### **Leadership, Command, and Services of the Polish Armed Forces**

###### ***President of the Republic of Poland***

4-1. The President of the Republic of Poland is the Commander-in-Chief of the Armed Forces of the Republic of Poland. In peacetime, the President of the Republic of Poland exercises authority over the Armed Forces through the Minister of National Defense. In wartime, the President exercises this authority upon the proposal of the Prime Minister. The President of the Republic appoints the Chief of the General Staff and commanders of the Armed Services. Upon the proposal of the Minister of National Defense, the President grants officer military ranks. The President, at the request of the Council of Ministers or the Prime Minister, decides on the operational deployment of the Armed Forces outside the country.<sup>45</sup>

###### ***Minister of National Defense***

- 4-2. The Minister of National Defense heads the Defense Ministry, which is the body through which the President of the Republic of Poland exercises authority over the Armed Forces of the Republic of Poland in peacetime.
- 4-3. The responsibilities of the Office of the Minister of National Defense include:
- 1) directing in peacetime all activities of the Armed Forces;
  - 2) preparing national defense estimates, including proposals for the development, and
  - 3) establishing the organizational structure of the Armed Forces;
- 4-4. The Minister of Defense directs the activities of the Defense Ministry and the Armed Forces directly and with the assistance of the Chief of the General Staff of the Polish Army, the Secretary or Secretaries and Undersecretaries of State.<sup>46</sup>

###### ***Polish Armed Forces - tasks and structures***

4-5. The Polish Armed Forces serve to protect the independence of the state and the indivisibility of its territory. As a foundational component of the national defense

---

<sup>45</sup> Official website of the President of the Republic: <https://www.wojsko-polskie.pl/prezydent-rp/>

<sup>46</sup> Official website of the Ministry of Defense <https://www.gov.pl/web/obrona-narodowa/misja-zadania>

apparatus, the Armed Forces ensure the security and inviolability of the nation's borders. To fulfill this function, the Polish Armed Forces:

- 1) Guarantee the defense of the Polish State by resisting aggression within the NATO framework (i.e. maintaining the ability to use troops in the defense and protection of the inviolability of the borders of the Republic of Poland and other NATO Allies.)
- 2) Provide support to international crisis response stability operations to include providing humanitarian relief (i.e., maintaining forces and capabilities to participate in operations conducted pursuant to NATO, EU, or UN mandates);
- 3) Support internal security (by, among other things, monitoring and protecting airspace, supporting the protection of the land border and territorial waters, as well as conducting reconnaissance and intelligence activities, monitoring radioactive, chemical and biological contamination in the national territory; clearing explosives and dangerous objects of military origin, conducting search and rescue operations and assisting other public authorities respond to threats).

### ***Chief of General Staff***

- 4-6. The Chief of General Staff is the senior military authority for commanding the Armed Forces of the Republic of Poland, as well as for strategic planning and programming of their development.
- 4-7. As a commanding general, the Chief of the General Staff in Poland has a significantly different role than his American counterpart. The scope of the Chief of the General Staff of the Polish Army includes:
- 4-8. Command of the Armed Forces;
  - 1) Planning the strategic use of the Armed Forces;
  - 2) Planning the organization and operation of the wartime command system of the Armed Forces;
  - 3) Planning and organizing the mobilization and strategic development of the Armed Forces; and,
  - 4) Preparation and training of the Armed Forces for the needs of state defense and participation in operations outside the country.

### ***General Command of the Polish Armed Forces***

- 4-9. The General Command (aka "GENCOM") plans and carries out tasks aimed at preparing the Polish Armed Forces to defend the nation's borders, ensure the independence of the country, protect the citizenry, and support international

peace within the framework of the nation's NATO commitments.<sup>47</sup> GENCOM does not have an operational mission. The role falls to Operations Command (aka "OPSCOM"). Approximately, 80 percent of the Polish Armed Forces fall under GENCOM's authority. The Commanding General is responsible for preparing the units under his command for operational use. He performs these functions with the assistance of inspectors from each of the armed services and specialized formations (e.g. Land, Air, Maritime, and Special Forces). When necessary, units of the Armed Forces are separated from GENCOM and transferred to OPSCOM for use in operations.

### ***Operational Command of the Polish Armed Forces***

- 4-10. The OPSCOM is the primary command authority responsible for the commanding forces assigned to support military operations. The transfer of forces from GENCOM to OPSCOM requires an act by the Minister of Defense.
- 4-11. OPSCOM is responsible for planning and commanding troops and assigned non-military elements in combined operations, peacekeeping, rescue, humanitarian operations, and other activities to prevent acts of terror, or to remove their effects, as well as forces assigned to support state and local government in the event of non-military emergencies. In times of crisis and war, OPSCOM is the body responsible for the preparation of the Command Post of the Commander-in-Chief of the Armed Forces and carries out operational command of the Armed Forces and civilian entities subordinated to the military.<sup>48</sup>

### *The Polish Armed Forces Services*

#### *Polish Land Forces*

- 4-12. The Polish Land Forces are designed to ensure the defense and indivisibility of the state's territory, the inviolability of its land borders, to repel land, air, and sea aggression from every direction in countering any form of military threat to the Republic of Poland. The composition of the Land Forces includes the relevant commands, corps, divisions, brigades, specialized formations (e.g., mechanized, armored, airborne, aviation, reconnaissance, artillery, anti-aircraft, engineering, chemical, communications), and other specialized support and security elements.

---

<sup>47</sup> Official website of the General Command <https://www.wojsko-polskie.pl/dgrsz/>

<sup>48</sup> Official website of the Operational Command: <https://www.wojsko-polskie.pl/dorsz/zadania/>



### *Polish Air Force*

- 4-13. The Polish Air Force is a branch of armed forces designed to secure and defend the country's airspace. The Polish Air Force function is integrated with NATO and relevant European civil-military systems.
- 4-14. The Air Force consists of:
- 1) Air Forces,
  - 2) Air Defense Forces,
  - 3) Radio Technical Forces.

