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## Report on Alignment of Game with International Human Rights Law

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## Gaming for Peace Project (GAP)

Gaming for Peace (GAP) was launched in September 2016. GAP is an EU H2020 Framework Programme for Research and Innovation project and the length of the project is 30 months. The main goal of GAP is to develop a curriculum in relevant 'soft skills' (cooperation, communication, gender and cultural awareness) for personnel from diverse organizations working in the field of conflict prevention, peacebuilding and peacekeeping operations.

This curriculum will be embedded in an online role-playing game and renewed and updated by returning personnel playing the game. GAP fills a gap in training and offers an efficient and inexpensive way of delivering universal and standardized training in these skills.

The requirements to effectively operate and partake in conflict and post conflict situations for preventive measures and peacebuilding, compels the best of expertise and individual skill to adapt to fraught and complex environments. The demands on peacekeepers in recent years have been unprecedented and the need for specialised and more professional training has also increased. GAP, therefore represents an essential online training game for civilian, police, military, NGO personnel, humanitarians and others involved in peace operations worldwide.

Although personnel involved in peace operations generally have 'traditional based skills', (e.g. intelligence, investigation, weapons handling etc.) soft skills such as communication, cooperation, gender and cultural awareness and negotiation are less well emphasised. The GAP project proposes to fill this recognised training gap; embedding a base curriculum of soft skills that facilitates coordination and relationship building in an environment of organisational, gender and cultural diversity.

The GAP project will therefore identify the main characteristics and concepts in the field of conflict prevention and peace building and locate new areas for improvement and enhancement in existing training. Comprehending the intricate and often dangerous environment in which peace keepers are expected to operate, also requires a keen knowledge of conflict prevention and peacebuilding. The ability to foresee and surmount social, cultural, or historical barriers necessitates the most up-to date training for peacekeeping. Gaming for Peace represents an innovative technique for the training of personnel involved in peace operations.



## List of Acronyms and Abbreviations

|        |  |
|--------|--|
| ASEAN  | Association of Southeast Asian Nations                                 |
| AU     | African Union  |
| CIMIC  | Civil-Military Cooperation   |
| CPCC   | Civilian Planning and Conduct Capability                               |
| CPBL   | Collaborative Problem Based Learning                                   |
| CUNPK  | Centre for UN Peacekeeping   |
| CPPB   | Conflict Prevention and Peace Building                                 |
| CSDP   | Common Security and Defence Policy                                     |
| DDR    | Disarmament, Demobilization and Reintegration                          |
| DFS    | United Nations Department of Field Support                             |
| DPKO   | United Nations Department for Peacekeeping Operations                  |
| DRR    | Disaster Relief Reduction  |
| ECOWAS | Economic Community of West African States                              |
| EEAS   | European External Action Service                                       |
| EU     | European Union   |
| EUGS   | A Global Strategy for the European Union's Foreign And Security Policy |
| GAP    | Gaming for Peace   |
| GDPR   | General Data Protection Regulation                                     |
| IAPTC  | International Association of Peacekeeping Training Centres             |
| IFRC   | International Federation of Red Cross and Red Crescent Societies       |
| IHL    | International Humanitarian Law   |
| KAIPTC | Kofi Annan International Peacekeeping Training Centre                  |
| NATO   | North Atlantic Treaty Organisation                                     |
| NIS    | Network and Information Systems  |
| OAS    | Organisation of American States  |
| OMA    | Office of Military Affairs (UN)  |
| OROLSI | Office of the Rule and Security Institutions                           |
| OSCE   | Organisation for Security Cooperation in Europe                        |
| PET    | Policy, Evaluation and Training Division(UN)                           |
| PEGI   | Pan European Game Information  |
| PKO    | Peacekeeping Operation   |
| PTP    | Peacekeeping Training Programme  |
| SG     | Serious Games  |
| SOFA   | Status of Forces Agreement   |
| SOMA   | Status of Mission Agreement  |
| SOP    | Standard Operating Procedure   |
| SSR    | Security Sector Reform   |
| TNA    | Training Needs Assessment  |
| UDHR   | Universal Declaration of Human Rights                                  |
| UN     | United Nations   |
| UNDP   | UN Development Programme   |

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|          |   |
|----------|---|
| UNEF     | United Nations Emergency Force                        |
| UNGSC    | United Nations Global Service Centre                  |
| UNITAR   | United Nations Institute for Training and Research    |
| UNMISS   | United Nations Mission in the Republic of South Sudan |
| UNPOL    | United Nations Police                                 |
| UNPREDEP | United Nations Preventive Deployment                  |
| UNSCC    | United Nations System Staff College                   |
| UNTSO    | United Nations Truce Supervision Organisation         |



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## Executive Summary

This report gives a review of the current legal framework influencing the delivery of the serious game for peacekeepers, implemented by the GAP-project. As internationally recognised, an effective soft skill training including serious game, has to be built in a way conforming to the relevant international legal instruments, such as the international human rights law, the international peacekeeping legal framework and principles and laws that govern it, the documents providing legal guidance and the impact on the international peacekeeper. All these areas will be therefore addressed in the analysis to be performed under this task, alongside with related areas relevant for serious games, such as terms of use, privacy, security and certification.

In terms of international law, the UN and EU normative framework for peacekeeping missions has been reviewed. This review does indicate that there are a number of key legal concepts that apply to missions and operations, but that none of these are specifically targeted to the content of the game, i.e. soft skills. The existing binding international legislation focuses on international humanitarian law and fundamental rights and there are non-binding guidelines focusing on expected behaviour in the field. However, no normative framework at international level exists in terms of defining the soft skills of peacekeepers.

Next to the review of the law applicable to peacekeeping, a legal review has been done of the requirements for the serious game in terms of data protection, cyber security and certification. This review has resulted in identifying a number of key binding concepts that are to be followed at implementation stage.

Finally, the last chapter combines the results of the previous chapters and lists key international legal concepts that have to be reflected in the content of the game delivered by the GAP-project and the GAP-project gaming platform. These have been listed in two tables, to make it easier to implement and at a later stage review whether these have been complied with once the game is operational. It must be stressed that the review presented in this report is of a general nature, and as such cannot be seen as comprehensive and exhaustive.



## 1. Introduction

This task undertakes a thorough analysis of the international legal and regulatory infrastructure covering the training of international peacekeepers (militaries, police and civil organizations) in general and specifically for soft skills.

As internationally recognised, effective soft skill training including serious gaming, has to be built in a way conforming to the relevant international legal instruments, such as the international human rights law, the international peacekeeping legal framework and principles and laws that govern it, the documents providing legal guidance and the impact on the international peacekeeper. All these areas will be therefore addressed in the analysis to be performed under this task, alongside related areas relevant for serious games, such as terms of use, privacy, security and certification.

The initial step is the identification of all relevant international instruments relevant for soft skills training in a international peacekeeping context (chapter 1). The following step is the identification of legal context specific to online serious games (chapter 2). The final step is to identify potential implementation approaches, processes and methods to operationalize the findings of the previous chapters in the development of serious games targeted at soft skills training of peacekeepers (chapter 3).

