

THE NETHERLANDS

Last updated: 3 November 2016

RULES/GENERAL LAWS	
General	<p>All applicable laws are available at: www.officielebekendmakingen.nl.</p> <p>The Netherlands Military Criminal Code provides that national criminal law (both general criminal law and military criminal law in particular) continues to apply to the Netherlands Armed Forces also outside the State's borders. It, therefore, also applies to Dutch military while deployed in a UN peacekeeping operation. Additionally, the military disciplinary code also applies wherever Dutch military operates.</p> <p>Military personnel that are deployed in peacekeeping operations are considered to always be on duty in the mission area.</p>
SEA: military offence?	<p>The Netherlands takes its obligations to act against SEA very seriously. It actively invests in codes of conduct on integrity and behavior for the military, in which SEA-subjects are part. In case a SEA-situation occurs, it will be dealt with through the appropriate means.</p> <p>There are no military criminal offences in the Netherlands Military Criminal Code that deal specifically with Sexual Exploitation and Abuse. The Netherlands Criminal Code, however, also applies to the military, which does provide provisions that may fall within the context of Sexual Exploitation and Abuse.</p>
Powers of the Commanding Officer (CO)	<p>The Commanding Officer has both disciplinary and administrative authority over military personnel under his/her command. Administratively, a Commanding Officer can request a person to be repatriated when the circumstances (such as a SEA-offence has occurred) so permit. Criminal powers and criminal investigative powers are entrusted to the public prosecutor and the Dutch military police. If there is no military police afield, the CO can act through the powers of the public prosecutor. A standby military police team is always available to be deployed in cases where this is needed.</p>
INVESTIGATION	
Who can investigate?	<p>When the alleged offence is a criminal offence, an investigation by the military police follows. If needed, an internal investigation, duly coordinated with the military police, can be initiated by the CO. When it is not a criminal offence an internal investigation may be initiated by the CO. Civilian prosecutors and judges will preside over the case if it becomes a criminal matter. Administrative measures may result from internal investigation (e.g. repatriation to home nation).</p>
National Investigation Officer (NIO)	<p>National Investigation Officers (Dutch military police) are deployed primarily depending on the size of the contingent involved in the mission. Larger mission contributions would have a National Investigation Officer deployed, whereas smaller contributions to missions tend to be sent without NIO. In the latter case, reach back NIO's are available that can deploy in case this is needed. In any case, NIO are always available, either afield or through a call for assistance.</p>
PROSECUTION	
Referral	<p>For the purpose of prosecuting military, the Netherlands military police in criminal cases answers to the Dutch public prosecutor. It, therefore, does not answer to a military commander.</p>
Who can investigate?	<p>Criminal charges of Sexual Exploitation and Abuse can be brought against the military by the civil public prosecutor for military matters.</p>
JUSTICE	
Military justice	<p>The Netherlands military justice system is embedded in the civil justice system. A special chamber for military affairs is reserved for military in criminal matters. The prosecutors and two of the three judges are civilian. The third judge is a military member in the rank of Colonel.</p>
Deployable Court Martial?	<p>By law it is possible to have deployable Court Martials, but in practice this never happens.</p>

DICLAIMER

While the information contained in the Member State (MS) fact sheet is periodically updated, the United Nations does not guarantee that the information provided is correct, complete or up to date. The fact sheet reproduces content received from the Member State, and therefore, the United Nations is not responsible for the content nor can it guarantee its accuracy.