### *Polish Navy*

- 4-15. The Polish Navy is a branch of armed forces dedicated to the defense of the state's maritime border, the protection of navigation and interests in Polish maritime areas and coastal defense. In addition, it supports the Border Guard in the protection of the state maritime border and the Polish exclusive economic zone. The Polish Navy serves an important role in conducting rescue operations in the Polish Rescue Zone and conducting search and rescue missions of downed aircrew.

### *Polish Special Forces*

- 4-16. The Special Forces are a branch of armed forces designed to carry out operations in conditions and situations where the use of conventional forces is not possible or advisable for political-military, operational or technical reasons. The "GROM" is the most well-known Polish special force unit.

### *Polish Territorial Defense Forces*

- 4-17. The Territorial Defense Forces exist as a complementary part of Poland's defense potential. They consist of both professional soldiers and reserve soldiers called up for service periodically for operational and training missions.
- 4-18. The tasks of the Territorial Defense Forces are:
- 1) Supporting the general readiness for the defense of the Republic of Poland.
  - 2) Assisting the general population manage the effects of natural disasters and crisis management. One Example of such support includes the conduct of search and rescue operations.
  - 3) Cooperating with other entities within national defense apparatus, in particular with regional and local government officials and bodies.
  - 4) Formation of patriotic and civic attitudes and values in society.

- 4-19. In addition to the types of armed forces, there are also specialized services within the structures of the Polish Armed Forces:

*Polish Military Police*

- 4-20. Poland has established the Military Police as a separate and specialized service that is part of the Polish Armed Forces. This separate and structure is very different than that utilized by the United States Army where the Military Police are a specialized service. Despite this dissimilar structure, many of the tasks assigned to the Polish Military Police are recognizable by American military personnel. Polish Military Police are empowered by national law to:

- 1) Ensure compliance with military discipline,
- 2) Protect public order on the territories and facilities of military units and in public places frequented by military personnel,
- 3) Protect the life and health of military personnel,
- 4) Protect military property against attacks.

- 4-21. In addition, the Military Police are responsible for preventing the commission of crimes and misdemeanors – by persons over whom it has jurisdiction – and other pathological phenomena, particularly alcoholism and drug addiction in the Armed Forces.

*Polish Military Intelligence Service*

- 4-22. The Polish Military Intelligence Service is a special service, competent in matters of protection against external threats to state defense, security and combat capability of the Polish Armed Forces and other organizational units subordinate to and supervised by the Minister of National Defense.

*The Polish Military Counterintelligence Service*

- 4-23. The Polish Military Counterintelligence Service is a special service competent in matters of protection against internal threats to the defense of the Republic of Poland and the security and combat capability of the Polish Armed Forces, as well as other organizational units subordinate to or supervised by the Minister of National Defense.
- 4-24. It participates in the anti-terrorist system of the Republic of Poland by carrying out activities aimed at recognizing, preventing, and detecting events and crimes of a terrorist nature detrimental to the security of the defense potential of the

state, the Polish Armed Forces and the organizational units of the Ministry of Defense.<sup>49</sup>

## **United States Military Roles and Structures**

- 4-25. Article 2 Section 2 of the U.S. Constitution assigns the President as Commander-in-Chief of the Armed Forces. The president shares control of the military with Congress. Article 1 Section 8 of the Constitution empowers the Congress to provide for the common defense, raise and support armies, and enact necessary laws to govern and regulate the armed forces. Title 10 of the U.S. Code is the principal statute where Congress exercises these authorities. Often Judge advocates refer to commanders as “exercising their Title 10 authority”.
- 4-26. Confining the discussion to main tactical formations, the US Army’s active component is currently comprised of four Corps – I, III, V, and XVIII (Airborne), with twelve combat Divisions. Each division typically commands three or four combat brigades.<sup>50</sup>
- 4-27. The U.S. has two main reserve components, the “Reserves” and the “National Guard.” Each service (including the Marine Corps, but not the Space Force) has its own Reserve forces, and each state and territory has its own National Guard forces. Reserve forces include certain capabilities that the active component does not have. National Guard forces are organized to match active component structures.
- 4-28. The three different components are sometimes referred to as “Compo 1” (Active), “Compo 2” (National Guard), and “Compo 3” (Reserves). There are cultural and operational differences among the different compos, but when deployed overseas they will normally operate under the same rules, regulations, and policies.
- 4-29. The U.S. military does not normally serve in law enforcement roles within United States territory. In fact, a Federal Statute (aka The Posse Comitatus Act), prohibits the U.S. military from serving in such a role.

---

<sup>49</sup> Official website of Polish Government <https://www.gov.pl/web/national-defence/polish-armed-forces1>

<sup>50</sup> Military Units: Army (defense.gov)

## Annexes

### Annex A – Comparison of Selected Substantive Interpretations

Subject	POL interpretation	U.S. interpretation	NATO, Other Considerations
<p><b><u>Cluster munitions</u></b> Convention on Cluster Munitions aka “Oslo Convention”</p>		<p>Not party to Oslo Convention. The U.S. does have a cluster munition policy, with the intention of employing only cluster munition with an Unexploded Ordinance (UXO) rate &lt;1% however the US does not have these munitions in their arsenal yet.</p>	<p>No limitations according to Oslo Convention. Refer to ROE and Fires Annexes of the operations. The use of cluster ammunitions is typically withheld to echelons above brigade, and there is typically a recording and/or supporting requirement for the location of the use of cluster munitions in order to clear UXOs in follow on operations.</p>
<p><b><u>Landmines</u></b> (Ottawa Convention/Convention on Conventional Weapons (CCW) Protocol II)</p>	<p>Poland ratified the Ottawa Convention and therefore is prohibited from using, developing, producing, acquiring, stockpiling, retaining or transferring presence, proximity or contact initiated anti-personnel mines. Also prohibited from assisting encouraging or inducing anyone to engage in any activity prohibited by the Convention. The operational use of anti-personnel mines by POL personnel is prohibited. The transportation of anti-personnel mines for another state or the storage/stockpile on POL territory or territory under POL jurisdiction/control is prohibited.</p>	<p>The U.S is not a party to the Ottawa Convention Declaration as to CCW Protocol II – The U.S. is not prohibited from adapting portable objects for use as booby-trap created for a purpose other than a booby trap so long as para (1)9b) of article 6(1) is not violated This got lost in translation.</p>	<p>The U.S. employs the family of scatterable mines (FASCAM). Three types of FASCAM contain anti-personnel mines. They are:</p> <ol style="list-style-type: none"> <li>1. Fixed wing delivered “Gator” mines</li> <li>2. Artillery delivered Aerial Denial Artillery Munition (ADAM) mines</li> <li>3. Hand delivered Modular Pack Mine System (MOPMS) M131</li> </ol>
<p><b><u>Riot control agents</u></b></p>	<p>Poland is a party to the Chemical</p>	<p>The United States prohibits the use of</p>	