International peacekeeping is in quantitative and qualitative terms a growth area, both at UN and regional level. Since the post Cold War era, it has become a key activity of the UN despite the fact that it was not envisaged in the UN Charter.<sup>1</sup> In 2015, 120 countries contributed to peacekeeping, with over 125,000 UN peacekeeping personnel, in 16 missions across 4 continents, costing approximately US\$8.2 billion.<sup>2</sup>

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<sup>1</sup> United Nations Peacekeeping Law Reform Project School of Law, Briefing Paper #1, University of Essex, September 2010.

<sup>2</sup> Source: [http://www.un.org/en/peacekeeping/images/PKD\\_Infographic\\_web.jpg](http://www.un.org/en/peacekeeping/images/PKD_Infographic_web.jpg)





Figure 1 - UN Peacekeeping Statistics

At regional level, the EU is a good example of recent growth, that started with the first inception of a common security and defense policy in the Treaty of Amsterdam (1997), with the incorporation of the Peterbergs Tasks<sup>3</sup>. Currently, the Common Foreign Security and Defense Policy (CSDP) is fully incorporated in the Lisbon Treaty, and in 2017 a grand total of 35 CSDP missions and operations have been launched, in three continents, of which 16 are ongoing (June 2017), with a budget for the civilian missions in 2016 of €298.6 million<sup>4, 5</sup>.

In qualitative terms, also the focus of peacekeeping operations is shifting. The growing demand for international peacekeepers, has led to more robust mandates and increased complexity in tasks. This evolution is best displayed by reviewing the United Nations-peacekeeping tasks. These are in principle limited to supporting the implementation of a cease-fire or peace agreement, however, often also play an active role in peacemaking efforts, including early peacebuilding activities. This new generation of “multi-

<sup>3</sup> Read more about the Peterbergs' Tasks here: [http://eur-lex.europa.eu/summary/glossary/petersberg\\_tasks.html](http://eur-lex.europa.eu/summary/glossary/petersberg_tasks.html)

<sup>4</sup> The estimate for the budget for CSDP military operations cannot be given as these operations are not funded by the EU budget. EU Member States (and third countries) that decide to contribute to an EU military operation cover their participation costs and there is a intergovernmental mechanism 'Althena', covering a limited number of common costs.

<sup>5</sup> The numbers mentioned are taken from a publication of the European Parliament: Briefing, How the EU budget is spent March 2016. Reference: EPRS\_BRI(2016)579065\_EN.



dimensional” United Nations peacekeeping operations may employ a mix of military, police and civilian capabilities to support the implementation of a comprehensive peace agreement.<sup>6</sup>

A similar evolution can be noticed at EU level, where in June 2016 ‘A Global Strategy for the European Union’s Foreign And Security Policy’ was published. In EU parlance, this document is called the Global Strategy (acronym: EUGS) and defines the vision for the years to come for engaging in the wider world and launches the so called ‘integrated approach’, defined as ‘a multi-dimensional approach through the use of all available policies and instruments aimed at conflict prevention, management and resolution’.<sup>7</sup>

This dynamic environment, with increasing demand for international peacekeeping, leads to peacekeepers being deployed to different geographical areas and diverse cultural environments, that may differ significantly from what the peacekeeper is trained for and can expect at home. At the same time, such deployment does not happen in a vacuum, as there are international legal principles that are universally accepted, such as the Charter of the United Nations and the Universal Declaration of Human Rights. Exploring this legal environment is the topic of the next chapter.

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<sup>6</sup> United Nations Peacekeeping Operations Principles and Guidelines, Department of Peacekeeping Operations and Department of Field Support, 2008, p. 22.

<sup>7</sup> See: <https://europa.eu/globalstrategy/en/global-strategy-foreign-and-security-policy-european-union> (last accessed in June 2017).



## 2. International Law and Peacekeepers

The objective of this chapter is to give an overview of the international binding and non-binding documents and other internationally recognized publications which have to be considered for the development of a game relating to the assessment of peacekeepers and their soft skills.

The following documents and publications have been considered and used, in order to achieve this objective:

- Legally binding international documents
- Non-binding international documents
- UN/EU and other internationally recognized publications

A sound analysis requires a clear definition of international peacekeeping and international peacekeepers. However, no generally accepted definition exist, with little consensus among legal scholars on what peacekeeping is and no universally binding legally adopted text defining this term.<sup>8</sup> In absence of such a definition, any presented legal analysis is broad (and cannot be by any means exhaustive). However, such a broad analysis does has drawbacks in terms of usability for the GAP-project.

In order to deliver a legal analysis that is usable for the purpose of the GAP-project and informing the set-up of the game, three filtering mechanisms will be applied in the analysis:

- (a) An organisational filter, i.e. limiting the analysis to international peacekeeping within the United Nations and the European Union.
- (b) An topical filter , i.e. limiting the analysis to operations and staff (i.e. peacekeepers).
- (c) A temporal filter, i.e. limiting the analysis to the legal framework in place at the time of writing, i.e. July 2017.

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<sup>8</sup> For further discussion, see A. Bellamy, P.D. Williams, *Understanding Peacekeeping* (Cambridge: Polity, 2010), pp. 14-18.



## 2.1 Legally binding international documents

Legally binding international documents are defined as *treaties*, in line with international law. Treaties are agreements between states, and those states that sign on to a treaty are bound by its terms. The following main legally binding international documents relating to international peacekeeping in the UN and EU can be identified:

1. The UN Charter<sup>9</sup>
2. The Treaty on the European Union<sup>10</sup> and the EU Charter of Fundamental Rights
3. International Humanitarian Law
4. Agreements on status of forces and missions (i.e. SOFA and SOMA's)

Each one of these will be further analysed below in terms of relevant content.

### 1. *The UN Charter*

International peacekeeping is not explicitly provided for in the Charter, nor is the term used in the Charter. However, in its Chapter VI ('Pacific Settlement of Disputes') and chapter VII ('Action with Respect to the Peace, Breaches of the Peace and Acts of Aggression') provisions can be found that relate to it. For instance, article 39 in Chapter VII mentions that:

*The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.*

The agreement among scholars is that one of the measures referred to in this article is giving a mandate to set up a peacekeeping operation<sup>11</sup>. For such mandate to be legally viable, it needs to be sanctioned by the legally required body, in this case the Security Council<sup>12</sup>)

<sup>9</sup> See: <http://www.un.org/en/sections/un-charter/chapter-vii/index.html> (last accessed in June 2017)

<sup>10</sup> See: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A12012M%2FTXT> (last accessed in June 2017)

<sup>11</sup> The Legal Foundations of UN Peacekeeping Operations, Boris Kondoch, p. 5-7, accessed in June 2017 on [http://www.academia.edu/8537762/The\\_Legal\\_Foundations\\_of\\_UN\\_Peacekeeping\\_Operations\\_in\\_English\\_](http://www.academia.edu/8537762/The_Legal_Foundations_of_UN_Peacekeeping_Operations_in_English_)

<sup>12</sup> The General Assembly can also authorise a peacekeeping operations based in articles 14 and 22 of the Charter. This has happened in 1956, when the General Assembly established the First UN Emergency Force (UNEF I) in the Middle East.



## 2. *The Treaty on the European Union and the EU Charter on Fundamental Rights*

The Treaty on the European Union does mention peacekeeping explicitly in article 42 as part of the common security and defence policy (CSDP). This policy provides the Union with an operational capacity to be used on missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the United Nations Charter. The authorising body here is the Council, with a role for the High Representative of the Union for Foreign Affairs and Security Policy, to coordinate the civilian and military aspects of such task in close and constant contact with the Political and Security Committee.

