

This **Italian Military Code** is included here because the **Somali Military Criminal Code 1963** was modelled after it and, with the exception of the last 22 articles (238 to 260), is almost identical in its provisions. The English language translation of this Code also, in many respects, reads better than the comparable translation of the Somali Code.

In view of the very close similarity of the two Codes, I have listed on the margin of each article the corresponding Somali Code article for comparison. A comparative analysis does, in my view, help in understanding better the translated Somali Code and, more importantly, shall highlight those articles which, in the case of the Italian Code, have since been repealed, specially after decisions of or challenges at the Italian Constitutional Court. Any revision of the Somali Code would benefit from a close examination of the constitutional challenges which led to the repeals as some of these involved human rights or "equal treatment" arguments which could well apply to the corresponding Somali articles.

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## ITALIAN MILITARY CRIMINAL CODE (In Peace Time)

(Source: [Italian Ministry of Defence – Military Justice](#))

### FIRST BOOK - ON MILITARY OFFENCES, IN GENERAL

#### Title I

#### ON MILITARY CRIMINAL LAW.

##### **Art. 1. Persons subject to the military criminal law.**

Military criminal law applies to all military persons employed in the military service and to those considered to be so employed.

The law prescribes in which cases the military criminal law should apply to discharged personnel, retired personnel, persons assimilated to servicemen, members of the paramilitary corps and any other person unrelated to the national armed forces.

##### **Art. 2. Definition of "military persons" and "national armed forces".**

Under this Code:

1) "Military persons" refers to all members of the Army, Navy, Air Force, Customs Guard (1) as well as to the individuals designated as such in accordance with the law. (2)

2) "National armed forces" refers to all above mentioned military forces.

##### **Art. 3. Military persons in military service.**

Unless otherwise provided for by law, military persons employed in military service are subject to the military criminal law as follows:

1) commissioned officers: from the date they are notified their commission until the day they are notified their separation from the service;

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2) other military personnel: from the time they are required to report for duty until the date when, upon discharge, they report to the appropriate authority of their place of abode or, for regular non-commissioned officers, until the date they are notified their separation from the service.

The above mentioned persons are subject to the military criminal law also when absent on leave, permanent leave, sick leave, because of preventive detention or other similar reasons.

For the purpose of the provisions of this Title, notification means either giving official notice personally to the individual concerned or, if he has not been notified yet, publishing the provision in the official bulletin or other appropriate publication of the national armed forces.

**Art. 4. Members of the voluntary militia for national security. (1)**

*(1) The volunteers Militia for national security was disbanded by Royal decree law 6 December 1943, n.16 - B, converted into Law 5 May 1949, n.178.*

**Art. 5. Military persons considered in military service.**

For the purpose of the military criminal law the following personnel are considered in military service:

- a) commissioned officers on temporary leave or suspended from duty or otherwise retaining their active duty status in accordance with applicable law or regulations even if not in actual service;
- b) regular non-commissioned officers on temporary leave;
- c) military personnel absent without leave, those who have deserted or fail to report for service or remain otherwise absent from the place of duty without authorization;
- d) discharged members serving a military prison sentence either original or substituted for a common punishment;
- e) retired members charged with an offence cognizable by the military courts and placed in pre-trial detention in a military place of confinement;
- f) any other discharged member of the armed forces considered in military service under military law and regulations.

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**Art. 6. Military personnel recalled for military service.**

Discharged personnel recalled for military service are subject to the military criminal law from the date when they are required to report for duty to the date of their return to the discharged status.

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**Art. 7. Discharged personnel not considered in military service.**

Except the cases in which discharged personnel are considered to be employed in military service as laid down in articles 5 and 6, military personnel discharged to the reserve are subject to the military criminal law in the following cases:

- 1) when they commit an offence against allegiance or military defence as laid down in articles 77 (high treason); 78 (incitement to high treason, conspiracy and armed gang); 84 (intelligence with foreign agents and offer of services); 85

(concealment, destruction, forgery or abstraction of documents or property concerning the military force, organization or defence of the State); 86 (disclosure of military secrets with intent to commit espionage); 87 (agreement among military personnel aimed at disclosing military secrets with the intent to commit espionage); 88 (obtaining secret information with intent to commit espionage); 89-bis (unlawful making of drawings and getting clandestinely into places of military interest with intent to commit espionage); 99 (exchange of correspondence with a foreign government with intent to commit treason and military espionage); 98 (incitement or offer), when incitement or offer are related to any of the offences punishable by articles 84, 85, 86, 87, 88 and 89-bis.

Discharged personnel who commit one of the named offences are subject to the provisions of articles 96, 101 and 102 of this Code;

2) when they commit an offence laid down in articles 157, 158 and 159 (self-injury for the purpose of avoiding military service and malingering); article 212 (instigation to commit military offences), and article 238 (offences committed by discharged personnel in connection with service); within the limits and by the terms of articles 160, 214 and 238 of this Code;

3) when they fail to report for inspection, by the terms of articles 4 and 7 of art. n. 460 of 27 March 1930, as amended by art. n. 1018 of 3 June 1935 and by art. n.1565 of 7th December 1951, of articles 205 and 207 of royal decree n. 329 of 24 February 1938 and article 103 of royal decree n. 1365 of 28 July 1932.

#### **Art. 8. Separation from the national armed forces.**

For the purpose of the military criminal law, the following members are considered separated from the Armed Forces:

- 1) *Commissioned officers, from the day after the notification that they are formally relieved from the obligation to continue in the active military service;* Commissioned officers, from the day after the notification of the order which establishes the final cessation of the duties of military service
- 2) other ranks, from the date of their actual discharge.

(1) So modified in compliance with the Constitutional Court sentence n. 556 of 12 December 1989, which has declared the original provision constitutionally unlawful in the part where it states that, according to the military criminal Law, non-commissioned officers and enlisted men cease belonging to the State armed forces from the moment when they are given their discharge order, rather than from the moment of their actual suspension.

#### **Art. 9. First commission non regular officers.**

For the purpose of the military criminal law, non regular officers are considered on discharge from the date of the notification of the commission to the date they are prescribed to start first commission service.

#### **Art. 10. Persons assimilated to military personnel. Persons enlisted in the paramilitary corps.**

Persons assimilated to military personnel and those enlisted in the paramilitary corps are subject to the military criminal law:

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1) in the cases provided for by the respective special provisions of law;  
2) in respect to an offence committed during preventive detention in a military place of confinement.

**Art. 11. Pilots and masters/commanders of merchant vessels/ commercial aircraft. Embarked persons.**

The following persons are subject to the military criminal law:

- 1) pilots and masters/commanders of merchant vessels/ commercial aircraft, in respect to the offences punishable by this Code and applicable to them;
- 2) any person embarked on a military vessel or aircraft, from the moment he is notified his destination while on board to the moment of regular debarkation or, in the case of loss of the vessel or aircraft, until the crew is released.

For the purpose of the military criminal law, military vessels and aircraft are warships and warplanes, any other vessel or aircraft converted to warship and warplane and any other vessel and aircraft assigned to serving with the national armed forces under a military commander.

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**Art. 12. Determination of the rank of assimilated persons and embarked persons.**

For the purpose of the military criminal law, individuals assimilated to military personnel and any other persons embarked on military vessels or aircraft are considered to hold the rank corresponding, respectively, to the assimilation or to the rank they were placed in the embarkation order.

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**Art. 13. Discharged personnel, persons assimilated to military personnel and persons enrolled in paramilitary corps, considered as unrelated to the national armed forces.**

Except in the cases laid down in the previous articles, and for the purpose of military criminal law, discharged personnel, personnel on final discharge, persons assimilated to military personnel and persons enrolled in paramilitary corps are considered unrelated to the national armed forces.

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**Art. 14. Persons unrelated to the national armed forces.**

Any person unrelated to the national armed force who abets someone in a crime is subject to the military criminal law.

In addition to the cases explicitly provided for in law, any person unrelated to the national armed forces who commits one of the offences punishable under articles 94, 136, 140, 141, 142, 145, 182 and 184 will be required to serve the same punishment as directed for military personnel, common punishments being substituted for military punishments in accordance with article 65. However, the severity of the sentence can be lessened as the judge may direct.

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**Art. 15. Offences committed during military service and found or tried after the termination of it.**

All offences committed during military service are punishable under the military penal Code, even if the offender is on discharge or has been separated

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from the national armed forces.