Subject	POL interpretation	U.S. interpretation	NATO, Other Considerations
(Chemical Weapons Convention (CWC))	<p>Weapons Convention banning the use of chemical weapons. CS gas is classed as a chemical weapon and so may not be used as a "method of warfare". However, according to Polish Law riot control agents can be used in circumstances other than an armed conflict by:</p> <ol style="list-style-type: none"> <li>1) Military Police</li> <li>2) Garrison and unit duty</li> <li>3) Units fulfilling tasks of Police or Border Guards with special permission from MOD</li> </ol>	<p>Riot Control Agents (RCA) as a method of warfare. However, Executive order 11850 explicitly authorizes the use of RCAs in 4 circumstances that may occur during armed conflict:</p> <ol style="list-style-type: none"> <li>1) In riot control situations in areas under direct and distinct US military control, to include controlling rioting prisoners of war.</li> <li>2) In situations in which civilians are used to mask or screen attacks and civilian casualties can be reduced or avoided</li> <li>3) In rescue missions in remotely isolated areas, of downed aircrews and passengers, and escaping prisoners</li> <li>4) In rear echelon areas outside the zone of immediate combat to protect convoys from civilian disturbances, terrorists and paramilitary organizations</li> </ol>	
<u>In incendiary weapons (CCW Protocol III)</u>	<p>Prohibits the use of air-delivered incendiary weapons against a military objective, located within a concentration of civilians. Also, prohibits the use of incendiary weapons (other than air – delivered) against a military objective located within a concentration</p>	<p>The United States signed and ratified the protocol on prohibitions or restrictions on the use of incendiary weapons. However, the US reserves the right to use incendiary weapons, regardless of delivery method, against military objectives located in</p>	<p>When advising a U.S. commander on the use of incendiary weapons for their incendiary effects, there needs to be a deliberate analysis on how using this type of munition will cause less collateral damage than another type of weapons. (e.g., a large store of flammable chemical weapon where use of incendiary</p>

Subject	POL interpretation	U.S. interpretation	NATO, Other Considerations
	<p>of civilians unless the military objective is clearly separated from the concentration of civilians and all feasible precautions are taken to limit the incendiary effects to the military objective and avoid/minimize incidental loss injury or damage to civilians or civilian objects.</p>	<p>concentrations of civilians where it is judged that such use would cause fewer casualties and/or less collateral damage than alternative weapons, but in doing so will take all feasible precautions with a view to limiting the incendiary effects to the military objective and avoiding/minimizing incidental loss, injury, or damage to civilians or civilian objects</p>	<p>munition would prevent a dangerous plume)</p>
<p><b><u>Wearing enemy uniforms</u></b> (Art. 39 AP1)</p>	<p>Prohibits using the uniforms of adverse parties while engaging in attacks in order to shield, favor, protect or impeded military operations. Poland has a strict interpretation of API art. 39 that includes wearing the uniform of an adverse party in operations behind enemy lines.</p>	<p>The U.S. stance is that the use of enemy uniforms, insignia and flags outside of combat is allowed, including to avoid detection while moving behind enemy lines. This includes actions like evading escape and for a ruse, but those using enemy uniforms may not engage in combat.</p>	<p>For the use of enemy uniforms to be legal, those using them must not be engaging in combat. Prior to using this tactic, commanders should be advised that if their soldiers are caught wearing the enemy's uniforms, that they may be treated as criminals or spies, and not afforded POW protection.</p>
<p><b><u>Protection of environment</u></b> (Art 35 AP 1)</p>	<p>POL Armed Forces have developed system of environment protection according to Nature Conservation Act of 2005. Tasks are shared among Operational Command, General Command, Warsaw Garrison Command and Territorial Defense Command. It concerns peace time tasks especially field trainings. During wartime, AP I prohibits the use of means and methods of warfare</p>		<p>Many states consider the provisions of AP I, to include protection of the environment, customary international law. While the U.S. is not a signatory, as a matter of policy the U.S. consider damage to the environment in kinetic targeting solutions. Commanders should be advised of any second-order chemical, biological, radiological, nuclear or high-explosives effects.</p>

Subject	POL interpretation	U.S. interpretation	NATO, Other Considerations
	that are intended or expected to cause widespread, long – term and severe damage to the natural environment.		
<p><b><u>Protection of works and installations containing dangerous forces</u></b> (Art 56 AP1)</p>	<p>The object of attacks may not be structures or facilities containing dangerous forces, especially dams, dykes and hydroelectric power plants, even if they are military targets, if such attacks may trigger these forces and consequently cause serious losses to the civilian population<sup>51</sup></p> <p>The prohibition expressed in Article 56 applies only to attacks that cause the release of hazardous substances, which can result in serious losses among the civilian population. In the case of assets essential to the survival of the civilian population, the prohibition refers to destroying, seizing and rendering useless such assets.</p> <p>In the case of structures and facilities containing hazardous forces, the only prohibited activities are those that cause serious civilian casualties. Activities that do not cause such losses are therefore permitted.<sup>52</sup></p>	<p>While there is no U.S. per se rule preventing the striking of a target that contains dangerous forces, the LOAC analysis on such a strike should consider the harm caused by the release of such forces. The ROE Annex should also be consulted prior to approving a strike that could release dangerous forces because authorization to conduct such a strike is usually withheld to higher echelons.</p>	