In terms of the legal context in which the peacekeeping missions operates the applicability of international human rights instruments to CSDP crisis management operations is currently problematic. The EU itself, as opposed to its Member States, is not (yet) party to these instruments. International human rights apply to EU-led missions as part of customary international law.<sup>13</sup>

## 3. *International Humanitarian Law*

A significant number of binding treaties have been established within the framework of international humanitarian law (IHL). Among the long list of treaties, the following key IHL treaties can be identified, which include the 1907 Hague Regulations, four Geneva Conventions, and their Additional Protocols<sup>14 15</sup>:

- 1907 Hague Regulations (Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907)
- Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva, 12 August 1949
- Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea. Geneva, 12 August 1949
- Convention (III) relative to the Treatment of Prisoners of War. Geneva, 12 August 1949

<sup>13</sup> See Human rights applied to CSDP operations and missions, by the European Parliament Research Service, LDM\_BRI(2014)130712\_REV2\_EN, [http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2014/130712/LDM\\_BRI%282014%29130712\\_REV2\\_EN.pdf](http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2014/130712/LDM_BRI%282014%29130712_REV2_EN.pdf), last accessed in July 2017.

<sup>14</sup> See <http://www.ijrcenter.org/international-humanitarian-law/>, accessed in June 2017.

<sup>15</sup> For the comprehensive list of IHL-treaties, please visit the database by the ICRC: <https://ihl-databases.icrc.org/ihl>, last accessed in June 2017.



- Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977
- Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977
- Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III), 8 December 2005

In 1995 the International Committee of the Red Cross took the initiative to convene a group of experts, tasked with identifying the core IHL provisions applicable in UN peacekeeping operations. This led on 12 August 1999 to the adoption of a Secretary-General's Bulletin, with the title 'Observance by United Nations forces of international humanitarian law'.<sup>16</sup> The bulletin consists of 10 sections that among other stipulate the protection of the civilian population (section 5), that in case of violations of international humanitarian law, members of the military personnel of a United Nations force are subject to prosecution in their national court (section 4), limits to the means and methods of combat of UN forces (section 6), and rules for the treatment of civilians and persons hors de combat (section 7.)

#### 4. *Agreements on status of forces and missions (i.e. SOFA and SOMA's)*

Missions and operations are deployed in sovereign states, and as such governed by bilateral or multilateral treaties that regulate the exercise of the host state's jurisdiction over the visiting force or mission and its members. Various immunities can be agreed upon, such as exemptions from local criminal jurisdiction. These treaties are called agreements on status of forces (SOFAs) for military operations, and status of missions (SOMAs) for civilian missions and are standard practice for international peacekeeping operations.

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<sup>16</sup> Document number: ST/SGB/1999/13



## 2.2 Legally non-binding international documents

Non-binding international documents are everything else but treaties. Their legal power varies and from customary international law (strong legal power) to guidelines and principles (weak legal power). Below a global overview is given of non-binding international documents relating to international peacekeeping in the UN and EU:

### 1. *The Universal Declaration of Human Rights*<sup>17</sup>

The Universal Declaration of Human Rights (UDHR), was adopted by General Assembly of the United Nations on 10 December 1948. It is not a legally binding document as it is not a treaty but seen as customary international law. Although it does not directly create legal obligations for countries, it is seen as an expression of the fundamental values which are shared by all members of the international community. It has been the basis directly and indirectly, for many domestic constitutions around the globe, laws, regulations, and policies that protect fundamental human rights.<sup>18</sup>

### 2. *Final Report UNEF I, 1956*<sup>19</sup> and *Summary Study UNEF I (1958)*<sup>20</sup>

The final report of 6 November 1956 on the plan for the establishment of the peacekeeping operation UNEF I, the Secretary General of the UN, Dag Hammarskjöld, established three key principles for UN peacekeeping operations, that are still valid today:

- a. Consent: the Final Report UNEF I mentions explicitly that the UN force, would *'be limited in its operations to the extent that consent of the parties concerned is required under generally recognized international law.'*<sup>21</sup>
- b. Impartiality: the Final Report UNEF I also mentions that when establishing an UN Force, *there should be no intent to influence the military balance in the present conflict and, thereby the political balance affecting efforts to settle the conflict.*<sup>22</sup>

<sup>17</sup> See <http://www.un.org/en/universal-declaration-human-rights/> (last accessed in June 2017)

<sup>18</sup> The Status of the Universal Declaration of Human Rights in Nation, Hurst Hannum, Georgia Journal of International and Comparative Law, Vol 25:287, p. 289.

<sup>19</sup> See

[https://www.google.nl/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=0ahUKEwiuvduoz8zUAhWMarQKHT1LDDgQFggsMAE&url=http%3A%2F%2Frepository.un.org%2Fbitstream%2Fhandle%2F11176%2F275892%2FA\\_3302-EN.pdf%3Fsequence%3D1%26isAllowed%3Dy&usg=AFQjCNENB1UpkURQhjFNhNupfsOWKkdihQ](https://www.google.nl/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=0ahUKEwiuvduoz8zUAhWMarQKHT1LDDgQFggsMAE&url=http%3A%2F%2Frepository.un.org%2Fbitstream%2Fhandle%2F11176%2F275892%2FA_3302-EN.pdf%3Fsequence%3D1%26isAllowed%3Dy&usg=AFQjCNENB1UpkURQhjFNhNupfsOWKkdihQ), last accessed in June 2017.

<sup>20</sup> Summary study of the experience derived from the establishment and operation of the Force : report of the Secretary-General, 9 Oct. 1958, A/3943, page 24, paragraph 179.

<sup>21</sup> A\_3302-EN, page 4, paragraph 9.



- c. No-use of armed force: the UNEF I summary study states that in UNEF I, the rule is applied that *men engaged in the operation may never take the initiative in the use of armed force, but are entitled to respond with force to an attack with arms, including attempts to use force to make them withdraw from positions which they occupy under orders from the Commander, acting under the authority of the Assembly and within the scope of its resolutions.*

### 3. *United Nations Peacekeeping Operations Principles and Guidelines*

The UN departments of Peacekeeping Operations and Field Support, issued in 2008 (and revised in 2010) a handbook on United Nations Peacekeeping Operations Principles and Guidelines, that includes the major lessons learned from the past six decades of United Nations peacekeeping experience.

This guidance document sets the doctrine framework for United Nations peacekeeping and any subordinate directives, guidelines, standard operating procedures, manuals and training materials issued by the UN should conform to the principles and concepts referred to in this guidance document.<sup>23</sup> It describes the normative framework for operations and gives guidance for both the planning and implementation phase of operations.

In terms of specific guidelines for peacekeepers, there are a number of relevant guidelines targeted at UN peacekeepers, such as the Ten Rules Code of Personal Conduct for Blue Helmets introduced in 1998<sup>24</sup>.

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<sup>22</sup> A\_3302-EN, page 4, paragraph 8.

<sup>23</sup> United Nations Peacekeeping Operations Principles and Guidelines, DPKO/DFS, United Nations, revised edition (2010), page 9.

