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MVV60K
Assignment of Scenarios

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Scenarios / exercises (in general)

General idea

– Scenario-based education

- Self-study / supervised teaching (individual, group, organisation)
- Skill development (individual, group)
- Capacity building (organisation)
- Capacity evaluation (organisation)

– ‚War Gaming‘

- Solve this...
- How do you respond to this?
- What you do if this happens?
- How to handle disagreements?

– Know-how (procedure)...

- Also know-what (facts), know-why (science), know-who (communication), know-that

Set-up

- Background information
 - Alternate reality
 - Actors, relations, history
 - if/when relevant

Injects/tasks

- Inject = new information
 - Facts
 - ‚Guesstimates‘
 - Policy development
- Tasks = figuring out / receiving
 - Specific question to be answered?
 - Course of action to be proposed?
 - Documents to be prepared?
 - Deadline to be met?

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Our scenario

Our scenario

- Background
- Task

Actors: Berylia

- Island state in the Atlantic Ocean, roughly the size of Portugal.
- Terrain and climate similar to Ireland.
- Berylians make up majority of population.
- Crimsonian minority in the area of Porphyria, where they constitute a majority.
- Porphyria strives for greater autonomy.
- Berylia is parliamentary democracy with high level of freedom of press and ,healthy‘ media environment. No central body (state or non-state) for media regulation.
- Berylia is to a large extent dependent on gas and oil from Crimsonia.
- Berylia is member of NATO and member of the European Union. Berylia signed (and ratified) the Budapest Convention and the European Convention on Human Rights.

Actors: Crimsonia

- Island state in the Atlantic Ocean. Roughly the size of Germany.
- Terrain and climate similar to Great Britain.
- Crimsonians make up majority of population.
- Berylia used to be autonomous part of Crimsonia before gaining independence roughly 30 years ago.
- Crimsonia tried to force Berylia to stay through diplomatic pressure/coercion. Porphyria is important for Crimsonia both in terms of resources and its symbolic value.
- Crimsonia is parliamentary democracy. However, president is unusually strong and country displays authoritarian tendencies.
- Freedom of press is less developed, but there is no censorship *per se*.
- Crimsonia is a candidate state to the European Union. Crimsonia signed (and ratified) the Budapest Convention and the European Convention on Human Rights.

Actors: Anti-Berylian Crew

- ABC is disruptive and violent group of the Crimsonian minority living in Berylia.
- ABC sympathizes with Crimsonia and believes Porphyria should become part of Crimsonia.
- ABC has history of violent attacks (terrorism), but no history of engaging in information/cyber activities.
- According to intelligence sources, ABC is well-connected with Crimsonian intelligence services and armed forces (90-100%).
- According to intelligence sources, ABC is receiving significant funding from Crimsonia (50-70%).

Events

- After Berylian independence, all-out war was avoided. Crimsonia was in bad economic shape and tried to handle the issue through diplomacy.
- Since approx. 2010, Crimsonia supports anti-government elements (mainly ABC), conducts naval drills in the vicinity of Berylia. Crimsonia is suspected of conducting cyber operations against Berylian government, critical infrastructure and companies.

Events (II)

- Berylia is vary of its smaller size and invests heavily into autonomous systems (drones) to boost its security.
- Since 2020, Berylian society is targeted through spread of disinformation on social media (Facebook, Instagram). Legitimacy of its government is under constant pressure. Prime minister argues that freedom of press/speech should be, to some extent, limited to stop these activities.
- Since 1st JAN 2022, disinformation campaign seems to be more aggressive. ABC more frequently organises protests and attacks Berylian law enforcement (arson, street violence).

Events (III)

- Berylian government is worried about the worsening security environment in Porphyria.
- Crimsonia would like to separate Porphyria from Berylia. However, there are no definite steps in this direction. Crimsonian rhetoric seems to have calmed down since JAN 2022.

Please note!