**Art. 16. Unlawful enlistment; ineligibility for enlistment; actual performance of military service.**

The military criminal law applies to any member of the armed forces found to have unlawfully enlisted or to be ineligible for enlistment and whose enlistment or eligibility have been declared null and void; and, in general, to all persons guilty of such offences who are actually performing military service.

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**Art. 17. Offences committed on the territory of a foreign state during occupation, staging or transit.**

The military criminal law applies to any person subject to it, also in respect to offences committed by a member of the national armed forces during the occupation of a foreign state or while staging on or transiting through it, in accordance with international conventions, customs and usages.

14(1)

**Art. 18. Offences committed on the territory of a foreign state.**

Except in the cases provided for in the previous article 17, any offence committed on the territory of a foreign state by a person subject to the military criminal law shall be punished as prescribed by this law, on the request of the Minister concerned in accordance with article 260. (1)  
(1) See at article 9, Law 7 May 1981 n. 180, which states that, for crimes committed abroad, the jurisdiction lies with the military court of Rome. See also art. 10, Law 30 July 2004 n. 207, conversion of Decree- Law. 24 June 2004 n. 160.

14(2)

**Art. 19. Matters governed by other military criminal provisions of law.**

The provisions of this Code also apply to the matters governed by the military criminal law of war and any other military criminal provisions of law unless otherwise stated therein.

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**Art. 20. Application of the military criminal law of war in time of peace.**

The military criminal law of war applies in time of peace in respect to all cases provided for in law.

**Art. 21. Common offenses committed by military personnel. (1)**

(1) This article has been abrogated by article 5, Law n. 167 of march 23, 1956.

**Title II**

**ON MILITARY PUNISHMENTS.**

**Chapter I**

**ON TYPES OF MILITARY PUNISHMENTS, IN GENERAL.**

**Art. 22. Main military punishments: types.**

The main military punishments are:

- 1) death sentence (1).
- 2) confinement in a military prison.

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The military criminal law establishes in which cases military offences should be punished by life sentence and imprisonment. (2)

*(1) The punishment has been cancelled in respect to offences punishable under the penal Code (legislative decree n. 224 of August 10, 1944) and in respect to crimes made punishable by special laws, other than wartime military laws (legislative decree n. 21 of January 22, 1948). The Law n. 589 of October 13, 1994 establishes that in respect to offences punishable under the military penal Code of war and the military laws of war, the death penalty has been abolished and commuted to the maximum punishment prescribed under the penal Code.*

*(2) By sentence n. 284 of 1995, the Constitutional Court has declared the constitutional illegitimacy of article 53, Law n.689, November 24, 1981 "in the part where it does not provide for the applicability, for military offences, of substitutive punishments for short custodial sentences".*

**Art. 23. Military confinement.**

In addition to the punishments named in the first subsection of article 18 of the penal Code, the term sentences of detention or restraint of an individual's personal liberty also includes military confinement.

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**Art. 24. Additional military punishments: types.**

Additional military punishments are:

- 1) demotion;
- 2) dismissal;
- 3) suspension from duty;
- 4) privation of rank;
- 5) publication of the verdict of guilty.

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**Chapter II**

**ON MAIN MILITARY PUNISHMENTS, IN PARTICULAR.**

**Art. 25. Death sentence (1).**

The death sentence shall be executed by shooting in the breast, in a military place.

The death sentence shall be executed by shooting in the back, if the sentence carries demotion.

The rules for the execution of the death penalty are laid down in military regulations approved by decree of the President of the Republic.

The death penalty by shooting in the back, where expressly provided for by the military criminal law in respect to offences committed by persons unrelated to the national armed forces, is regarded as equal to the death penalty with demotion to all intents and purposes.

*(1) See note at article 22.*

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**Art. 26. Military confinement.**

A sentence of military confinement may last from one month to twenty-four years and shall be served in a military place of confinement with the obligation to work, in accordance with the relevant legislation or military regulations

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approved by decree of the President of the Republic.

If the term is 6 months or less, the sentence may be served in a special section of the military place of custody.

Commissioned officers whose sentence does not carry demotion, shall serve their term in a different prison than that destined to other military personnel.

**Art. 27. Substitution of military confinement for imprisonment.**

Punishment by imprisonment, either imposed or to be imposed on military personnel charged with a military offence, will be commuted to military confinement for an equal term if the sentence does not carry demotion.

In the above case, in determining additional punishments and other penal effects of the sentence, military confinement is taken into account.

**Chapter III**

**ON ADDITIONAL MILITARY PUNISHMENTS, IN PARTICULAR.**

**Art. 28. Demotion.**

Demotion applies to all military personnel, is permanent and deprives the condemned person of:

- 1) military status and, unless otherwise provided for in law, the ability to perform any service, duty or work for the armed forces;
- 2) decorations.

The law prescribes in which cases the death sentence should include demotion.

Life imprisonment, a sentence to imprisonment for no less than 5 years and the statement that the offender has a tendency towards habitual offence, has made a habit of crime or has a tendency to crime, pronounced against military personnel in military service or discharged who have committed a military offence, include demotion.

A death sentence (1) with demotion and all other punishments named in the previous subsection do not rule out additional punishments and other penal effects carried by the sentence in accordance with the common criminal law.  
(1) See note at article 22.

**Art. 29. Dismissal.**

Dismissal applies to all military personnel holding a rank or in a grade immediately above the lowest; dismissal is permanent, deprives the condemned person of his rank and demotes him to the lowest military rank.

A sentence to military confinement for more than three years includes demotion unless otherwise provided for by law. (1)

*(1) So modified in compliance with the Constitutional Court sentence n. 258 of 26 May 1993, which has declared the original provision constitutionally unlawful in the part where it envisages that, "or the other military", discharge follows the sentence to military reclusion for a different term than that provided for officers and NCOs.*

**Art. 30. Suspension from duty.**

Suspension from duty applies to commissioned officers and implies the

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temporary withdrawal from the exercise of office.

A sentence to military confinement includes suspension from duty during the offender's term of confinement, unless otherwise provided for by law.

**Art. 31. Privation of rank.**

Privation of rank applies to enlisted personnel (NCOs and other ranks) and consists in the temporary taking away of the military rank.

A sentence to military confinement includes the privation of rank during the offender's term of confinement except in the cases provided for in article 29.

**Art. 32. Publication of the verdict of guilty.**

The death sentence (1) or the sentence to life imprisonment shall be posted in summary in one of the following communes where judgement was pronounced, where the crime was committed, where the headquarters of the Unit to which the condemned person was attached is located and where the vessel to which the condemned person was attached is enrolled.

The judge may, for particular reasons, prescribe otherwise or that the sentence be not published.

(1) See note at article 22.

**Art. 33. Additional military punishments consequent upon a finding of guilty in respect to offences punishable by the common criminal law.**

Judgement passed on military personnel in military service or on discharge in respect to one of the offences punishable by the common criminal law shall include, besides the additional punishments, the following:

1) demotion, in case of death penalty (1) or life imprisonment or confinement which, under the criminal law, carries permanent disqualification from holding public office;

2) dismissal, in cases other than those named in paragraph 1, if the condemned person is guilty of a non culpable offence against the state, or any other offences punishable under articles 476 to 493, 530 to 537, 624, 628, 629, 630, 640, 643, 644 and 646 of the penal Code, or fraudulent bankruptcy; or, if the condemned person, after serving the sentence, is required to serve a term of detention, for security reasons, in a place of confinement other than a nursing home or an institution for the mentally ill, or to be put on probation;

3) dismissal, suspension from duty or privation of rank, in accordance with the provisions laid down respectively in articles 29, 30 and 31 in all other cases of imprisonment to be commuted to military confinement in accordance with articles 63 and 64.

The statement that the offender has a tendency towards habitual offence, has made a habit of crime or has a tendency to crime pronounced at any time against military personnel in military service or on discharge, in respect to offences provided for by common criminal law, includes demotion.

(1) See note at article 22.

**Art. 34. Effective date of additional military punishments.**

Sentences of demotion and dismissal are effective on the date the sentence is adjudged.

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Sentences of suspension from duty and privation of rank are effective from the date the main sentence is ordered executed.

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**Art. 35. Status of a person condemned to death with demotion.**

A person condemned to death with demotion holds the same status as the person sentenced to life imprisonment.

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**Art. 36. Conviction for offences committed with misconduct in office.**

In case of conviction for military offences, the provision of article 31 of the penal Code does not apply.