<sup>24</sup> These can be accessed here: [http://www.un.org/en/peacekeeping/documents/ten\\_in.pdf](http://www.un.org/en/peacekeeping/documents/ten_in.pdf) (last accessed July 2017).





#### 4. *EU Peacekeeping Operations Principles and Guidelines*

At EU level, there is no equivalent to the UN's Peacekeeping Operations Principles and Guidelines. There are set of separate documents, that together constitute the doctrine:

- The 2005 Generic Standards of Behaviour for ESDP operations, requiring staff to treat the local population with dignity and respect, regardless of sex, age, ethnic origin, religion, sexual orientation, disability, social or economic status or political views.<sup>25</sup>
- The 2009 Guidelines on promoting Compliance with International Humanitarian Law, stating that the EU is committed to the effective implementation of international humanitarian law and calls upon the EU Heads of Mission and appropriate EU representatives (Heads of EU Civilian Operations, Commanders of EU Military Operations and EU Special Representatives) to establish cases of serious violation of international humanitarian law. The means at disposal are among others the prosecution of individuals responsible for violating international humanitarian law and the training and education of populations, military personnel and law enforcement officials.<sup>26</sup>
- The 2008 Council Handbook on Mainstreaming Human Rights and Gender into European Security and Defence Policy, gathers together the documents that comprise the guiding principles for planners of EU operations. It covers nine areas, including human rights, gender, children and armed conflicts, international human right law, transitional justice, the aforementioned standards of behaviour, protection of civilians and civil society.<sup>27</sup>
- The 2012 EU Action Plan on Human Rights and Democracy. It commits to systematically include human rights, child protection, gender equality and, where relevant, IHL in the mandates of EU missions and operations and in their benchmarks, planning and evaluation.<sup>28</sup>
- The handbook on CSDP<sup>29</sup>. This handbook is meant to transfer knowledge, sharing best practices and stimulating discussions on CSDP-related subject. As such it cannot be seen

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<sup>25</sup> Council 8373/3/05 REV 3 (2005.)

<sup>26</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:ah0004>, last accessed July 2017.

<sup>27</sup> General Secretariat of the Council, <http://www.consilium.europa.eu/en/documents-publications/publications/2008/mainstreaming-human-rights-gender-european-security-defence-policy/>, last accessed July 2017.

<sup>28</sup> Council 11855/12, EU Strategic Framework and Action Plan on Human Rights and Democracy, Action plan, point 12 (b).

<sup>29</sup> Handbook on CSDP, J. Rehl (ed), (third edition).



setting doctrine, but more outlining practices and informing the training of staff deployed by the EU in CSDP-crisis management operations. It covers a wide range of topics, including cross cutting issues (e.g. gender and human rights) and cooperation (CSDP-partners).



## 2.3 Concluding remarks

This chapter reviewed the international legal framework applicable to peacekeeping missions within the context of the UN and EU. The results show that there are many binding and non-binding requirements that are applicable to such missions. However, none are specifically targeted to the content of the game, i.e. soft skills.

What the implications are hereof for the development and implementation of the GAP serious game will be analysed in chapter 4. However, what is evident is that the content of such a serious game is governed by international law, with its guiding principles on what is considered acceptable and unacceptable behaviour. The next step is to whether the game per se, which is foreseen to have users worldwide, is also bound by international legal requirements relating to its specific form of delivery, i.e. online gaming tool. Exploring this specific legal environment is the topic of the next chapter.



### 3. International Law and serious games for peacekeepers

Gaming software uses data and advanced analytics to personalize products and services, mainly to generate more impact at lower cost, and improve the user experience. The use of such student data raises questions about issues such as privacy, the possibility that personal information could be accessed by or sold to unauthorized third parties, and, more broadly, the ways in which data will be collected and used both inside and outside the game. In case of the GAP-projects' serious game, which has by design a broad audience, with users from various national and international organisations, preparing for peacekeeping operations, these questions are even more pertinent, as it is probable that training institutes will factor this aspect into their decision to adopt or not the game.

Next to data analytics and data protection, another dimension that bears relevance to the adoption of the game is the exploration of modalities for certification of training and how the serious game fits into the existing certification frameworks of the EU and the UN.

This chapter will investigate the legal challenges involved with data-driven instructional methods, by reviewing existing European and international legislation mainly in the field of data protection, terms of service and data security as well as reviewing the certification frameworks from a legal perspective.

#### 3.1 Privacy/Dataprotection of serious game users

Data protection can be seen as an important field of law, policy development and regulation and high on the political agenda at national, regional and international level. It combines elements of human rights and consumer protection and, in many international agreements and individual jurisdictions, data protection is considered a fundamental right. As such, it is key to consider in the development of a serious game.

The review of the normative framework relating to data protection will cover both the UN and EU regulatory frameworks, in order to define and identify the core legal principles relating to data protection.

##### *1. Data protection and the UN*

In terms of United Nations and international law in general, there is not an 'universal' data protection treaty adopted and enforced. What does exist are reference texts on the protection of privacy and personal data adopted by the UN. The key document in this respect is the resolution 45/95, adopted



by the General Assembly of the UN 1990, titled the 'Guidelines for the regulation of computerized personal data files'.<sup>30</sup> It consists of six key principles (principles of lawfulness and fairness, accuracy, purpose specification, interested-person access, non-discrimination and security). The UN resolution requests governments to take into account the guidelines in their legislations and administrative regulations as well as non-governmental organisations to respect those guidelines in carrying out the activities within their field of competence.

In addition, references to protection of privacy and personal data can be found in the 1966 International Covenant on Civil and Political Rights (article 17<sup>31</sup>) and the 1989 International Convention on the Rights of the Child (article 16).<sup>32</sup>

## *2. Data protection and the EU*

The legal framework to ensure digital privacy for EU citizens is formed by the General Data Protection Regulation and the ePrivacy Directive.

Since 1995, the EU has binding regulation regarding data protection. Article 2 of the EU Data Protection Directive (95/46/EC) broadly defines personal data as 'any information relating to an identified or identifiable natural person (data subject)'.<sup>33</sup> It also sets among others specific requirements for data quality (e.g. data must be processed fairly and lawfully, up to date and collected for specified, explicit and legitimate purposes and not further processed in a way incompatible with those purposes). It defines consent of the data subject as key criterion for making the data processing legitimate.

In 2012 the process to reform the EU Data Protection regime was initiated, which resulted in April 2016 in the adoption of the General Data Protection Regulation (GDPR). As per 25 May 2018 it will replace the current Directive and will be directly applicable in all Member States without the need for implementing national legislation.

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<sup>30</sup> General Assembly resolution 45/95 of 14 December 1990.

<sup>31</sup> Article 17 of the International Covenant on Civil and Political Rights states that:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

<sup>32</sup> Article 16 of the United Nations Convention on the Rights of the Child states that:

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

<sup>33</sup> A identifiable person is defined as 'an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity'.



Key changes are the expanded territorial reach, as it also applies to data controllers<sup>34</sup> and processors outside the EU whose processing activities relate to the offering of goods or services (even if for free) to, or monitoring the behaviour of, EU data subjects (within the EU). It also introduces the concept of accountability and privacy by design by imposing data controllers to enact data minimisation (which means that by default, only personal data which are necessary for each specific purpose of the processing are processed). Consent must be given “explicitly” for sensitive data and the data controller is required to be able to demonstrate that consent was given. Data breaches must be notified and a system of fines is installed to deal with breaches.