- It is hard to know what is going on (‘the big picture’).
 - Why is Crimsonia staying silent?
 - Why did ABC become more aggressive?
 - Who is behind the disinformation campaign?

- Communicate uncertainty!
 - Are you sure about this?
 - I need more evidence

- You are lawyers.
 - I am not supposed to do this!

Task #1

- The disinformation campaign has gotten worse in JAN 2022. You are tasked to prepare a legal brief outlining options to intervene.
- This is the issue of utmost urgency and it should be addressed.
- What media/social media accounts to shutdown? Temporarily or permanently? How to make sure actions are in accordance with Berylian obligations?

Task #2

- The disinformation campaign has gotten worse in JAN 2022. However, this is not a new issue. Berylia let the disinformation media develop, gain traction and significant readership. You are tasked to prepare a legal brief outlining options to make sure this does not happen again.
- How to develop a central body fighting disinformation? What powers should it have? How to identify troublesome tendencies in media? How to make sure it is compliant with EU law and Berylian international obligations?

Task #3

- Sophisticated cyber operation against the energy grid in Porphyria rendered it non-operational for three days. This caused significant economic loss and civic disturbance. Unfortunately, there were also three casualties as a direct consequence of the cyber operation. ABC claimed to conduct this highly disruptive operation. However, some of the evidence suggests Crimsonian involvement. You are tasked to prepare a legal brief outlining legal options with regard to international law.
- Under which circumstances can the operation be attributed to Crimsonia? What is the legal nature of such an operation under international law? What is the adequate (non-escalatory) response?

Task #4

- Cyber security authority informed the government that communication of the Prime Minister is most probably available to Crimsonian government. PM's cellphone seems to have been hacked for at least several weeks. PM is absolutely furious. You are tasked to outline legal actions available to Berylian government.
- Are there any mechanisms within EU and NATO that can be used? Is the hack relevant in terms of international law?

Task #5

- Berylian UAVs used to patrol the strait between Berylia and Crimsonia have always been subject to jamming and other means of electronic/cyber interference. Unfortunately, in the recent incident, the Berylian government lost control over one UAV. It flew into Crimsonian airspace, attempt to land on one of the Crimsonian military airports and crashed. Crimsonia claims several casualties. Berylia is not sure whether it was (a) a malfunction after Crimsonian interference or whether (b) Crimsonia took control of the UAV and accidentally crashed it. You are tasked to provide legal brief focusing on international law for both possibilities.
- Is what happened an internationally wrongful act? Is Berylia liable to damages? Under what circumstances?

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Timeline

Timeline

- 16th March: introduction, assignment, discussion
- (17th April: submission of draft)
- 15th May: submission of written solution
- 18th May: presentation, defense, discussion

17th April: draft

- Do you struggle?
- Do you have questions?
- Do you need interim deadline?

- Submit to homework vault ,Draft‘ and let me know (jakub.harasta@law.muni.cz)

15th May: submission

- 15th May 23:59
 - There is a leeway if anything goes wrong (+6 hours)
- Submit to homework vault ‚Solution‘
- Approx. 10 000 characters
 - This excludes footnotes and references (which you have to provide!)
- *It is OK to cooperate and discuss, but the brief is individual work!*

18th May: presentation

- Be ready to give approx. 3 minute summary of your argumentation
- Be ready to discuss with others

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Resources

Where to look?

- Tallinn Manual, Tallinn Manual 2.0
 - TM = cyber law in armed conflict
 - TM 2.0 = cyber law also below the threshold of armed conflict
- Cyber Law Toolkit
 - https://cyberlaw.ccdcoe.org/wiki/Main_Page
 - Scenarios, incidents, law ...
- Customary IHL Database
 - <https://ihl-databases.icrc.org/customary-ihl/eng/docindex/home>
 - Rules, practice ... (non-cyber)
- CCD CoE Library
 - <https://ccdcoe.org/library/publications/>
- HUDOC
 - <https://hudoc.echr.coe.int/eng>
 - European Court of Human Rights

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