<sup>51</sup> AP I, art 56(1)

<sup>52</sup> International Humanitarian Law of Armed Conflicts, Military Center for Civic Education, 2014, p. 152-153

Subject	POL interpretation	U.S. interpretation	NATO, Other Considerations
	<p>Special protection against attacks on such structures may cease if they are used for regular substantial and direct support of military operations and not just for their normal functions, e.g., passage of military vehicles, delivery of electricity to military installations, or other military targets placed on or near such structures are used for such purposes, and an attack on such structures is the only possible means of causing such support to cease.<sup>53</sup></p> <p>Nuclear power plants may also be targeted under this article, but both their functions for the energy system and the specific consequences that may be associated with their destruction must be taken into account.</p>		
<p><b><u>No-Strike Entities (NSE)</u></b></p>	<p>No Strike List (NSL) Entities that must not be targeted for legal or policy reasons are collated on the NSL. The NSL should not be confused with the Restricted Target List (RTL) which contains entities which are valid military targets which are at not to be targeted for operational reasons.</p>	<p>No Strike List (NSL). A list of objects or entities characterized as protected from the effects of military operations under international law or ROE. Restricted Target List (RTL). A list of lawful military targets nominated by elements of the US force and approved by the commander but that will not be engaged for policy or operational reasons.</p>	

<sup>53</sup> Ibidem, p. 153-154



Subject	POL interpretation	U.S. interpretation	NATO, Other Considerations
		<p>The U.S. divides NSEs into Category I, and II. A breakdown of which NSEs fall into which category can be found in CJCSI 3160.01D. Category I includes more sensitive entities like medical facilities or refugee camps, while Category II is for less sensitive entities like public utilities or storage facilities.</p>	
<p><b><u>Direct participation in hostilities (DPH)</u></b></p>	<p>Polish interpretation generally agrees with Interpretation Guidance on the notion of DPH ICRC, but doesn't share it in full. Polish military LEGADs can advise further on Polish practice and approach to DPH depending upon the type of conflict (international, non-international), operation or activity.</p>	<p>Civilians who have taken a direct part in hostilities must not be directly attacked after they have <i>permanently</i> ceased their participation because the military necessity for attacking them has passed. The U.S. does not accept the International Committee of the Red Cross's (ICRC) "revolving door" protection.</p>	
<p><b><u>Definitions</u></b></p>	<p>There is no common term like "captured persons" CPERS for all categories of detainee. Situation differs according to the status of captured and type of a conflict. There is no term like "unlawful combatant" in POL law. Poland is bound by the European Convention on Human Rights, Universal Declaration of Human Rights and International Covenant on Civil and</p>	<p><b>Detainee</b> – any individual captured by or transferred to US custody pursuant to the law of war</p> <p><b>Belligerent</b> – a person engaged in hostilities.</p> <p><b>Unprivileged belligerent</b> – a person who does not have combat immunity. E.g., civilians who take direct part in hostilities or spies (who, while combatants, have</p>	

Subject	POL interpretation	U.S. interpretation	NATO, Other Considerations
	<p>Political Rights. As a result, actions such as prolonged deprivation of liberty, deprivation of a fair criminal trial or torture are definitively prohibited for detainees. According to the jurisprudence of international courts, armed forces are also bound by these agreements outside their own territory, and they are complementary to the laws of armed conflict. Polish armed forces must respect human rights in places where effective control is exercised by the Polish state.<sup>54</sup></p>	<p>lost their POW status). An unprivileged belligerent may be detained for engaging in hostilities or for other imperative reasons of security.</p> <p><b>Tactical questioning (TQ)</b> – questioning at the point of capture to obtain time-sensitive tactical intelligence. May be conducted by non-trained personnel using direct questions.</p>	
<b><u>Detainee transfer</u></b>	<p>Poland is bound by the European Convention on Human Rights, the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights. This means prohibiting the surrender of detainees into the hands of a party that is unable to ensure that they adhere to the rules established by these conventions. The practical details of the surrender of detainees may be governed by MoUs in which powers may be reserved to control the conditions under which detainees are held.<sup>55</sup></p>	<p>The U.S. policy is that detainees should not be transferred to another country or entity without proper authorization. No detainee will be transferred to the custody of another country when a competent authority has assessed that it is more likely than not that the detainee would be subjected to torture. In addition, the risks that the detainee would suffer other forms of ill-treatment, such as arbitrary deprivation of life (including as the result of a death sentence pronounced without fundamental guarantees of fair</p>	<p>Poland will not transfer a detainee that may be subject to the death penalty. The US does not have an expressed policy against transferring detainees to a country where they may face the death penalty. Both countries have a policy against transferring a detainee to another country where human rights according to international agreements are not observed.</p>

<sup>54</sup> Ibidem, p. 205-206

<sup>55</sup> Ibidem p. 207-208

Subject	POL interpretation	U.S. interpretation	NATO, Other Considerations
		<p>trial) or persecution on account of race, religion, nationality, membership in a particular social group, or the expression of a particular political opinion, should also be considered in a decision to transfer. (see DoDD 2310.01E)</p>	
<p><b><u>Interrogation</u></b></p>	<p>Prisoners of war may be asked for data, according to Article 17 of GC III. They can also be questioned about news of a military nature, but such news must not be forced. Interviews should be conducted by either military intelligence or HUMINT-trained soldiers. In the case of suspected crimes committed by prisoners of war, the case is handled by military law enforcement agencies. In the case of belligerents who do not enjoy the protection of international law, if a crime is suspected, the case is handled by either military or civilian law enforcement agencies.</p>	<p>Prisoners of war may be asked for data, according to Article 17 of GC III. Interrogation must be carried out in a manner consistent with the requirements for humane treatment, including the prohibitions against torture, cruelty, degrading treatment, and acts or threats of violence.</p>	<p>Approved methods of questioning and interrogating detainees are specific to the country. If legality of interrogation issues come up, they are better handled by the holding country attorneys. If that is not possible, the exchange attorney should coordinate with holding nation HUMINT personnel for details on what is authorized.</p>
<p><b><u>Intelligence sharing of intel collected from detainees</u></b></p>	<p>The transfer of intelligence may be carried out on the basis of an international agreement.</p>	<p>The U.S. policy on sharing intelligence is to have a specific agreement in place.</p>	<p>For the U.S. the authority to decide to release intelligence that would otherwise not be releasable is generally held at the Combatant Command level or higher</p>

