Article 36 Reviews

Netherlands Policy and Practice

21 September 2020
Overview

1. Structure of the NLD review system
2. Procedure and substance of the NLD review system
3. Challenges and experiences
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Structure of the Netherlands review system

- Two-tiered approach in multidisciplinary review: working group and Advisory Commission

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<th>Working Group</th>
<th>Advisory Commission</th>
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<tr>
<td>Directorate Legal Affairs (Chair)</td>
<td>Chief of Defense (Chair)</td>
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<td>Armed Forces services</td>
<td>Director Legal Affairs (Dep. Chair)</td>
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<td>Defense Health Care Org.</td>
<td>Director-General Policy</td>
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<td>Directorate-General of Policy</td>
<td>Defense Medical Adviser</td>
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<td>Defense Ammunition service</td>
<td>Chair Working Group (secretary)</td>
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<td>DS (Op. Readiness Div.)</td>
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Procedure and substance of the NLD review system

• Request for review or *proprio motu* decision to review
  • Submitted to/decided by the chair of the working group

• Collecting data and relevant information
  • Manufacturers, other States, academic publications, test data

• Initial draft review
  • Input from subject matter experts

• Consideration in working group
  • Decision making by consensus
Procedure and substance of the NLD review system

• Draft review submitted to Advisory Commission
  • Primarily electronic system (work flow management system)

• Approval of review by CHOD after agreement by the members
  • Decision making by consensus

• Advice to the Minister of Defense

• Implementation by secretary to the Commission on behalf of CHOD
Procedure and substance of the NLD review system

- What is reviewed?
  - “New”
    - All methods and means post 2000
    - All modifications that alter the effect on the target
  - Methods
    - Differentiation from doctrine
    - Differentiation from ad-hoc advice
    - Cyber only method so far
  - Means: all weapons and ammunition
    - All devices that are intended to inflict harm or damage or to exercise force or restraint on the target/subject
    - All devices that are intended to be launched, fired, ejected or otherwise discharged towards the target/subject
Procedure and substance of the NLD review system

• Platforms are not reviewed in isolation

• Domestic law enforcement methods and means reviewed by the Ministry of Justice
  • Close coordination with the Advisory Commission working group

• Environmental impact included in review; health and safety for the operators reviewed by different organization within the MoD

• Political and public relations aspects included in review

• Law: IHL / LOAC; IHRL; Specific treaties (e.g. arms control)
Challenges and experiences

- When to review
- Making yourself known and building a network of contacts
- Data and input for review
- Closing the loop: implementation
- Multidisciplinary approach is essential
- Independence and integrity
Q&A / Discussion