Important to notice here is that the regulation also introduces the concept of ‘pseudonymisation’ This is the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject, without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person (article 1).

Next to data protection, there is also the ePrivacy Directive 2002/58/EC in force, which provides additional data protection rules for telecommunications networks and internet services. It sets out rules to ensure security in the processing of personal data, the notification of personal data breaches, and confidentiality of communications. It also bans unsolicited communications where the user has not given their consent. Providers of electronic communication services must secure their services by at least (i) ensuring personal data are accessed by authorised persons only; (ii) protecting personal data from being destroyed, lost or accidentally altered and from other unlawful or unauthorised forms of processing; and (iii) ensuring the implementation of a security policy on the processing of personal data.

However, in January 2017 the European Commission launched a proposal for a Regulation on Privacy and Electronic Communications. It contains updated rules on the use of cookies and similar, possibly more advanced, technologies that comprise the use of the processing and storage capabilities of terminal equipment and the collection of information from terminal equipment, including about its software and hardware. It aims at limiting access to terminal equipment for device fingerprinting and similar activities. The draft of the ePrivacy Regulation only provides for three exceptions from the obligation to obtain consent, involving very limited or no intrusion of privacy.<sup>35</sup>

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<sup>34</sup> That is to say anyone who determines the purposes and means of the processing of personal data.

<sup>35</sup> The relevant exceptions apply if the relevant activity is necessary for



### 3.2 Cyber Security of serious game

In this day and age, cyber security is relevant, also for serious game providers. Publishers and players can become the target of cybercrime. Next to ransomware also sensitive financial and personal information (i.e. creditcard data, email addresses, passwords) can be turned into money-making opportunities. It seems that the outdated perception toward security in games is to blame for this. Developers and publishers are still focused on hardening their code against reverse engineering and piracy, while the rising threat of data breaches against games and gamers aren't getting enough attention.<sup>36</sup>

At UN at EU level, there are relevant regulatory principles that refer to cyber security and which will be explored below.

#### 1. UN and Cybersecurity

At UN level there is not a global treaty addressing cybersecurity. The only existing regulatory framework consists of the previously mentioned UN Guidelines for the regulation of computerized personal data files. It does also cover the topic of data security. Principle 7 states that:

*Appropriate measures should be taken to protect the files against both natural dangers, such as accidental loss or destruction and human dangers, such as unauthorized access, fraudulent misuse of data or contamination by computer viruses.*<sup>37</sup>

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1. the sole purpose of carrying out the transmission of electronic communication (esp. transfer of an electronic message),
  2. providing an information society service requested by the end-user (e.g. session cookies for shipping cart functions in online shops or for the purpose of keeping track of online form input), or
  3. web audience measuring (e.g. web traffic), but only provided that such measurement is carried out by the provider of the information society service (i.e. not a third party) requested by the end-user.

<sup>36</sup> The gaming industry can become the next big target of cybercrime, B. Dickson, Techcrunch, 8 June 2016, <https://techcrunch.com/2016/06/08/the-gaming-industry-can-become-the-next-big-target-of-cybercrime/>, last accessed in July 2017.

<sup>37</sup> Guidelines for the regulation of computerized personal data files, Adopted by General Assembly resolution 45/95 of 14 December 1990.



## *2. EU, Council of Europe and Cybersecurity*

The first ever Convention on Cybercrime, known as the Budapest Convention on Cybercrime or the Budapest Convention, is the first international treaty seeking to address Internet and computer crime.<sup>38</sup> It was drawn up by the Council of Europe and signed in 2001. Its scope is broader than Europe as Australia, Canada, Dominican Republic, Israel, Japan, Mauritius, Panama, Sri Lanka, and the United States have ratified it.

The Convention defines a number of different types of crimes that can be committed online, providing a common frame of reference for its members, including:

- Hacking crimes involving unlawfully accessing, intercepting or interfering with computers and computer networks;
- Computer related fraud crimes;
- Content related crimes, such as child pornography.

It is primarily aimed at national governments and the harmonisation of national provisions in the field of cybercrime, encompassing material criminal law (i.e. definitions of specific crimes), procedural criminal law (including investigative measures and international cooperation), liability issues and data retention.<sup>39</sup>

At EU-level, in 2016 the Directive on Security of Network and Information Systems (the NIS Directive) was adopted. Member States will have 21 months to transpose the Directive into their national laws and 6 months more to identify operators of essential services.<sup>40</sup>

The NIS Directive provides guidelines for two types of entities, i.e. the "essential service operators" within the energy, transport, banking, financial market infrastructure, health, drinking water, and digital infrastructure sectors, and the "digital service providers," including entities such as online marketplaces, online search engines, and cloud computing service providers.<sup>41</sup> As such it does not

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<sup>38</sup> The treaty can be accessed here: <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/185> (last accessed in July 2017).

<sup>39</sup> See: <https://www.enisa.europa.eu/topics/threat-risk-management/risk-management/current-risk/laws-regulation/civic-penal-law/coe-convention>, last accessed July 2017.

<sup>40</sup> See: <https://ec.europa.eu/digital-single-market/en/network-and-information-security-nis-directive>, last accessed July 2017.

<sup>41</sup> The New EU Cybersecurity Directive: What Impact on Digital Service Providers?, Jones Day Publications, <http://www.jonesday.com/The-New-EU-Cybersecurity-Directive-What-Impact-on-Digital-Service-Providers-08-24-2016/?RSS=true>, last accessed July 2017.





affect the providers of a serious game as it is not a digital service provider as defined by the directive. This means that basically the Budapest Convention and its general provisions about liability are the only relevant binding legal framework for serious games providers in terms of data security.

### 3.3 Certification frameworks for serious game

Certification is formal recognition of a level of proficiency in the information technology quality assurance industry. The recipient is acknowledged as having an overall comprehension of the disciplines and skills represented in a comprehensive body of knowledge for a respective software discipline.

As the game will be used in operational training environments it is important that the game is quality assured against industry standards.

Currently there are no bespoke certification frameworks for soft skills and serious gaming, although there are industry recognised software certificates which will be evaluated during the game design for their applicability. There are multiple companies who provide a certification/testing process consultancy, however this is a paid service which will be based on individual company specialisms. At this stage, the particular detailed required certificates for the software cannot be determined until the game has been developed.

However, the game will be subject to the Pan-European Game Information Rating framework (PEGI). Age ratings are systems used to ensure that entertainment content, such as films, videos, DVDs, and computer games, are clearly labelled by age according to the content they contain. PEGI is used and recognised throughout Europe and has the active support of the European Commission. It is considered to be a model of European harmonisation in the field of the protection of children.<sup>42</sup>

The first part of a rating is the PEGI questionnaire from which the game developer declares what the game contains. The questionnaire that will be used can be found at the website of the PEGI-website.<sup>43</sup>

This questionnaire covers elements such as violence, sexual content, bad language, drug use and more. After completing this questionnaire, the developer is then provided with a provisional rating that can be used. We expect GAP to sit between rating 16-18. This should not cause difficulties as all users of this game will be 18 or over.

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<sup>42</sup> The Pan European Game Information: About Section, <http://www.pegi.info/en/index/id/23>, last accessed July 2017.