Subject	POL interpretation	U.S. interpretation	NATO, Other Considerations
			Existing Implementing Arrangement to POL-U.S. SOFA between POL and U.S. governments dated 22 MAR 2017 concerning security foresees some forms of exchanging military intelligence information
<b>Self-defense (individual and collective)</b>	<p>According to Law on the principles of use or stay of the Armed Forces of the Republic of Poland outside the borders of the state use of force during operations abroad is allowed</p> <ol style="list-style-type: none"> <li>1) In order to repel a direct and unlawful attack on the life, health or freedom of a person, and to counteract actions aimed directly at such an attack;</li> <li>2) Against a person who disobeys a call to immediately abandonment of a weapon or other dangerous instrument, the use of which may endanger the life, health or liberty of a person</li> <li>3) Against a person who attempts to unlawfully, violently take weapons from a soldier or any other person authorized to possess weapons</li> <li>4) In order to repel a violent, direct and unlawful attack on a Polish or allied military unit</li> </ol>	<p>An imminent threat of attack, a hostile act, or demonstrated hostile intent can all be the basis for engaging a target. Upon a hostile act or demonstration of hostile intent, U.S. forces may use all necessary means available and all appropriate actions in self –defense. If time and circumstances permit, forces should attempt to de-escalate the situation, but de-escalation is not required. When US personnel respond to a hostile act or demonstration of hostile intent, the force used in self-defense should be sufficient to respond decisively to the hostile act/hostile intent. The means and intensity of the force used may exceed that of the hostile act or hostile intent, but the nature, duration, and scope of force should not exceed what is required to respond decisively.</p> <p>Imminence – the determination of</p>	<p>U.S. forces may continue to engage an enemy that was originally engaged in self-defense, as long as positive identification is maintained, if continuing engagement is required to respond decisively.</p> <p>Polish forces are authorized to use lethal force to defend weapon systems, military equipment, and property.</p>

Subject	POL interpretation	U.S. interpretation	NATO, Other Considerations
	<p>5) In order to repel a dangerous, direct, violent attack on facilities and equipment important to the Armed Forces</p> <p>6) In order to repel an attack on property, which at the same time poses a direct threat to the threat to the life, health or freedom of a person</p> <p>7) In direct pursuit of a person against whom the use of coercive measures direct measures, the use of weapons and other armaments was permissible in the cases specified in points 1-5 above</p> <p>8) in order to apprehend a person referred to in points 1-3 and 6, if he has taken refuge in a place difficult to access, and from the surrounding circumstances it appears that he may use weapons or other dangerous instrument, the use of which may endanger the life, health or freedom of the person</p> <p>9) in order to apprehend or thwart the escape of a detained person – pts – 1-7</p>	<p>whether the use of force against U.S. forces –is imminent will be based on an assessment of all facts and circumstances known to U.S. forces at the time and may be made at any level. Imminent does not necessarily mean immediate or instantaneous.</p>	

Subject	POL interpretation	U.S. interpretation	NATO, Other Considerations
	<p>Polish forces will have specific ROE allowing them to use offensive force against those committing hostile act/hostile intent</p> <p>Rules concerning use of force in domestic operation (also a defensive war on the Polish territory) are under construction.</p>		
<p><b><u>Unobserved Fires</u></b></p>	<p>Poland does not employ specific rules regarding unobserved fires</p>	<p><b>Observed fires</b> – fires for which the point of impact or burst is visible to an observer or clearly identified by imagery from unmanned aerial systems. Direct and indirect fire weapons can be used.</p> <p><b>Unobserved fires</b> – undefined doctrinal phrase. Involves the use of indirect fire for which the point of impact or burst are not observed, using intelligence to predict where enemy targets are located.</p>	<p>Employment of unobserved fires requires a thorough analysis of intelligence information, and should only be considered if observed fires are not an option.</p>
<p><b><u>Casualty Threshold and Non – Combatant Cut-off Value (NCV)</u></b></p>	<p>Specific Casualty Threshold is not employed in Polish Armed Forces. Evaluation is done according to LOAC principles and ROEs.</p>	<p>The U.S. no longer uses NCV. This became official policy when published in the CJCSI 3160.01C, dated 9 Apr 2018. CJCSI 3160.01D is the current version</p>	<p>When advising a U.S. commander, there is no NCV, however the ROE will dictate which commander owns which weapon and delivery system, which effectively gives higher echelons control over strikes that might result in higher casualties.</p> <p>LOAC principles must be applied when approving strikes. A LEGAD working with a US unit should check the ROEs, the Fire Annex, and consult with the targeteer for restrictions in engaging</p>

Subject	POL interpretation	U.S. interpretation	NATO, Other Considerations
			a target based on Collateral Damage Estimation (CDE) Methodology level.

## **Annex B – United States Army Ranks**

In the United States Army there are three categories of uniformed personnel.

The enlisted corps includes soldiers from the rank of Private to Sergeant Major of the Army. U.S. enlisted ranks include some non-commissioned officers with no equivalent in the Polish Armed Forces such as Command Sergeant Majors.