**Title III  
ON MILITARY OFFENCES.**

**Chapter I  
ON OFFENCES ATTEMPTED AND CONSUMMED**

**Art. 37. Military offence.**

Any violation of the military criminal law is a military offence. An act which, in its essential constituents, is not considered in full or in part an offence under the common criminal law, is a strictly military offence. The offences punishable by this Code, and those which carry one of the punishments named in article 22 under any other military criminal law are felonies.

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**Art. 38. Infringement of regulations.**

Infringements of military duties and military discipline which are not offences are subject to military laws and regulations approved by decree of the President of the Republic, and are punishable as prescribed therein.

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**Art. 39. Ignorance of regulations.**

Nobody can claim ignorance of the regulations on military status as an excuse (1).

*(1) Unless ignorance is involuntary (Constitutional Court, judgement n. 61 dated 20th February 1995).*

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**Art. 40. Fulfilment of a duty. (1)**

*(1) This article has been abrogated by article 22, Law n. 382 of July 11, 1978.*

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**Art. 41. Legitimate use of weapons.**

Any person subject to this Code who in the fulfilment of his duty uses or orders to use, by necessity, weapons or other means of physical constraint to repel an attack or to overcome resistance is not punishable. The law provides for the other cases in which military personnel are authorized to use weapons or other means of physical constraint.

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**Art. 42. Self-defence.**

In respect to military offences the following provisions apply instead of article

52 of the penal Code.

Any person subject to this Code who commits by necessity a military offence to repel actual and unlawful force from himself or others is not punishable provided that amount of force used in self-defence is commensurate with offence.

Any person subject to this Code who commits by necessity one of the offences named in chapters III and IV of Title III, Book II is not punishable if the act is committed:

- 1) to protect his property against the perpetrators of robbery, extortion or kidnapping with the purpose of robbery or ransom, or from pillage;
- 2) to drive back people engaged in climbing the walls of, breaking or burning his dwelling, any other inhabited house or appurtenances thereof, if this occurs in the night-time or if his dwelling, the other inhabited house or the appurtenances thereof are in an isolated place and there is a well-grounded fear for the safety of its dwellers;

If the act is committed in the course of driving back the people engaged in climbing the walls of, breaking or burning his dwelling, any other inhabited house or appurtenances thereof in circumstances other than those under paragraph 2 of previous subsection, a term of imprisonment of no less than ten years shall be substituted for the death penalty (1) with demotion; a term of imprisonment of six to twenty years shall be substituted for life imprisonment; and the other punishments shall be decreased by a third to a half.

(1) See note at article 22.

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**Art. 43. Concept of violence.**

For the purpose of the military criminal law, violence includes murder, either attempted or manslaughter, personal injury, battery, cruelty, and any attempt to inflict injury with a weapon.

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**Art. 44. Particular cases of military need.**

Any person subject to this Code who commits an offence by necessity to prevent mutiny, sedition, pillage, devastation and any other act likely to endanger the safety of the place, ship or aircraft, is not punishable.

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**Art. 45. Culpable excess.**

If while committing one of the acts named in articles 40, 41, 42 last subsection excluded, and 44, the limits imposed by law, by a superior or other authority or those imposed by need are culpably exceeded, the provisions concerning culpable offences shall be applied if the act itself is considered a culpable offence by the law.

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**Art. 46. Punishment for attempted felony.**

Attempted felony shall be punished:

- 1) with imprisonment for twenty-four to thirty years if the punishment imposed by the law is death penalty (1) with demotion ;
- 2) with military confinement for no less than fifteen years if the punishment imposed by the law is shooting in the breast (1);

3) with confinement for no less than twelve years if punishment imposed is life penalty.

4) in all other cases, with the punishment imposed for the specific act decreased by a third to a half.

(1) See note at article 22.

## Chapter II CIRCUMSTANCES OF MILITARY OFFENCES.

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### Art. 47. Common aggravating circumstances.

In addition to the common aggravating circumstances provided for by the penal Code, the following circumstances aggravate the military offence when they are not constituents of it nor special aggravating circumstances:

- 1) having acted in fear of a danger when exposure to such danger was a particular legal duty of the offender;
- 2) having held a rank or a commanding position;
- 3) having committed the act with the assigned weapons or during the performance of duty or while on board of a military vessel or aircraft;
- 4) having committed the act in the presence of three or more military persons or, at any rate, in such a place as to give public scandal;
- 5) having committed the act on the territory of a foreign state while the offender was there for reasons of duty or while unlawfully wearing military uniform.

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### Art. 48. Common extenuating circumstances. (1)

In addition to the common extenuating circumstances provided for by the penal Code, the following circumstances mitigate the military offence when they are not constituents of it nor special extenuating circumstances:

- 1) having committed the fact out of an excess of zeal in the performance of military duties;
- 2) having committed the fact before thirty days have passed since the start of the offender's military service;
- 3) having committed the fact because of the unbecoming manners of another member of the military. (2)

In respect to military offences, the punishment may be reduced when the offender is well-behaved or of proven bravery.

*(1) Article declared constitutionally unlawful by sentence by the Constitutional Court 18 July 1984 n. 213, as regards the clause "and except for the provision of the following article".*

*(2) This number has been so replaced by article 10, Law n. 689, November 26, 1985.*

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### Art. 49. Provocation.

*(1) Article declared unlawful by the Constitutional judgement n. 213 of July 18, 1984.*

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### Art. 50. Increase of sentence in the event of only one aggravating circumstance.

If the offence is attended with only one aggravating circumstance, and when the law does not make provision for the increase of sentence, the sentence envisaged for the offence committed is increased by up to a third. Nevertheless, temporary imprisonment to be imposed by virtue of the increase may not be more than 30 years.

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**Art. 51. Decrease of sentence in the event of only one extenuating circumstance.**

In the offence is attended with only one extenuating circumstance, and when the law does not make provision for the decrease of sentence, the following provisions apply:

- 1) imprisonment from twenty-four to thirty years shall be substituted for the death penalty (1);
  - 2) military confinement from twenty-four to thirty years shall be substituted for the death penalty (1) by shooting in the breast;
  - 3) imprisonment from twenty to twenty-four years shall be substituted for life imprisonment;
  - 4) all other punishments are reduced by up to a third.
- (1) See note at article 22.

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**Art. 52. Limits on increases and decreases of sentences in the event of a combination of more aggravating or extenuating circumstances.**

In determining the increase or decrease of sentence in the event of a combination of more aggravating or extenuating circumstances, the provision of the penal Code apply.

Military confinement to be imposed by virtue of increases may not exceed thirty years. The punishment to be imposed by virtue of decreases may not be less than:

- 1) fifteen years' imprisonment if, by law, the felony committed carries the death penalty (1) with demotion ;
  - 2) fifteen years' military confinement if, by law, the felony committed carries the death penalty (1) by shooting in the breast.
- (1) See note at article 22.

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**Chapter III  
ON CONCURRENCE OF OFFENCES.**

**Art. 53. Death penalty (1).**

(1) See note at article 22.

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**Art. 54. Concurrence of offences which carry a life sentence.**

One who has been convicted of more concurrent offences, each of which carrying a life sentence, shall be sentenced to death penalty (1) with demotion.

(1) See note at article 22.

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**Art. 55. Concurrence of offences carrying both imprisonment and military confinement.**

In the case of a concurrence of offences involving both imprisonment and military confinement, a single punishment shall be inflicted in accordance with the following:

- 1) if the sentence to imprisonment involves demotion, imprisonment shall be adjudged with an increase equal to the total term of military confinement which should be adjudged for the concurrent offences.
- 2) if the sentence to imprisonment does not involve demotion, military confinement shall be adjudged with an increase equal to the total term of imprisonment which should be adjudged for the concurrent offences.

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**Art. 56. Limits on the increase of punishment.**

In the event of a concurrence of offences, the punishment to be inflicted under the previous article and article 73 of the penal Code may not be higher than five times the most severe among the concurrent punishments nor exceed thirty years' imprisonment or military confinement.

**Title IV  
ON THE CRIMINAL.**

**Chapter I  
ON RELAPSE.**

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**Art. 57. Exclusion of relapse at the judge's discretion between offences punishable under the common criminal law and strictly military offences.**

At the judge's discretion and except for offences of the same type, relapse may be excluded between offences punishable under the common criminal law and strictly military offences.

