

GUATEMALA

Last updated: 26 October 2016

RULES/GENERAL LAWS

General	<p>Personnel deployed to UN Peacekeeping Operations are protected under the principles and guarantees of the State of Guatemala as regulated by the Political Constitution of Guatemala and applicable military legislation. Therefore, applicable legislation within military jurisdiction is as follows:</p> <ul style="list-style-type: none">a. Political Constitution of the Republic of Guatemala;b. Army of Guatemala Statutory Act;c. Military Code (Legislation no. 214);d. Regulation for Military Service during Peace Time ande. Regulation for Disciplinary Sanctions for the Army of Guatemala.
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SEA: military offence?	<p>The State of Guatemala penalises sexual exploitation and abuse through specific legislation of civil nature, for example: Law Against Sexual Violence, Law against Exploitation and Trafficking of Persons and Law Against Femicide and other forms of Violence Against Women. As such, these crimes are not purely of a military nature, and if a member of the Guatemalan Army commits a crime of this nature, the case is turned over to the corresponding civil court.</p>
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Powers of the Commanding Officer (CO)	<ul style="list-style-type: none">a. The CO can establish rules and policies within a Contingent in order to prevent fraternization, indiscipline or misconduct in his personnel, according to what is established in Article 175 of the Regulation for Military Service in Peace Time; “The conduct of subordinates shall be informed, anomalies corrected, and offences sanctioned when these are considered as crimes, they shall be treated according to law. When the perpetrator commits offences once again, the most convenient disciplinary action shall be taken.”b. The CO has the faculty to sanction administrative and disciplinary offences when the actions or omission are considered minor offences as established in Article 3 of the Regulation for Disciplinary Sanctions of the Army of Guatemala. “FACULTY TO SANCTION. The disciplinary sanction shall be imposed by a superior, assessed by the Justice Officer and approved by the Commander, Chief, or Director, or equivalent in military units after conclusion of established procedures by title IV of this regulation.”c. Supported by Article 1 of the Regulation for Disciplinary Sanctions of the Army of Guatemala which determines if an offence is of administrative or operational nature.d. If the actions, or omission, are determined to be established as crimes in the Military Code, the penal action corresponds to a military court.
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INVESTIGATION

Who can investigate?	<p>In the mission, the responsible entity is the Information Office of the Contingent.</p> <p>The Information Office of each contingent is designated to carry out investigations of incidents and accidents in which military personnel from the State of Guatemala are involved (Including Sexual exploitation and abuse).</p>
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National Investigation Officer (NIO)	<p>The Information Office of each contingent is designated to carry out investigations of incidents and accidents in which military personnel from the State of Guatemala are involved (Including Sexual exploitation and abuse).</p>
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PROSECUTION

Referral	If an action, or omission, by military personnel in the mission constitutes a crime, the Army of Guatemala shall refrain from knowing the case and will transfer it to the Mission HQ of that contingent, thus awaiting the resolution from the UN Office of Discipline, in order to then transfer the case to the corresponding justice institution in Guatemala.
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Who can charge?	<p>a. Any person with knowledge of an act through the filing of a report;</p> <p>b. The victim;</p> <p>c. Based on principles of hierarchy, discipline and obedience, all military personnel, according to their Rank and attributions is required to sanction or report offences; and</p> <p>d. Consequently, the Contingent Commander, upon knowledge of an act, or omission, that can be constituted as SEA, shall notify the next level and transfer the file to the corresponding entity in charge of administering justice in Guatemala.</p> <p>In the State of Guatemala, criminal prosecution corresponds exclusively to the Public Ministry; an institution of civil nature.</p>
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JUSTICE

Military justice	<p>a. The Army of Guatemala utilises a military justice system as evidenced in article 219 of the Political Constitution of the Republic of Guatemala and the Military Code (Legislation no. 214), when acts of the active duty personnel from the Army of Guatemala are typified as crimes, or offences to the Military Code. These are considered as follows: treason and espionage, mutiny, sedition, crimes against subordination, crimes against military service, abuse of authority, denial of assistance, infidelity in the custody of prisoners and convicts, desertion, acts of pillaging, theft, robbery and mismanagement of Army coffers. If these crimes are considered common, the Army of Guatemala shall refrain from dealing with them and shall turn the case to the corresponding civil court.</p> <p>b. This is evidenced in articles 468 and 471 of the Military Code. The Army of Guatemala does contemplate the event of a Court Martial and it is applicable if and when the crime is specific to military jurisdiction. It is applicable to all personnel on active duty, both domestic and abroad.</p>
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Deployable Court Martial?	<p>a. The Army of Guatemala utilises a military justice system as evidenced in article 219 of the Political Constitution of the Republic of Guatemala and the Military Code (Legislation no. 214), when acts of the active duty personnel from the Army of Guatemala are typified as crimes, or offences to the Military Code. These are considered as follows: treason and espionage, mutiny, sedition, crimes against subordination, crimes against military service, abuse of authority, denial of assistance, infidelity in the custody of prisoners and convicts, desertion, acts of pillaging, theft, robbery and mismanagement of Army coffers. If these crimes are considered common, the Army of Guatemala shall refrain from dealing with them and shall turn the case to the corresponding civil court.</p> <p>b. This is evidenced in articles 468 and 471 of the Military Code. The Army of Guatemala does contemplate the event of a Court Martial and it is applicable if and when, the crime is specific to military jurisdiction. It is applicable to all personnel on active duty, both domestic and abroad.</p>
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