Warrant officers hold warrants from their service secretary and are specialists and experts in certain military technologies or capabilities. The lowest-ranking warrant officers serve under a warrant, but they receive commissions from the president upon promotion to chief warrant officer 2. These warrant officers derive their authority from the same source as regular commissioned officers but remain specialists, in contrast to commissioned officers, who become generalists as they advance in rank and experience. The US Air Force did not have warrant officers for a long time but has recently re-established its warrant officer corps.<sup>56</sup> Warrant officers are intended to be technical experts, combat leaders, trainers, and advisors, who manage, maintain, operate, and integrate systems and equipment across the full spectrum of operations.<sup>57</sup>

Commissioned officers are the managers, problem solvers, key influencers and planners who lead enlisted Soldiers in all situations. They plan missions, give orders and assign Soldiers tasks.<sup>58</sup>

---

<sup>56</sup> <https://www.defense.gov/Resources/Insignia/>

<sup>57</sup> <https://www.army.mil/ranks/>

<sup>58</sup> <https://www.army.mil/ranks/>



# RANK INSIGNIA OF THE U.S. ARMED FORCES

## ENLISTED

E-1

E-2

E-3

E-4

E-5

E-6

E-7

E-8

E-9

SENIOR ENLISTED ADVISORS

### ARMY

no insignia											
Private E-1 (PV1)	Private E-2 (PV2)	Private First Class (PFC)	Corporal (CPL) Specialist (SPC)	Sergeant (SGT)	Staff Sergeant (SSG)	Sergeant First Class (SFC)	Master Sergeant (MSG)	First Sergeant (1SG)	Sergeant Major (SGM)	Command Sergeant Major (CSM)	Sergeant Major of the Army (SMA)

### MARINES

no insignia											
Private (Pvt)	Private First (PFC)	Lance Corporal (LCpl)	Corporal (Cpl)	Sergeant (Sgt)	Staff Sergeant (SSgt)	Gunnery Sergeant (GySgt)	Master Sergeant (MSgt)	First Sergeant (1stSgt)	Master Gunnery Sergeant (MGySgt)	Sergeant Major (SgtMaj)	Sergeant Major of the Marine Corps (SgtMajMC)

## OFFICERS

O-1

O-2

O-3

O-4

O-5

O-6

O-7

O-8

O-9












O-10











SPECIAL

### ARMY - AIR FORCE - MARINES

Second Lieutenant (2LT)	First Lieutenant (1LT)	Captain (CPT)	Major (MAJ)	Lieutenant Colonel (LTC)	Colonel (COL)	Brigadier General (BG)	Major General (MG)	Lieutenant General (LTG)	General (GEN)	General of the Army (GA)

## Annex C – Polish Land Forces Ranks

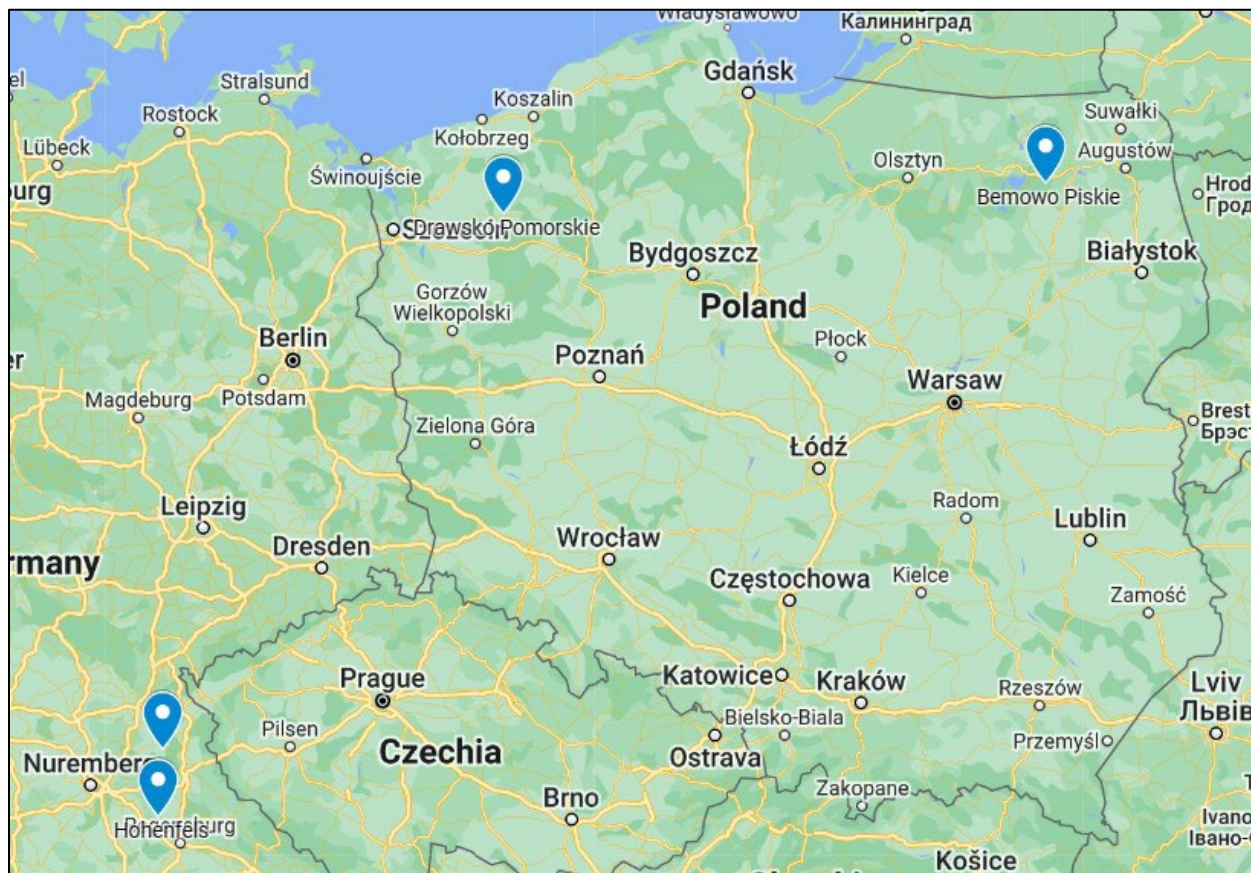
NATO code	OF-10	OF-9	OF-8	OF-7	OF-6	OF-5	OF-4	OF-3	OF-2	OF-1	
 Polish Land Forces <sup>[1]</sup> [V·T·E]											
	<i>Marszałek Polski</i>	<i>Generał</i>	<i>Generał broni</i>	<i>Generał dywizji</i>	<i>Generał brygady</i>	<i>Pułkownik</i>	<i>Podpułkownik</i>	<i>Major</i>	<i>Kapitan</i>	<i>Porucznik</i>	<i>Podporucznik</i>