<sup>43</sup> The questionnaire can be accessed here: <http://www.pegi.info/en/index/id/1184/media/pdf/383.pdf>, last accessed July 2017.



The next stage is for the developer to provide evidence for their questionnaire answers which includes video footage and a copy of the game. These are then examined thoroughly to ensure that the questionnaire was accurate.

This process has been specifically developed for games, as it would be impossible for an examiner to sit and play every aspect of every game we receive, given the multitude of possible scenarios that modern games can deliver to players.

The responsibility lies with the developer to ensure that all pertinent content has been declared. If they fail to do so and a game is given a lower rating than it should have, they could face a fine of up to €500,000.<sup>44</sup>

### 3.4 Concluding remarks

This chapter reviewed the international legal framework (UN and EU) applicable to the game, notably data protection and cyber-security legislation, in order to define what key concepts are that should also be considered in the implementation of the serious game developed within the framework of the GAP-project. This analysis is nowadays very relevant as personal data is collected and the potential target audience for such a game will factor in these aspects into their decisionmaking process to adopt or not the game within their training programmes for peacekeepers.

The results show that in the last three years mainly at EU-level key legislative instruments have been adopted that impact the way in which personal data is collected and processed electronically. As of 2018, the GDPR will enter into force (i.e. during the life-span of the project) and will have implications in terms of the personal data stored in the serious game. In addition, although there are no specific data security legislative requirements at European level, it is common sense that should also be a priority for the development phase as data breaches will negatively affect the adoption of the game.

Next to data analytics and data protection, another dimension that bears relevance to the adoption of the game is the exploration of modalities for certification of training and how the serious game fits into the existing certification frameworks of the EU and the UN. Finally, it is important that the game seeks to complete a PEGI age rating process to become compliant with certification .

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<sup>44</sup> The UK Game Rating Authority, <http://gamesratingauthority.org/GRA/>, Last accessed July 2017

Project number: 700670

Project Acronym: GAP

**DL6.2 Report on Alignment of Game with International  
Human Rights Law**





#### 4. Implementation Approaches for the GAP-serious game

The objective of this chapter is to identify those international obligations and important recommendations which have to be reflected in the content of the game delivered by the GAP-project and the GAP-project gaming platform. The analysis is informed by the previous chapters listing of relevant legal instruments. The caveat is that this is not an exhaustive list as this requires a very detailed understanding of what the game will (which is at this stage of the project not yet developed). Also, the legal framework regulating software games and peacekeeping is constantly evolving and as such not set in stone. Therefore, the presented analysis is of a general nature which must be interpreted in terms of guiding principles and not detailed specifications.

##### 4.1 Legal requirements for the content of the GAP-project serious game

The review of the normative framework of international peacekeeping defined many key principles that are relevant for any serious game on peacekeeping and peacekeepers in UN and EU missions and operations. To facilitate the game development and its content, these requirements are aggregated and described in the table below, that is informed by two key documents, i.e. the Secretary-General's Bulletin, 'Observance by United Nations forces of international humanitarian law', 12 August 1999 and the publication of the General Secretariat of the Council, 'Mainstreaming human rights and gender into European Security and Defence Policy', published in 2008, listing the catalogue of documents that inform CSDP-crisis management operations.

Table 1 – Legal Requirements Serious Game Peacekeeping

| Principle                                       | Descriptor   | Legal Source Text   |
|---|--|---|
| <b>Legal Mandate for a mission or operation</b> | Any mission or operation requires a legal mandate be it a by the Security Council (UN) or Council of the European Union (EU)..   | UN Charter and EU Treaty.   |
| <b>Protection of civilians</b>                  | 5.1 The peacekeeping force shall make a clear distinction at all times between civilians and combatants and between civilian objects and military objectives. Military operations shall be directed only against combatants and military objectives. Attacks on civilians or civilian objects are prohibited.ST/SGB/1999/13<br>5.2 Civilians shall enjoy the protection afforded by this section, unless and for such time as they take a direct part in hostilities.<br>5.3 The peacekeeping force shall take all feasible precautions to avoid, and in any event to minimize, incidental loss of civilian life, injury to civilians or damage to civilian property.<br>5.4 In its area of operation, the peacekeeping force shall avoid, | Section 5, Secretary-General's Bulletin, 'Observance by peacekeeping forces of international humanitarian law', 12 August 1999. |



|                                      |   |  |
|--------------------------------------|---|--|
|                                      | <p>to the extent feasible, locating military objectives within or near densely populated areas, and take all necessary precautions to protect the civilian population, individual civilians and civilian objects against the dangers resulting from military operations. Military installations and equipment of peacekeeping operations, as such, shall not be considered military objectives.</p> <p>5.5 The peacekeeping force is prohibited from launching operations of a nature likely to strike military objectives and civilians in an indiscriminate manner, as well as operations that may be expected to cause incidental loss of life among the civilian population or damage to civilian objects that would be excessive in relation to the concrete and direct military advantage anticipated.</p> <p>5.6 The peacekeeping force shall not engage in reprisals against civilians or civilian objects.</p>   |  |
| <b>Limitation of means of combat</b> | <p>6.1 The right of the peacekeeping force to choose methods and means of combat is not unlimited.</p> <p>6.2 The peacekeeping force shall respect the rules prohibiting or restricting the use of certain weapons and methods of combat under the relevant instruments of international humanitarian law. These include, in particular, the prohibition on the use of asphyxiating, poisonous or other gases and biological methods of warfare; bullets which explode, expand or flatten easily in the human body; and certain explosive projectiles. The use of certain conventional weapons, such as non-detectable fragments, anti-personnel mines, booby traps and incendiary weapons, is prohibited.</p> <p>6.3 The peacekeeping force is prohibited from employing methods of warfare which may cause superfluous injury or unnecessary suffering, or which are intended, or may be expected to cause, widespread, long-term and severe damage to the natural environment.</p> <p>6.4 The peacekeeping force is prohibited from using weapons or methods of combat of a nature to cause unnecessary suffering.</p> <p>6.5 It is forbidden to order that there shall be no survivors.</p> <p>6.6 The peacekeeping force is prohibited from attacking monuments of art, architecture or history, archaeological sites, works of art, places of worship and museums and libraries which constitute the cultural or spiritual heritage of peoples. In its area of operation, the peacekeeping force shall not use such cultural property or their immediate surroundings for purposes which might expose them to destruction or damage. Theft, pillage, misappropriation and any act of vandalism directed against cultural property is strictly prohibited.</p> <p>6.7 The peacekeeping force is prohibited from attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population, such as foodstuff, crops, livestock and drinking-water installations and supplies.</p> <p>6.8 The peacekeeping force shall not make installations containing dangerous forces, namely dams, dikes and nuclear electrical generating stations, the object of military operations if such operations may cause the release of dangerous forces and consequent severe losses among the civilian population.</p> <p>6.9 The peacekeeping force shall not engage in reprisals against objects and installations protected under this section</p> | <p>Section 6, Secretary-General's Bulletin, 'Observance by peacekeeping forces of international humanitarian law', 12 August 1999.</p> |