**Chapter II  
ON COMPLICITY OF MORE PERSONS IN A CRIME.**

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**Art. 58. Aggravating circumstances.**

The punishment for military offences committed in concert by more persons shall be increased not only in the circumstances laid down in articles 111, 112 and 113 (second subsection) of the penal Code but also in respect to the superior who committed a crime in concert with a subordinate.

Except when involving demotion, a sentence to imprisonment shall carry the dismissal of the person who committed a crime in concert with a subordinate.

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**Art. 59. Extenuating circumstances.**

The punishment to be inflicted for the military offence may be decreased:

- 1) in respect to the subordinate who was abetted in the crime by a superior;
- 2) in respect to the military person who in the preparation or execution of the crime played a minor role, except as laid down in previous article.

**Title V  
ON ENFORCEMENT AND EXECUTION OF PUNISHMENT.**

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**Art. 60. Confinement ordered for disciplinary reasons. Equivalence with preventive detention.**

For the purpose of effective date of punishment, confinement ordered for disciplinary reasons by the military Authority pending trial is considered equivalent to the term of confinement served before the final judgement has been passed.

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**Art. 61. Supervision of the execution of sentences to military confinement. Organization of military penal institutions.**

The supervision of the execution of sentences to military confinement is a responsibility of the judge.

The organization of the military penal institutions and the modalities for the execution of sentences to military confinement and relevant supervision are set forth in military regulations approved by decree of the President of the Republic.

**Art. 62. Mental illness occurred while serving the sentence.**

In the case provided for in article 148 of the penal Code, a convict may be ordered sent to a public lunatic asylum instead of a psychiatric judiciary hospital also if the punishment inflicted is military confinement for less than three years.

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**Art. 63. Execution of common punishments imposed on military personnel in active duty.**

In the execution of punishments imposed on military personnel in active duty in respect to offences punishable under the common criminal law, including to offences named in article 264 (1) of this Code, the following provisions apply:

- 1) the death penalty (2) shall be executed by shooting in the back after demotion;
- 2) life imprisonment and imprisonment, if the sentence includes permanent disqualification from holding public office, shall be executed with demotion in accordance with the law and military regulations;
- 3) imprisonment, if the sentence does not include permanent disqualification from holding public office, shall be commuted to military confinement for an equal term even if the term to be served is less than one month;
- 4) penalty, if unpaid due to insolvency of the convict, shall be commuted to military confinement for up to three years, each day of military confinement being reckoned for every five thousand lire, or fraction thereof, of the penalty imposed (3).
- 5) arrest shall be commuted to military confinement, one day of military confinement being reckoned for every two days of arrest;
- 6) fine, if unpaid due to insolvency of the convict, shall be commuted to military confinement for up to one year, each day of confinement being reckoned for every five thousand lire, or fraction thereof, of the fine imposed (3).

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(1) See notes at article 264.

(2) See note at article 22.

(3) See article 136 of the penal Code, articles 102 and 103 of Law n. 689 of

November 24, 1981, Constitutional Court, judgement n. 440 of December 23, 1994 and judgement n. 206 of June 21, 1996. as well as article 51, Government decree n.213, June 24, 1998, for the purpose of conversion into Euro of the pecuniary sanctions expressed in lire.

**Art. 64. Execution of common punishments imposed on military personnel on temporary service.**

In the execution of punishments inflicted on military personnel on temporary service in respect to offences punishable by the common criminal law, the following provisions applies:

- 1) the offences named in article 264 are subject to the provisions of the previous article (1);
  - 2) other offences are subject to the provisions in paragraphs 1 and 2 of the previous article, if the sentence includes permanent disqualification from holding public office;
  - 3) in all other cases, the sentence shall be served upon discharge from the compulsory military service or at the end of the period of recall to service.
- (1) See notes at article 264.

55

**Art. 65. Execution of military punishments imposed on persons who do not hold, or have lost military status or are actually performing military service.**

In the cases named in article 16, the execution of military punishments is subject to the following provisions:

- 1) the death penalty (1) shall be executed in accordance with the provisions laid down in article 25;
  - 2) military confinement shall be commuted to an equal term of imprisonment.
- These provisions also apply to persons condemned for military offences who have been separated from the service, persons assimilated to military personnel, persons enrolled in paramilitary corps and other persons unrelated to the above forces.

(1) See note at article 22.

56

**Title VI**

**ON EXTINCTION OF MILITARY OFFENCES AND PUNISHMENTS.**

**Art. 66. General rule.**

The provisions of the penal Code on the extinction of offences and punishments, in as much as they are applicable in military criminal matters, also apply to the military offences and punishments, except as provided for in the following articles.

For the purpose of the above, the death penalty (1) under the military criminal law and military confinement are regarded as equal to the death penalty and imprisonment provided for by the penal Code.

(1) See note at article 22.

**Art. 67. Prescription: offences carrying the death penalty by shooting in the breast.**

The offences for which the law prescribes the death penalty (1) by shooting in

the breast become statute-barren after thirty years.

(1) See note at article 22.

**Art. 68. Special provisions for desertion and failure to report in case of a call to service.**

For the purpose of desertion and failure to report in case of a call to service, the prescription of the offence and the extinction of punishments are effective, if absence continues, on the date the person concerned reaches the age at which he is no longer subject to compulsory service in accordance with the laws on recruitment.

This provision does not apply to absence without leave and failure to report for training.

57

**Art. 69. Probation. (1)**

(1) This article has been abrogated by article 8, Law n. 19 of February 7, 1990. The provisions contained in the new article 166 of the penal Code are applicable.

**Art. 70. No mention of conviction in the card-index of criminal record.**

The judge may order that the conviction be not mentioned in the card-index of criminal record even when, in respect to a first conviction, the sentence is a term of military confinement no longer than three years, provided that all other conditions laid down in article 175 of the penal Code are met with.

The provision in this article also apply if the sentence includes additional military punishments.

58

**Art. 71. Conditional release.**

Any convict who has been sentenced to a term of military confinement longer than three years and has served half of the term, or at least three quarters of it if a repeater and, at any rate, no less than three years, and has behaved well, may be granted conditional release if the remainder of the punishment is less than three years.

The granting, effects and revocation of conditional release are governed by the common criminal law, except as provided in article 76 of this Code.

59

**Art. 72. Rehabilitation.**

Rehabilitation ordered in accordance with the common criminal law does not extinguish additional military punishments and the other military criminal effects.

In respect to a person who has been rehabilitated in accordance with the common criminal law, additional military punishments and any other military criminal effects are extinguished by the rehabilitation granted according to the military criminal law.

A sentence of rehabilitation which has been granted in accordance with the previous subsection shall be revoked of law in the cases provided for in articles 180 and 181 of the penal Code.

60

**Art. 73. Effects of amnesty, remission, mercy and rehabilitation on demotion**



**growing out of conviction.**

Except as otherwise provided in the sentence, amnesty, remission or mercy do not restore the rank from which the person was demoted as a result of conviction.

Except as otherwise provided for in law, rehabilitation does not restore the rank from which the person was demoted as a result of conviction.

61

**Title VII  
ON SECURITY ADMINISTRATIVE MEASURES.**

**Art. 74. General rule.**

The provisions of the common criminal law concerning security administrative measures also apply to military criminal matters, except as provided for in the following articles.

For the purpose of the above provision, the death penalty (1) under the military criminal law and military confinement are regarded as equal to the death penalty and imprisonment under the penal Code. However, in respect to the sentence to military confinement, the provision under paragraph 1, article 230 of the penal Code does not apply.

*(1) See note at article 22.*

62

**Art. 75. Residence prohibition.**

In addition to the cases named in article 233 of the penal Code, a person who has committed one of the offences against allegiance or military defence may be prohibited from staying in one or more communes, one or more provinces, as the judge may direct, in accordance with the common criminal law.

63

**Art. 76. Suspension of security measures.**

During military service, the security measures ordered under the common criminal law or the military criminal law are suspended, except for persons ordered to a nursing home or a place of custody, a psychiatric judiciary hospital, a house of correction or in case of confiscation.