NATO code	OR-9	OR-8	OR-7	OR-6	OR-5	OR-4	OR-3	OR-2	OR-1		
 Polish Land Forces <sup>[1]</sup> [V·T·E]											
	<i>Starszy chorąży sztabowy</i>	<i>Starszy chorąży</i>	<i>Chorąży</i>	<i>Młodszy chorąży</i>	<i>Starszy sierżant</i>	<i>Sierżant</i>	<i>Plutonowy</i>	<i>Starszy kapral</i>	<i>Kapral</i>	<i>Starszy szeregowy</i>	<i>Szeregowy</i>

## Annex D – Training Areas

Two of Poland's largest and busiest training areas are Drawsko Pomorskie (DPTA)<sup>59</sup> and Bemowo Piskie (BPTA). These training areas support numerous NATO partner nations in addition to Polish and U.S. forces and have been expanding capacity and capabilities in recent years. Bemowo Piskie is also home to a NATO enhanced Forward Presence (eFP) Battle Group led by Poland and including troops from Romania, Croatia, and the United Kingdom.

The U.S. operates two major training areas in Germany, one near Grafenwoehr (GTA)<sup>60</sup> and one near Hohenfels (HTA). HTA is operated by the Joint Multinational Readiness Center (JMRC)<sup>61</sup>. As "Multinational" suggests, exercises at JMRC normally involve multinational participation.

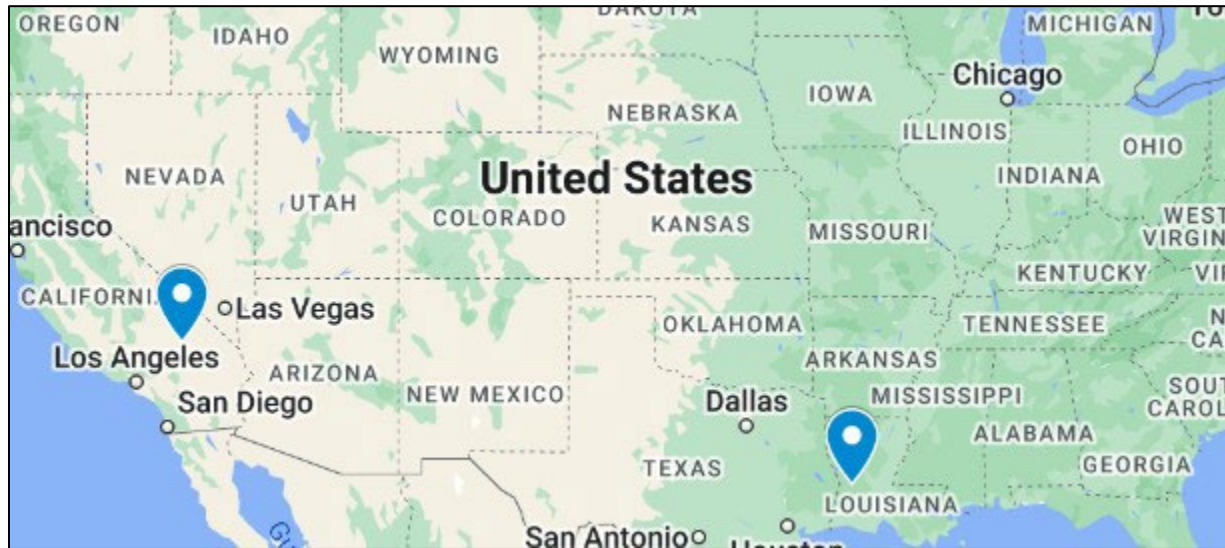


<sup>59</sup> <https://csbdrawsko.wp.mil.pl/>

<sup>60</sup> <https://www.7atc.army.mil/GTA/>

<sup>61</sup> <https://www.7atc.army.mil/JMRC/>

The largest and most well-known training areas in the U.S. are “NTC”, the “National Training Center” in the desert at Fort Irwin, California, and JRTC, the “Joint Readiness Training Center” in the swamps of Fort Johnson, Louisiana. U.S. brigades spend a month to complete an exercise rotation at either NTC or JRTC.



This page is intentionally left blank

## Annex E – Table of Agreements

Short Name	Full Name	Date
NATO SOFA	Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces	19 Jun 1951
EDCA	Agreement between the Government of the Republic of Poland and the Government of the United States of America on Enhanced Defense Cooperation	15 August 2020
SSA (SOFA Supplemental) (deprecated)		11 December 2009
Joint Commission IA	Implementing Arrangement Creating the Terms of Reference for the Joint Commission Established under the Agreement on the Status of the Armed forces of the United States of America in the Territory of the Republic of Poland	20 May 2013
FCJ MOU	Foreign Criminal Jurisdiction Memorandum of Understanding (amended)	23 Oct 2014 (9 Sept 2016)
Mutual Legal Assistance Agreement		25 Jun 2003
Claims IA		7 Feb 2014
Official Tax Exemptions IA		27 Apr 2015
Personal Tax Exemptions IA		In Negotiation
Custom Procedures IA		23 Oct 2014
Contracting Procedures IA		27 Apr 2015
Labor IA		27 Apr 2015
Military Service Support Activities IA		27 Apr 2015
Financial Institutions IA		27 Apr 2015
Telecommunication IA		27 Apr 2015
Ground Movement MOU		4 Nov 2015
Environmental Matters IA		24 Jun 2016
Security IA		22 Mar 2017
Medical Support IA		22 Mar 2017
Registry of Vehicles IA		1 Jul 2014
Registration and Technical Inspection		1 Jul 2014