|  |  |   |
|--|--|---|
| <b>Treatment of civilians and persons hors de combat</b>                     | <p>7.1 Persons not, or no longer, taking part in military operations, including civilians, members of armed forces who have laid down their weapons and persons placed hors de combat by reason of sickness, wounds or detention, shall, in all circumstances, be treated humanely and without any adverse distinction based on race, sex, religious convictions or any other ground. They shall be accorded full respect for their person, honour and religious and other convictions.</p> <p>7.2 The following acts against any of the persons mentioned in section 7.1 are prohibited at any time and in any place: violence to life or physical integrity; murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment; collective punishment; reprisals; the taking of hostages; rape; enforced prostitution; any form of sexual assault and humiliation and degrading treatment; enslavement; and pillage.</p> <p>7.3 Women shall be especially protected against any attack, in particular against rape, enforced prostitution or any other form of indecent assault.</p> <p>7.4 Children shall be the object of special respect and shall be protected against any form of indecent assault</p>   | Section 7, Secretary-General's Bulletin, 'Observance by peacekeeping forces of international humanitarian law', 12 August 1999. |
| <b>Treatment of detained persons</b>   | The peacekeeping force shall treat with humanity and respect for their dignity detained members of the armed forces and other persons who no longer take part in military operations by reason of detention. Without prejudice to their legal status, they shall be treated in accordance with the relevant provisions of the Third Geneva Convention of 1949, as may be applicable to them mutatis mutandis.  | Section 8, Secretary-General's Bulletin, 'Observance by peacekeeping forces of international humanitarian law', 12 August 1999. |
| <b>Protection of the wounded, the sick, and medical and relief personnel</b> | <p>9.1 Members of the armed forces and other persons in the power of the peacekeeping force who are wounded or sick shall be respected and protected in all circumstances. They shall be treated humanely and receive the medical care and attention required by their condition, without adverse distinction. Only urgent medical reasons will authorize priority in the order of treatment to be administered.</p> <p>9.2 Whenever circumstances permit, a suspension of fire shall be arranged, or other local arrangements made, to permit the search for and identification of the wounded, the sick and the dead left on the battlefield and allow for their collection, removal, exchange and transport.</p> <p>9.3 The peacekeeping force shall not attack medical establishments or mobile medical units. These shall at all times be respected and protected, unless they are used, outside their humanitarian functions, to attack or otherwise commit harmful acts against the peacekeeping force.</p> <p>9.4 The peacekeeping force shall in all circumstances respect and protect medical personnel exclusively engaged in the search for, transport or treatment of the wounded or sick, as well as religious personnel.</p> <p>9.5 The peacekeeping force shall respect and protect transports of wounded and sick or medical equipment in the same way as mobile medical units.</p> <p>9.6 The peacekeeping force shall not engage in reprisals against the wounded, the sick or the personnel, establishments and equipment protected under this section.</p> <p>9.7 The peacekeeping force shall in all circumstances respect the</p> | Section 9, Secretary-General's Bulletin, 'Observance by peacekeeping forces of international humanitarian law', 12 August 1999. |



|  |   |  |
|--|---|--|
|  | <p>Red Cross and Red Crescent emblems. These emblems may not be employed except to indicate or to protect medical units and medical establishments, personnel and material. Any misuse of the Red Cross or Red Crescent emblems is prohibited.</p> <p>9.8 The peacekeeping force shall respect the right of the families to know about the fate of their sick, wounded and deceased relatives. To this end, the force shall facilitate the work of the ICRC Central Tracing Agency.</p> <p>9.9 The peacekeeping force shall facilitate the work of relief operations which are humanitarian and impartial in character and conducted without any adverse distinction, and shall respect personnel, vehicles and premises involved in such operation</p>   |  |
| <b>Guarantee appropriate relations with local population</b> | <p>-The clear demonstration of personal integrity will help to establish the credibility and authority of the ESDP operation and it is essential to the establishment of trust with the local population.</p> <p>-The impartial and objective pursuit of the operation's mandate, regardless of provocation and challenge, is essential in preserving the legitimacy of the operation and in maintaining, where appropriate, the consent and cooperation of parties involved. Personnel must be consistent and objective in the discharge of their duties and unfair advantage must not be, nor be seen to be, given to any party, regardless of personal opinion. Personnel shall neither engage personally in political activity within the area of operations, nor publicly express any preference for any political religious or ethnic entity group. Personnel will respond to all requests for assistance in a fair and impartial manner.</p> <p>-Personnel should be aware that both prostitution and the pornographic industry have established links with organised crime and human trafficking. Not only will the patronage of either serve to undermine the moral standing of the ESDP operation, but it will ultimately make the mission more difficult to achieve.</p> <p>-Sexual exploitation and sexual abuse violate universally recognised international legal norms and standards. They constitute acts of serious misconduct and are therefore grounds for disciplinary measures. Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited.</p> <p>Local society will often be representative of a wide diversity of people of different ethnic groups, religions and cultural backgrounds. Local customs may differ from those of personnel involved in ESDP operations, especially with regard to religion and family. All people must be treated with dignity and respect, regardless of sex, age, ethnic origin, religion, sexual orientation, disability, social or economic status or political views.</p> <p>-Condescending and discriminating remarks or gestures are not to be tolerated. As a rule, local customs should be respected.</p> <p>-Except where duly authorised, personnel must refrain from accepting items of value from members of the local community in order to maintain the neutrality integral to the operation.</p> | 2015 Generic Standards of Behaviour for ESDP operations, Annex |
| <b>Guaranteeing moral cohesion of the</b>                    | <p>-Personnel will represent a diversity of men and women of different nationalities, ethnic groups, religions and cultural</p>   | 2015 Generic Standards of Behaviour                            |



|                               |  |   |
|-------------------------------|--|---|
| <b>operation</b>              | <p>backgrounds. All person- nel must be treated with dignity and respect, regardless of sex, age, ethnic origin, religion, sexual orientation, disability, social or economic status or political views.</p> <p>-The moral concepts of colleagues will differ, especially in terms of religion and family. Condescending and discriminating remarks or gestures are not to be tolerated.</p> <p>-The right of all personnel to live and work in an environment free from harassment, abuse, unlawful discrimination, intimidation and bul lying must be upheld. This especially includes all forms of sexual abuse and sexual harassment but also the display of pornographic material at the work place and its distribution. The use of physical force or the abuse of authority to intimidate or victimise others, or to give unlawful punishments, is unacceptable behaviour which will undermine trust and respect. Any such behaviour should not be tolerated. The standard determining harassment is not the intent of the alleged harasser but the effect of the behaviour on the alleged victim.</p> <p>-Misuse of drugs can be especially harmful. Those who are involved in drug misuse are a liability, not only to themselves, but also to their colleagues and the local population. Their judgement may be impaired, their fitness reduced, their health damaged, and their performance degraded. In short, they can be neither trusted nor relied upon. Drug misuse poses a significant threat to operational effectiveness. All forms of handling or use of illegal drugs are forbidden. Once again the link between organised crime and drug misuse and the detrimental effect that this has on the attainment of the ESDP operation merits mention here.</p> <p>-Excessive drinking impairs judgement, endangers health, degrades performance and is a major cause of ill-discipline. Alcohol abuse generates a loss of self-control, which can lead to unacceptable behaviour accompanied by criminal violence. For these reasons excessive drinking will not be tolerated. In addition, driving under the influence of alcohol is a serious offence that endangers life and displays a lack of judgement and self-discipline. The consumption of alcohol whilst on duty must be authorised. On such occasions and during off duty periods alcohol consumption must be moderate. This must be particularly well observed where the consumption of alcohol is contrary to the religion of the local population and therefore where the damage to the perception of the EU caused by its abuse would be exacerbated.</p> | for ESDP operations, Annex  |
| <b>Gender</b>                 | EUSRs, Heads of ESDP Missions and Commanders should ensure the implementation of the gender related tasks set out in the OP- LAN and consider how each component of the mission might take account of gender issues. A gender perspective should be integrated into policies, programs and projects, monitoring and data collections.  | Check list to Ensure Gender Mainstreaming and Implementation of UNSCR 1325 in the Planning and Conduct of ESDP Operations (doc. 12068/06) |
| <b>Protection of children</b> | In countries where the EU is engaged with crisis management operations, and bearing in mind the mandate of the operation and the means and capabilities at the disposal of the EU, the operational planning should take into account, as appropriate,  | EU Guidelines on Children Affected by Armed Conflict (doc. 10019/0)   |