At the end of military service or during the execution of the security measures, even before the minimum time established by law has elapsed, the Ministry of Justice may revoke the security measure imposed by the judge or, in case of custody for security reasons, may commute it to a measure other than detention. (1)

*(1) This sub-section is to be considered no longer applicable due to the principle of complementarity with article 207, third sub-section, criminal Code, of identical content, abrogated by article 89, Law 26 July 1975, n. 354.*

**SECOND BOOK - ON MILITARY OFFENCES, IN PARTICULAR**

**Title I  
ON CRIMES AGAINST ALLEGIANCE AND MILITARY DEFENSE.  
Chapter I  
ON TREASON.**

64

**Art. 77. High treason. (1)**

Any person subject to this Code who commits one of the crimes against the State laid down in articles 241, 276, 277, 283, 285, 288, 289 and 290-bis of the penal Code, as amended by the legislative decree of the Lieutenant of the Realm n. 288 of 14 September 1944 and by law n. 1317 of 11 November 1947, shall be punished in accordance with the corresponding provisions of the penal Code with the punishment of imprisonment being increased by a third. Any person subject to this Code who commits one of the offences named in articles 242 and 284 of the penal Code just due to the mere fact of having risen up in arms, having risen up in arms against the State or having participated in armed rising shall be punished with life imprisonment.

*(1) This article has been replaced to reflect article 2 of Law n. 167, dated 23rd March 1956.*

65

**Art. 78. Incitement to high treason; conspiracy, armed gang.**

Any person subject to this Code who:

1. solicits another or conspires to commit one of the offences named in article 77 above;
2. in order to commit one of the offences named in article 77 above, fosters, sets up or organises an armed gang or takes part in it.

Shall be punished in accordance with the corresponding provisions of the penal Code, the punishment of imprisonment being decreased by a third to a half.

66

**Art. 79. Sullyng the reputation and prestige of the President of the Republic. (1)**

Any person subject to this Code who sullies the reputation and prestige of the President of the Republic or his deputy, shall be punished with a military confinement from five to fifteen years.

*(1) This article has been replaced to reflect article 2 of Law n. 167, dated 23rd March 1956.*

67

**Art. 80. Offence against a Head of Government. (1)**

*(1) This article has been abrogated by article 5 of Law n. 167, dated 23rd March 1956.*

**Art. 81. Public insult to the Republic, the constitutional institutions and the national armed forces. (1)**

Any person who publicly insults the Republic, both Houses or one House of Parliament, the Government or Constitutional Court or the Judiciary, shall be punished with military confinement from two to seven years.

The same punishment shall be inflicted upon military personnel who publicly insult the Armed Forces or part thereof or the liberation forces.

*(1) This article has been replaced to reflect article 2 of Law n. 655, dated 30th July 1956.*

67

**Art. 82. Insult to the Italian nation.**

Any person subject to this Code who publicly insults the Italian nation shall be

67

punished with military confinement from two to five years.  
If the act is committed in a foreign state, the punishment shall be military confinement from two to seven years.

**Art. 83. Insult to the national flag or other emblem of the State.**

Any person subject to this Code who insults the national flag or other emblem of the state shall be punished with military confinement from three to seven years.

If the act is committed in a foreign state, the punishment shall be military confinement from three to twelve years.

The provisions in the subsections above also apply to military personnel who insults national colours depicted on objects other than the national flag.

68

**Art. 84. Intelligence with foreign agents and offer of services.**

Any person subject to this Code who holds intercourse with a foreign nation with the intent to favour, in case of war with the Italian state, the military operations of such foreign nation, shall be punished with imprisonment for no less than fifteen years.

If the act consists in offers of services which have not been accepted yet, the term of imprisonment shall be no less than ten years.

69

**Art. 85. Concealment, destruction, forgery or abstraction of documents or property concerning the military force, organization or defence of the State.**

Any person subject to this Code who, in all or in part, conceals, distracts, forges or abstracts, even temporarily, records, documents or other things relating to the military force, organization or defence of the State and which must be kept secret, shall be punished with imprisonment for no less than ten years.

If the act has jeopardized the military organization or defence of the State, the punishment shall be death penalty (1) with demotion.

For the purpose of this article, records, documents or other things which are not exclusively intended for the armed forces cannot be considered secret. (2)  
(1) See note at article 22.

(2) Sub-section added by article 6, Law 23 March 1956, n. 167.

70

**Chapter II**

**ON MILITARY ESPIONAGE AND DISCLOSURE OF MILITARY SECRETS.**

**Art. 86. Disclosure of military secrets with the intent to commit espionage.**

Any person subject to this Code who, in the interest of a foreign nation, discloses informations concerning the military force, organization or defence of the State, that must be kept secret, shall be punished with death penalty (1) with demotion.

(1) See note at article 22.

71

**Art. 87. Agreement among military personnel aimed at disclosing military secrets with the intent to commit espionage.**

When one or more persons subject to this Code come to an arrangement with

the specific intent to commit the offence named in the previous article, each of them shall be punished with imprisonment from five to fifteen years if the offence was not consummated.

Ring-leaders, abettors and organisers shall be punished with imprisonment for no less than fifteen years.

72

**Art. 88. Obtaining secret information with the intent to commit espionage.**

Any person subject to this Code who obtains information on the military force, organization or defence, that must be kept secret, with a view to disclosing them to a foreign nation, shall be punished with imprisonment for no less than twenty years.

If the act has jeopardized the military organization or defence of the State, the punishment shall be death penalty (1) with demotion.

(1) See note at article 22.

73

**Art. 89. Obtaining secret information not with the intent to commit espionage.**

Any person subject to this Code who, in cases other than those laid down in the previous article, obtains secret information without proper authority of the appropriate military agency, or acts to obtain it, shall be punished with military confinement from three to ten years.

If the act has jeopardized the military organization or defence of the State, the punishment shall be military confinement for no less than ten years.

(74)

**Art. 89-bis. Unlawful making of drawings and getting clandestinely into places of military interest with intent to commit espionage. (1)**

A term of imprisonment from six to twelve years shall be imposed on any person subject to this Code who, with the intent to commit espionage:

1. without the necessary authorization, makes drawings, models, sketches or photographs of objects concerning the military force, organization or defence of the State, or performs surveys over them;
2. with the intent to commit one of the acts under paragraph 1, or to obtain information thereof, gets clandestinely or deceitfully into any place or installation within the control or jurisdiction of one of the armed forces to which access is forbidden for national military security reasons;
3. lingers in or nearby any such places or areas and is found in unauthorized possession of means suitable for committing espionage;
4. buys, receives or keeps maps, sketches, photographs or any other things that may be the source of information on the military force, organization or defence of the State.

(1) Article added by article 7, Law 23 March 1956, n. 167.

74

**Art. 90. Unlawful making of drawings; getting clandestinely into places of military interest; unauthorized possession of means of espionage.**

A term of imprisonment from one to five years (1) shall be imposed on any person subject to this Code who:

1. without proper authority, makes drawings, models, sketches or

- photographs of any things relating to the national military force, organization or defence, or surveys over them;
2. in the commission of one of the offences described in paragraph 1 above, or to obtain information concerning the above things, gets clandestinely or deceptively into any installation or any other place within the control or jurisdiction of one of the armed forces to which access is prohibited for national military security reasons;
  3. is found lurking in or about any of the places described in paragraph 2 and in possession of means suitable for committing any of the acts described in paragraph 1 above;
  4. is found unlawfully holding documents, writings, drawings, models, sketches, photographs or any other things which may be the source of information on the national military force, organization or defence. The mere fact of getting clandestinely or deceptively into one of the places or areas described above, shall be punished with military confinement from one to five years. (2)

Except for the above-mentioned acts, any person subject to this Code who, without proper authority, gets into places or areas to which access is forbidden for national military security reasons, shall be punished with military confinement for up to one year.

*(1) Sub-section so modified in compliance with the sentence by the Constitutional Court n. 298 of 26 June 1995 (ns. 1, 2 e 3) and n. 49 of 9 February 1989 (n. 4), which regarded the original provision as constitutionally unlawful in the part where it envisages a conviction from five-to-ten years of imprisonment, rather than from one-to-five.*

*(2) Sub-section so modified in compliance with the sentence by the Constitutional Court n. 97 of 26 May 1998, which regarded the original provision as constitutionally unlawful in the part where it envisages a conviction from two-to-five years of imprisonment, rather than from one-to-five years.*

75

**Art. 91. Disclosure of secret information without intent to commit espionage.**

Except as provided in article 86, military personnel who disclose information relating to the national military force, organization or defence that must be kept secret shall be punished with military confinement for no less than five years.

If the act has jeopardized the national military organization or defence, military confinement shall not be less than twenty years.

If the act was culpably committed, the punishment shall be military confinement from six months to two years in the case described in first sub-section above and from three to fifteen years in the case described in the second sub-section.