of Private Vehicles IA		
Certificate of Entitlement to Operate Private Motor Vehicles IA		20 May 2013
Entry Stay and Departure Procedures MOU		3 Aug 2017
Environmental IA		24 Jun 2016
Agreed Facilities IA		24 June 2016 (redrafting)
BMD Land Use IA	Ballistic Missile Defense (Redzikowo) (Navy)	27 April 2015
PPI MOU		3 August 2021
PPLS MOU		19 December 2022
Agreed Facilities IA (deprecated)		2 June 2016
ACA Łask		13 July 2018
ACA Poznań		26 July 2017
ACA Powidz		26 July 2017
ACA Wrocław		26 July 2017
ACA Żagań		26 July 2017
CA Base (Kielce) LOA		3 Oct 2022
AVDET AFA MOU		1 Jul 2014
BMDA		27 April 2015
SFAB LOA		8 Oct 2021
ACSA	Accommodation Consignment Agreement, Logistic Support, Supplies and Services	3 Dec 2012
eFP HNS TA		22 Jan 2018
MSSA IA	Military Service Support (AAFES, USO, etc)	27 April 2015
USO MOA (Powidz)		10 Sept 2020
Medical Service Support IA		22 March 2017
Combat Medicine Interoperability LOA	U'R-AF – POL MOD	29 April 2023
Telecommunications IA		27 April 2015
Tax (Official) IA		27 April 2015

## Annex F – Commander’s Duty Status Response Memo

XXXX-XX

13 September 2024

MEMORANDUM FOR US Legal Liaison Office Poland

SUBJECT: Duty Status, RANK LAST, FIRST, CASE NUMBER

1. At the time of the incident: (select one)

The above-mentioned Service Member **was not** acting in the performance of official duty.

The above-mentioned Service Member **was** acting in the performance of official duty. The Service Member was operating within the limits of orders given to him/her.

“**Official duty**” means any duty, service or act required or authorized to be done by statute, regulation or the order of a military superior or of a member of the civilian component issued in his or her supervisory capacity. Official duty is not meant to include all acts done by an individual during the period while on duty, but is meant to apply only to acts that are required or authorized to be done as a function of that duty or service that the individual is performing.

a. Name/Rank of the member of the force: FIRST LAST NAME, RANK

b. Unit Organization: FULL UNIT

c. Offense(s) Suspected / Alleged: \_\_\_\_\_

d. Place, Time and Date of Incident: \_\_\_\_\_, Poland on or about \_\_\_\_\_.

e. Details Concerning Incident: \_\_\_\_\_.



It is **required** to include sufficient details explaining the basis for the determination that the alleged offence arose out of an act or omission done in performance of official duties.

f. The Point of Contact for this memorandum is \_\_\_\_\_ at EMAIL, TEL.

Sincerely,

\_\_\_\_\_, U.S. Army  
Commanding/Brigade Judge Advocate

## Annex G – Notice of Incident (Article 14 Notice)



U.S. ARMY EUROPE AND AFRICA

U.S. LEGAL LIAISON OFFICE POLAND

BIURO t. 1\CZNIKOWE SPRAW PRAWNYCH Sił ZBROJNYCH  
AMBASADA STANOW ZJEDNOCZONYCH AMERYKI

ALEJE  
UJAZDOWSKIE  
29/31 00-540  
WARSZAWA

/date/

National Prosecutor's Office / Prokuratura Krajowa RP  
Military Department / Departament do Spraw  
Wojskowych

Case / sygn. akt: \_

### Notification of an incident involving U.S. forces personnel

Pursuant to Article 14, paragraph 2 of the Agreement between the Government of the United States of America and the Government of the Republic of Poland on Enhanced Defense Cooperation (EDCA), done at Warsaw on August 15, 2020, notification is hereby made for the following case / incident:

1. Name/Rank/Unit:
2. Nature of Alleged Offense(s): \_
3. Summary of Reported Incident: \_
4. Location, Time and Date of Incident: \_
5. Other information: The alleged offense by\_ did not arise out of an act or omission done in the performance of his/her official duties.

In accordance with Article 14, paragraph 8 of the EDCA, we request that any evidence collected pertaining to this incident by Polish authorities, including any evidence collected at the opening stage of investigation, be provided to this office.

Sincerely,

## Annex H – Official Duty Certificate



### U.S. ARMY EUROPE AND AFRICA

#### U.S. LEGAL LIAISON OFFICE POLAND

BIURO ŁĄCZNIKOWE SPRAW PRAWNYCH Sit.  
ZBROJNYCH AMBASADA STANOW ZJEDNOCZONYCH  
AMERYKI

ALEJE  
UJAZDOWSKIE  
29/31 00-540  
WARSZAWA

/date/

National Prosecutor's Office / Prokuratura Krajowa RP  
Military Department / Departament do Spraw  
Wojskowych

Case / sygn. akt: \_

### Official Duty Certificate

Pursuant to Article 15 of the Agreement between the Government of the United States of America and the Government of the Republic of Poland on Enhanced Defense Cooperation (EDCA), done at Warsaw on August 15, 2020, this certificate shall constitute proof of the fact that the following alleged criminal offense has arisen out of an act or omission done in the performance of official duty by a member of the force:

1. Rank/Name/Unit
2. Nature and Summary of Alleged Offense(s): \_
3. Location, Time and Date of Incident: \_
4. Other information:

Notice is hereby provided that United States military authorities intend to exercise the primary right of jurisdiction pursuant to Article VII, paragraph 3.a.ii of the NATO SOFA.

In accordance with Article 14, paragraph 8 of the EDCA, we request that any evidence collected pertaining to this incident by Polish authorities, including any evidence collected at the opening stage of investigation, be provided to this office.

Sincerely,