the specific needs of children, bearing in mind the particular vulnerability of the girl child. In pursuit of the relevant UNSC resolutions, the EU will give special attention to the protection, welfare and rights of children in armed conflict when taking action aimed at maintaining peace and security.

Making use of the various tools at its disposal, the EU will seek to ensure that specific needs of children will be taken into account in early-warning and preventive approaches as well as actual conflict situations, peace negotiations, peace agreements, ensuring that crimes committed against children be excluded from all amnesties, post- conflict phases of reconstruction, rehabilitation, reintegration and long-term development. The EU will seek to ensure that the local community, including children, is involved in the peace process. In this context, the EU will take advantage of and build on experience gained within the UN system and regional organisations. Girls and those children, who are refugees, displaced, separated, abducted, affected by HIV/AIDS, disabled, subject to sexual exploitation or in detention are particularly vulnerable.

**Protection of  
civilians**

Where an EU-led crisis management operation is deployed, all possible measures will be taken to ensure respect for the rights as well as the protection of civilians in situations of armed conflict . To this end, particular attention will be paid to the rights and protection of those persons who, on grounds of race, colour, sex, sexual orientation, religion or faith, descent, national or social origin, suffer from discrimination. Without prejudice to the principle of non-discrimination just stated, and taking into account the mandate of a concrete operation and the limitations on the means and capabilities at the disposal of the EU, consideration will be given notably to:

- (a) the rights of children, including the rights and special requirements of girls. A strong child rights perspective will accordingly be mainstreamed into all aspects of EU-led crisis management operations. Specific measures will be taken, where appropriate in co-operation with the relevant organ(s) of the UN or other international organisations concerned, to:
  - (i) ensure that children do not take a direct part in hostilities and are not recruited or used by armed groups; that persons under the age of 18 years are not compulsorily recruited into armed forces; and that, where voluntary recruitment under the age of 18 years into such forces is permitted, such recruitment is carried out in compliance with the safeguards laid down by international law;
  - (ii) disarm, demobilise, rehabilitate and reintegrate ex-combatants, including in particular child soldiers, and girls who are with armed groups;
  - (iii) where necessary, integrate child protection expertise in the chain of command of EU-led crisis management operations;
  - (iv) work with the UN and other international organisations to ensure family reunification of displaced children;
  - (v) where necessary, and as part of early warning activities where appropriate, monitor and report on the protection of children in armed conflict.
- (b) the need for special measures to protect women and children, especially girls, from sexual exploitation, abuse and

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Document 14805/03  
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trafficking. These measures could include the development of, or the incorporation of provisions in, as appropriate, standards or codes of conduct for national armed forces or police forces and all other personnel deployed in EU-led crisis management operations, which reflect as a minimum the provisions of the UN's "Ten Rules: Code of Personal Conduct for Blue Helmets", as well as the Six Core Principles established by the Inter-Agency Standing Committee in its "Plan of Action on Protection from Sexual Exploitation and Abuse in Humanitarian Crises". Compliance with these codes should be strictly observed and monitored.



## 4.2 Legal requirements for the GAP-project Gaming Platform

The review of the normative framework for online gaming defined several key components that are relevant for the gaming platform. To facilitate the platform development, these requirements are aggregated and described in the table below.

Table 2 – Legal Requirements Gaming Platform

| Principle                         | Descriptor  | Legal Source Text  |
|-----------------------------------|---|--|
| <b>Broad definition of “Data”</b> | Any information relating to an identified or identifiable natural person.   | Article 2 – EU Data Protection Directive (95/46/EC) and Article 4 – GDPR (2016/679/EC) |
| <b>Data De-Identification</b>     | Pseudonymisation’ means the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person.           | Article 4 – GDPR (2016/679/EC)   |
| <b>Data-minimisation</b>          | Personal data shall be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (‘data minimisation’).  | Article 4 and 25 -.GDPR (2016/679/EC)  |
| <b>Data collection</b>            | Personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall, in accordance with Article 89(1), not be considered to be incompatible with the initial purposes (‘purpose limitation’). | Article 5 - Data protection by design and by default – GDPR (2016/679/EC)              |
| <b>Storage limitation</b>         | Personal data is kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed (storage limitation)   | Article 5 — GDPR (2016/679/EC)   |
| <b>Data processing</b>            | Personal data is processed in a manner that ensures appropriate security of the personal data, including protection   | Article 5 — GDPR (2016/679/EC)   |



|   |   |  |
|---|---|--|
|   | against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality').   |  |
| <b>Data controller</b>                            | The controller shall be responsible for, and be able to demonstrate compliance with, paragraph 1 ('accountability').  | Article 5 — GDPR (2016/679/EC)   |
| <b>Lawfulness data processing</b>                 | Processing shall be lawful only if the data subject has given consent to the processing of his or her personal data for one or more specific purposes. Where processing is based on consent, the controller shall be able to demonstrate that the data subject has consented to processing of his or her personal data. | Article 6 and 7 — GDPR (2016/679/EC)   |
| <b>Right of access by the data subject</b>        | The data subject shall have the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data and additional information:   | Article 15 — GDPR (2016/679/EC)  |
| <b>Right of rectification</b>                     | The data subject shall have the right to obtain from the controller without undue delay the rectification of inaccurate personal data concerning him or her.  | Article 16 — GDPR (2016/679/EC)  |
| <b>Right to erasure ('right to be forgotten')</b> | The data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without undue delay.   | Article 17 — GDPR (2016/679/EC)  |
| <b>Security controls</b>                          | Appropriate measures should be taken to protect the files against both natural dangers, such as accidental loss or destruction and human dangers, such as unauthorized access, fraudulent misuse of data or contamination by computer viruses   | Guidelines for the regulation of computerized personal data files, Adopted by General Assembly resolution 45/95 of 14 December 1990. |



#### **4.3 Concluding remarks**

This chapter identified relevant international obligations and important recommendations that have to be reflected in the content of the game delivered by the GAP-project and the GAP-project gaming platform. These have been listed in tables, to make it easier to implement and at a later stage review whether these have been complied with once the game is operational. It must be stressed that the review presented in this report is of a general nature, and as such cannot be seen as comprehensive and exhaustive.



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