76

**Art. 92. Aggravating circumstances.**

If the person found guilty of the offence under the previous article was, by reason of his office or service, cognisant of the information described therein, or if the act was committed by any publicity-means, the punishment shall be

77

increased.

**Art. 93. Providing or disclosing confidential information.**

In respect to the offences described in the previous articles, when the information mentioned in those articles is not among the information to be kept secret but is of a confidential nature and its disclosure has been prohibited by the competent authority, imprisonment for no less than twenty years shall be substituted for death penalty (1) with demotion and the other punishments shall be decreased by a third to a half.

(1) See note at article 22.

78

**Art. 94. Providing non secret and non confidential information to a foreign nation.**

Any person subject to this Code who communicates to a foreign nation information relating to the national military force, organization or defence which must be kept secret or is of a confidential nature, shall be punished with military confinement for up to five years if the act can cause damage to the national military force, organization or defence.

79

**Art. 95. Military persons who obtain any of the information described in the previous articles.**

The punishments provided in the previous articles also apply to the military persons who obtain the information therein described.

80

**Art. 96. Intent to act to the advantage of the Italian State.**

In respect to offences made punishable under the previous articles, punishableness is not excluded if the culprit did the act with intent to favour the Italian State. Nevertheless, the punishment may be decreased.

81

**Chapter III**

**PROVISIONS COMMON TO THE PREVIOUS CHAPTERS.**

**Art. 97. Culpable aiding and abetting.**

Any person subject to this Code who, having any things in safe keeping or possession by reason of his office or service or being cognisant of the information by reason of his office or service or while keeping watch over places of military interest, has made it possible or merely culpably helped to commit any of the offences under articles 85, 86, 88, 89, 90 first sub-section, 91 and 93, shall be punished with military confinement for up to five years. If the offence imperilled the national military organization or defence, the punishment shall be military confinement from three to fifteen years.

82

**Art. 98. Incitement and offer.**

Any person subject to this Code who incites someone to commit any of the offences punishable under articles from 84 to 91, or otherwise offers to commit any of them, shall be punished, if incitement and offer are not accepted or if incitement and offer are accepted but the offence is not consummated:

83

1. with imprisonment from five to twelve years, if the punishment for that offence is death penalty (1) from demotion;
2. in all other cases, with the punishment envisaged for the offence committed, decreased by a half to two thirds.

(1) See note at article 22.

**Art. 99. Exchange of correspondence with a foreign country with intent to commit treason and military espionage.**

Any person subject to this Code who exchanges correspondence with a foreign country with intent to commit any of the offences described in articles 85, 86, 87 and 88 or otherwise does any acts with intent to commit such offences, shall be punished with imprisonment for no less than ten years.

84

**Art. 100. Failure to report an offence.**

Any person subject to this Code who, knowing that an offence punishable under this chapter and the previous chapters with imprisonment and military confinement for no less than five years or more has been committed, fails to report immediately the fact to his superiors shall be punished with military confinement from three months to two years.

85

If the culprit is an officer, the punishment shall be military confinement from one to three years.

86

**Art. 101. Equal treatment of allied nations.**

The punishments provided in articles 84 and the following chapters shall also be inflicted when the offence was committed to the detriment of a nation which is a wartime ally or associate of the Italian State.

**Art. 102. Extenuating circumstance.**

The punishments provided in this chapter and the previous chapters shall be decreased when, because of the nature, type, means, ways and circumstances of the act or because of the particular tenuity of the damage or danger, the act itself appears to be a petty offence.

**Title II**  
**ON OFFENCES AGAINST MILITARY SERVICE.**  
**Chapter I**  
**ON OFFENCES COMMITTED WHILE ON DUTY.**  
**Section I**  
**ON THE BREACH OF GENERAL DUTIES**  
**RELATING TO COMMAND.**

87

**Art. 103. Hostile acts of a commander against a foreign nation.**

A commander who, without authority of the Government, or in cases other than necessity, performs hostile acts against a foreign nation, shall be punished with military confinement for up to three years.

If the hostile acts are such as to expose the Italian State or Italian citizens, wherever they live, or any person under the protection of the laws of the State, to the risk of retorsion or retaliation, the punishment shall be military

confinement from two to eight years. If, as a result of such acts, diplomatic relations are broken or retorsion or retaliation take place, the punishment shall be military confinement from five to ten years.

If the hostile acts are such as to expose the Italian State to the risk of war, the punishment shall be military confinement for no less than ten years.

If, as a result of such hostile acts, war breaks out, or fire or destruction or the death of one or more persons take place, the punishment shall be death penalty (1) by shooting in the breast.

This sentence carries dismissal.

(1) See note at article 22.

88

**Art. 104. Culpable excess.**

In the cases mentioned in the previous article, if the commander culpably abuses his authority or acts beyond necessity, death penalty (1) shall be commuted to military confinement for no less than five years, the other punishments being decreased by a third to two thirds, without prejudice to the additional punishment of dismissal.

(1) See note at article 22.

89

**Art. 105. Loss or capture of a vessel or aircraft.**

The commander of a naval or air force, who causes the loss or capture of one or more vessels or one or more aircraft under his command, shall be punished with death penalty (1) with demotion.

The same punishment shall be inflicted on:

1. the commander of an independent vessel or aircraft who causes the loss or capture of that vessel or that aircraft;
2. any other military person who causes the loss or capture of the vessel or aircraft to which he is attached.

If particular circumstances take place which reduce the responsibility of the culprit, the punishment shall be imprisonment for no less than seven years.

(1) See note at article 22.

90

**Art. 106. Culpable loss or capture of a vessel or aircraft.**

When one of the facts named in the previous article has been culpably committed by the commander of a naval force or of an independent vessel or by any other military person embarked in the lost or captured vessel or aircraft, the punishment shall be military confinement for up to ten years.

If particular circumstances take place which reduce the responsibility of the culprit, the punishment shall be military confinement for up to five years.

The same punishments shall be inflicted on the commander of an air force or an independent aircraft, or on any other military person embarked therein, who, out of negligence or imprudence or through failure to comply with laws, regulations, orders or discipline, commits one of the facts named in the previous article.

91

**Art. 107. Collision, grounding or average of a vessel or aircraft.**

The commander of a vessel, who causes a collision, grounding or average, or



the commander of an aircraft who causes collision or damage, shall be punished with imprisonment for no less than eight years; and, if the above facts cause the loss of the ship or aircraft, the punishment shall be imprisonment for no less than fifteen years.

92

The same punishments shall be imposed on any other military person subject to this Code who causes the above-mentioned damage to the ship or aircraft in which he is embarked.

If particular circumstances take place which reduce the responsibility of the culprit, the punishment shall be imprisonment for no less than five years.

**Art. 108. Culpable collision or grounding or average of a vessel or aircraft.**

When one of the offences punishable under the previous article has been culpably committed by the ship's commander, or by any other military person embarked therein, the culprit shall be punished with military confinement for up to two years.

93

The same punishments shall be imposed on the commander of an aircraft or on any other military person embarked therein who, out of negligence or imprudence or through failure to comply with laws, regulations, orders or discipline, commits one of the offences punishable under the previous article.

94

**Art. 109. Culpable aiding and abetting.**

When the execution of any of the offences punishable under articles 105 and 107 has been made possible, or merely culpably aided and abetted by any other military person who was charged with looking after or keeping watch over the property named therein, the culprits shall be punished with military confinement from one to five years.

95

**Art. 110. Failure to use means to limit the damage in case of fire or other accident.**

The commander of a fortress or military installation or aircraft or the master of a ship or, in general, of any military facility or building, who, in case of fire, collision, shipwreck or any other accident, fails to do his utmost to limit the damage, shall be punished with military confinement for up to five years.

96

**Art. 111. Abandonment or transfer of command in case of danger.**

A commander who in case of danger, unwarrantedly abandons or transfers command, shall be punished with military confinement for up to ten years. The sentence carries dismissal.

**Art. 112. Breach of a commander's duty to be last to abandon the ship, the aircraft or station of duty in case of danger.**

The commander, who in case of danger or loss of the ship or aircraft or station under his command, is not the last to abandon the ship, the aircraft or station, shall be punished with military confinement for no less than one year.

97

If the fact made it impossible to salvage the ship or aircraft or station, military confinement shall not be less than fifteen years.

If the fact caused the death of any of the persons embarked or on duty in the station, the punishment shall be death penalty (1) by shooting in the breast.

