

GERMANY

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RULES/GENERAL LAWS

General	<p>1. Legal Status of Military Personnel Act (Soldatengesetz) 2. Military Disciplinary Code (Wehrdisziplinarordnung) 3. Military Complaints Regulations (Wehrbeschwerdeordnung) 4. Military Penal Code (Wehrstrafgesetz) 5. Criminal Code (Strafgesetzbuch) 6. Law on Equal Treatment of Soldiers (Soldatengleichbehandlungsgesetz) 7. Code of Crimes against International Law (Völkerstrafgesetzbuch)</p> <p>http://www.gesetze-im-internet.de</p> <p>Military personnel are obliged to comply with United Nations' rules on sexual exploitation and abuse at all times. As part of its regular training activities, the German Armed Forces UN Training Center (VNAusBZBw) conducts a 45 minute long training on 'sexual exploitation and abuse' which is based on requirements and training catalogues of the UN. On the basis of these documents, the topic is discussed in all aspects with national and international participants.</p> <p>The German military personnel are considered on duty 24/7 when deployed to missions.</p>
SEA: military offence?	<p>The Bundeswehr takes a decisive stand against any form of sexual exploitation and abuse. Pursuant to section 7 (2) of the Act on Equal Opportunities for Female and Male Military Personnel of the Bundeswehr (Soldatinnen- und Soldatengleichbehandlungsgesetz), all forms of sexual harassment on duty are prohibited. Any contravention constitutes a violation of professional duties. Sexual harassment is punishable by disciplinary action and can, depending on the seriousness of the offence, lead to disciplinary discharge.</p> <p>Besides the disciplinary consequences of sexual misconduct, Bundeswehr military personnel are also subject to the general criminal law provisions on SEA as stipulated in chapter 13 of the German Criminal Code ("Offences against sexual self-determination"). Pursuant to section 1a (2) of the Military Penal Code (Wehrstrafgesetz), the provisions of the German Criminal Code also apply to acts committed by military personnel during their official stay abroad.</p>
Powers of the Commanding Officer (CO)	<p>The commanding officer (CO) has the mandate to promulgate rules and policies in the mission area when having an official purpose (see Section 2 no. 2 of the Military Penal Code).</p>

INVESTIGATION

Who can investigate?	<p>Pursuant to section 29 (1) of the Military Disciplinary Code (Wehrdisziplinarordnung), it is generally the immediate disciplinary superior who exercises disciplinary authority and is therefore responsible for investigations. This is the lowest-ranking superior vested with disciplinary authority to whom the soldier reports directly. Based on the legal provisions, disciplinary authority is vested in company commanders, battalion commanders, officers from the level of regimental and brigade commander upwards, including the Federal Minister of Defence. The FMoD may also decide to grant disciplinary authority to superiors who hold an equivalent or comparable office.</p> <p>Disciplinary superiors may only commence investigations when there is reason to suspect the committal of a disciplinary offence. If there is reason to believe that the disciplinary offence also constitutes a criminal offence, the disciplinary superiors have to assign the case to the competent law enforcement authorities in accordance with section 33 (3) of the Military Disciplinary Code, provided this is necessary because of the seriousness of the offence. Only the law enforcement authorities (public prosecutors, etc.) are competent to conduct investigations where a criminal offence is suspected.</p>
National Investigation Officer (NIO)	<p>The National Investigation Officer is either deployed to missions or called to the theater of operations when deemed appropriate, depending on the number of personnel deployed.</p>

PROSECUTION

Referral	<p>The disciplinary superior/NIOs refer the results of the investigation to the German public prosecutor/the institution authority, depending on the nature of the offence.</p>
Who can charge?	<p>The disciplinary superior/instituting authority charge disciplinary offences; the German public prosecutor prosecutes criminal offences.</p>

JUSTICE

Military Justice	<p>Germany does not have a Military Justice system.</p>
Deployable Court Martial?	<p>Germany does not have a deployable court martial system.</p>

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