The sentence carries demotion.

(1) See note at article 22.

**Art. 113. Failure to give assistance or protection in case of danger.**

The commander of a military force who, unwarrantedly, fails to give aid to another military force in need of assistance because of an impending danger, shall be punished with military confinement for up to three years.

The same punishment shall be imposed on the commander of one or more military vessels, or one or more military aircraft, who, in cases other than those provided in the previous sub-section, fails to give naval vessels or aircraft, national and foreign alike, the assistance or protection he was capable to give.

The punishment carries dismissal.

98

**Art. 114. Usurpation.**

Any person subject to this Code who unlawfully assumes or retains command shall be punished with military confinement from two to fifteen years.

If the command so unlawfully assumed is considered to be in derogation of orders by superiors, the punishment shall be increased by a third to a half.

If the offence was committed on board of a ship or aircraft, the punishment shall be increased.

In any case, if the offence has jeopardized the outcome of a military operation, the punishment shall be death penalty (1) by shooting in the breast.

(1) See note at article 22.

99

100

**Art. 115. Unlawful movement of military forces.**

The commander who, without specific appointment or authority or without necessity, orders a movement of military forces, shall be punished with military confinement from one to seven years.

101

**Art. 116. Untimely opening of or failure to open a sealed envelope.**

The commander of a military expedition who, having an envelope to be opened at an opportune time and place, opens it at a different time and place or fails to open it, shall be punished with military confinement for no less than five years if the fact jeopardized the outcome of the expedition.

If the fact was culpably committed, the punishment shall be military confinement for up to three years.

**Art. 117. Failure to fulfil a task.**

The commander of a military force, who unwarrantedly fails to fulfil a task entrusted to him, shall be punished with military confinement for up to three years.

The sentence carries dismissal.

If failure to perform the task was due to negligence, the punishment shall be military confinement for up to one year.

102

**Section II**

**ON ABANDONMENT OF THE STATION OF DUTY AND INFRINGEMENT OF**

**ORDERS.**

**Art. 118. Abandonment of the station of duty or infringement of orders by military person on sentry-duty as sentinel or look out or guard.**

Any sentinel or lookout or guard who leaves his post or disobey orders shall be punished with military confinement for up to three years.

Military confinement shall be from one to five years, if the offence is committed:

1. during sentry-duty at hangars or storehouse or depots of weapons, ammunition, inflammable products or explosives;
2. on board of a vessel or aircraft;
3. in any other circumstance of grave danger.

In any case, if the offence has caused serious damage, the punishment shall be military confinement from seven to fifteen years.

**103**

**Art. 119. Sentinel or lookout or guard found sleeping upon his post.**

Any sentinel or lookout or guard who, in any of the circumstances mentioned in the second subsection of the previous article, is found sleeping upon his post shall be punished with military confinement for up to one year.

If the fact causes serious damage, the punishment shall be military confinement for up to two years.

**104**

**Art. 120. Abandonment of the station of duty or infringements of orders by military person standing guard or on duty.**

In cases other than those named in the two previous articles, any military person standing guard or on duty who leaves his post or fails to obey orders shall be punished with military confinement for up to one year.

If the culprit is the commander of a Unit or any other military person who has been detailed to a duty or is the head of the post, or in the case of armed duty, the punishment shall be increased.

**105**

**106**

**Art. 121. Abandonment of or culpably leaving the convoy.**

The commander of an escort to a convoy who abandons it shall be punished with military confinement from one to five years.

If he culpably remains separated from the whole convoy or part thereof, the punishment shall be military confinement for up to two years.

**107**

**Art. 122. Disobedience of orders by a military person charged with looking after a given thing. (1)**

*(1) Article declared unlawful by the Constitutional Court, judgement n. 299 of June 15, 1992.*

**Art. 123. Failure to report for duty.**

Any person subject to this Code who unwarrantedly fails to report to perform a duty to which he has been detailed or to reach his post in case of alert, shall be punished with military confinement for up to six months.

The same punishment shall be inflicted on the member of a military voluntary corps who, when called to duty, unwarrantedly fails to report.

**108**

**Art. 124. Separation of a portion of military forces from the leader or failure to join him.**

In the event of an expedition or other military operation, the commander of a portion of the military forces who, having parted from his leader or having been compelled to part from him by necessity or warrantedly, fails to join him on the shortest possible time, shall be punished with military confinement for up to three years.

If the act was culpably committed, the punishment shall be military confinement for up to one year.

The same punishments shall be inflicted on any other military person who causes one of the above-mentioned facts.

**109**

**Section III**

**ON THE BREACH OF DUTIES RELATING TO SPECIAL SERVICES.**

**Art. 125. Failure to obey orders.**

The officer in charge of a mission or an expedition who unwarrantedly fails to obey the orders received shall be punished with military confinement for up to three years if the fact jeopardized the outcome of the mission, expedition, or operation.

This sentence carries dismissal.

If the act was culpably committed, the punishment shall be military confinement for up to six months.

**110**

**Art. 126. Prison guard who culpably suffers any prisoner to escape.**

Any person subject to this Code who, having been charged with keeping watch even temporarily over a person apprehended or arrested for a military offence, culpably suffers him to escape, shall be punished with military confinement for up to three years.

The culprit is not punishable if within three months from such escape he helps to apprehend the person escaped or induces him to present himself before the authorities.

**111**

**Art. 127. Spreading of secret or confidential information.**

Except when the fact constitutes a more serious offence, a person subject to this Code who discloses information relating to military service or discipline in general that he knows by reason of his office or service, and which must be kept secret, shall be punished with military confinement from six months to three years.

If the information is not secret but is of a confidential nature, having its spreading been prohibited by the competent authority, the punishment shall be military confinement for up to two years.

If the fact was culpably committed, the punishment will be military confinement for up to one year.

**112**

**Art. 128. Opening, suppression, failure to deliver dispatches; disclosure of the content of messages.**

Any person subject to this Code who opens, suppresses, forges or fails to deliver a written order or any other dispatches he had been detailed to deliver, or who discloses the content of telegraph, radiotelegraph, telephone messages or the like that he knows by reason of his office or service, shall be punished with military confinement for up to five years.

113

The same punishment shall be inflicted on any other military person who, being in charge of the telegraph, radiotelegraph, or telephone service or the like, suppresses, unfaithfully copies or otherwise forges a service-related order or dispatch.

Any person subject to this Code who culpably fails to take care of, deliver or transmit the order or dispatch or message to the lawful addressee, shall be punished with military confinement for up to one year.

**Art. 129. Opening or abstraction of mail committed by any military person who is in charge of military mail, telegraph or telephone service.**

Any person subject to this Code in charge of military mail, telegraph or telephone service who, abusing his office, learns of the content of a sealed writing or other sealed envelope or parcel, or otherwise abstracts or conceals, with the intent to have other people to know their content, sealed or open mail or other sealed envelope or parcel or destroys or suppresses them all or in part, shall be punished with military confinement from 6 months to 3 years, if the act is not considered an offence under the law.

If the offender unwarrantedly discloses in full or in part the content of mail or sealed envelope or parcel, the punishment shall be military confinement from 6 months to 5 years, if the act does not constitute a more serious offence.

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The provisions above also apply to a military person who, having been charged with delivering mail, commits one of the acts named above. Nevertheless, the punishment is decreased.

For the purpose of the provisions of this section, mail means correspondence, telegraph messages or telephone calls.

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**Art. 130. Disclosure of the content of mail or message by any military person in charge of the military mail, telegraph or telephone service.**

Any person subject to this Code who being in charge of the military mail, telegraph or telephone service and having learned, by reason of his office, of the content of an open envelope or a telegraph message or a telephone call, wrongfully discloses it to persons other than the addressee or to persons other than the parties to the message or telephone call, shall be punished with military confinement from six months to three years.

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**Art. 131. Aggravating circumstance.**

If any of the offences mentioned in the three previous articles caused detriment to the military service, the punishment shall be increased.

117

**Art. 132. Delinquency in the procurement of provisions.**

Any person subject to this Code who, having been required, by reason of his office or service, to see to the procurement or provision of victuals or other things to any of the military services, fails to procure them, shall be punished

with military confinement from one to five years.

If the act was culpably committed, the punishment shall be military confinement for up to one year.

118

**Art. 133. Unauthorized requisitioning.**

Any person subject to this Code who makes a requisition which is outside the scope of his powers, shall be punished with military confinement for up to three years.

If violence has been employed, the punishment shall be military confinement from one to five years.

**Art. 134. Abuse of power in requisitioning.**

Any person subject to this Code who having been charged with requisitioning things or facilities, refuses to issue a receipt or otherwise abuses the powers conferred upon him by laws and regulations, shall be punished with military confinement for up to three years provided that the act does not constitute a more serious offence.

If violence has been employed, the punishment shall be military confinement for up to ten years.

If military housing is involved, any military person who compels a person in charge of the housing to give more than is due or otherwise to tolerate his taking possession of or using it, shall be punished with military confinement for up to three years.

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**Art. 135. Abuse of power in embarkation of goods or passengers.**

Any person subject to this Code who without authorisation embarks or suffers to embark goods or passengers on board of military vessels or aircraft, shall be punished with military confinement for up to two years.

**Art. 136. Abuse of power in the work of workshops or other military laboratories.**

Any person subject to this Code who being in charge of military workshops or other laboratories and who, in derogation of regulations or orders of his superiors works there or let others work there on his or other people's behalf, shall be punished with military confinement for up to two years.

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**Section IV**

**ON THE BREACH OF SPECIAL DUTIES RELATING TO THE MILITARY STATUS.**

122

**Art. 137. Cowardly conduct.**

Any person subject to this Code who, in case of storm, shipwreck, fire or other grave danger, does acts which may cause fear or disorder shall be punished with military confinement from six months to five years if fear and disorder are actually caused and the fact is such as to endanger the security of a military place.

The sentence involves dismissal.

**Art. 138. Failure to prevent military offences.**

Without prejudice to the provision in the second subsection of article 40 of the penal Code, any person subject to this Code who, out of fear of a danger or other unjustifiable reason, fails to take all reasonable means to prevent the commission of any of the offences against allegiance or military defence, or to prevent a mutiny or sedition being committed in his presence, shall be punished:

1. with imprisonment for no less than ten years if the offence carries the death penalty (1) with demotion or a life sentence;
2. in all other cases, with the punishment authorized for that offence, reduced by a half to two thirds.

If the culprit is the senior in rank or superior in command or the oldest among peers, the punishment shall be as authorized for that offence. Nevertheless, the judge may reduce the severity of the sentence.

For the purpose of the provisions in subsections above, in determining the punishment authorized for the offences named therein, no account is taken of the punishment authorized for ring-leaders, abettors or organizers of the offence or those who have directed the commission thereof.

(1) See note at article 22.

#### **Section V ON DRUNKNESS ON DUTY.**

##### **Art. 139. Concept of the offence and aggravating circumstances.**

Any person subject to this Code who is found drunk on duty, either wilfully or culpably, to such an extent that his capacity for performing duty is impaired or annulled, shall be punished with military confinement for up to six months.

If the act was done by the Unit's commander or by any other military person in charge of the service or post, the punishment shall be military confinement for up to one year.

The same punishments shall be imposed when the capacity for performing duty is annulled or impaired by the use of narcotics.

#### **Chapter II ON OFFENCES AGAINST MILITARY PERSONNEL ON DUTY.**

##### **Art. 140. Failure to obey orders.**

Any person subject to this Code who disobeys orders shall be punished with military confinement from six months to two years.

If the act was committed in any of the circumstances set out under the second subsection of article 118 above, the punishment shall be military confinement from two to seven years.

If the act was done with the use of weapons or in concert by three or more persons, or has caused serious damage, the punishment shall be increased.

##### **Art. 141. Resistance, threat or insult to a sentinel, lookout or guard.**

Any person subject to this Code who fails to obey the order of a sentinel, lookout or guard who is complying with orders received, shall be punished with military confinement for up to one year.

Any military person who threatens or insults a sentinel, lookout or guard shall

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be punished with military confinement from one to three years.

**Art. 142. Violence to a sentinel, lookout or guard.**

Any person subject to this Code who does violence to a sentinel, lookout or guard shall be punished with military confinement from one to five years. If violence was done with weapons or in concert by more persons, the punishment shall be military confinement from three to seven years.

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**Art. 143. Resistance to armed force.**

Any person subject to this Code who does violence or threatens a military armed force, while this acts in the performance of its duty, shall be punished with military confinement from six months to five years.

If violence or threat have been done in concert by more persons, the punishment shall be increased.

If violence or threat were done in concert by more than five persons or by the use of weapons even by only one of them, or by more than ten persons even without weapons, the punishment shall be military confinement from three to seven years.

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**Art. 144. Aggravating circumstance.**

In the cases under articles 142 and 143, if violence consists in homicide, either murder or manslaughter, or in a most serious or serious personal injury, the punishments shall be as provided for in the penal Code. However, the temporary sentence of detention is increased.

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**Art. 145. Holding back dispatch riders.**

Any person subject to this Code who with violence or deception stops or holds back any other military person, boat, aircraft or, in general, vehicles sent with orders or dispatches containing military orders, or suppresses dispatches or otherwise hinders the transmission thereof, shall be punished with military confinement from two to seven years.

**Art. 146. Threat to a subordinate to force him into an action contrary to his duties.**

Any person subject to this Code who threatens a subordinate to force him to do an action which is contrary to his duty or to do or fail to do an act relating to his office or service, shall be punished with military confinement from six months to five years.

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**Chapter III**

**ON OFFENCES RELATED TO ABSENCE FROM DUTY AND STATION.**

**Section I**

**ON ABSENCE WITHOUT LEAVE.**

**Art. 147. Concept of the offence; punishment.**

Any person subject to this Code who, being employed in the military service, without authority goes and remains absent from the place of duty for one day,

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shall be punished with military confinement for up to six months.  
The same punishment shall be inflicted upon any military person who, having ended a lawful leave of absence, unwarrantedly fails to return to his place of duty the day after the date he is required to return.  
The provisions in this article do not apply when the act constitutes desertion.

**Section II  
ON DESERTION.**

**Art. 148. Concept of the offence; punishment.**

Any person subject to this Code who while being employed in the military service:

1. without authority quits or remains absent from his place of duty for five days in a row;
2. after a lawful leave of absence, unwarrantedly fails to return to duty within five days from the date he is required to report.

commits desertion and shall be punished with military confinement from six months to two years.

**Art. 149. Immediate desertion.**

Any person subject to this Code shall be considered immediately a deserter if he:

1. being destined to an expeditionary corps or operation or belonging to the crew of a military vessel or aircraft, without authorization, absents himself at the time of the departure of the corps, vessel or aircraft;
2. escapes while serving a sentence in a military place of confinement;
3. escapes while in pre-trial detention in a military place of confinement or any other place because of a military offence;
4. without authorization embarks for service on a foreign vessel or aircraft or with the armed forces of another country;
5. quits military service and gets himself replaced.

A deserter shall be punished with military confinement from one to three years in the case set forth in paragraphs 1, 2 and 3; from two to five years in the case mentioned in paragraph 4; from five to seven years in the cases mentioned in paragraph 5.

In the cases mentioned in paragraphs 2 and 3, the provisions of article 385 of the penal Code do not apply.

**Art.150. Aggravating circumstances: going abroad; prior agreement.**

In the cases provided in the previous articles, if the military person goes abroad to shirk military service, the punishment is increased.

The punishments provided in the previous articles are increased by a third to a half when desertion is committed by three or more military persons with prior agreement.

In the case provided in the previous subsection, the punishment shall always be increased by a half for ring-leaders, abettors and organizers.

**Section III**

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**FAILURE TO REPORT FOR SERVICE.**

**Art. 151. Concept of the offence; punishment.**

Any person subject to this Code who being drafted into the ranks for military service unwarrantedly fails to report within five days from the date he is required to do so, shall be punished with military confinement from six months to two years.

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The same punishment shall be inflicted on a military person on discharge who being called for service unwarrantedly fails to report within three days from the date he is required to do so.

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If the call for service was made for training purposes only, the military person who unwarrantedly fails to report within eight days from the date he was prescribed to do so, shall be punished with military confinement for up to six months.

**Art. 152. Aggravating circumstance: going abroad.**

In the cases mentioned in the first two paragraphs of the previous article, if the military person goes abroad to avoid military service the punishment is increased.

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**Art. 153. Military person called to military service who gets himself replaced.**

Any person subject to this Code who, having been called for service in any of the cases named in article 151, fails to report and gets another person to report in his place shall be considered immediately missing to the call and shall be inflicted the punishments prescribed in the same article, increased by a third to a half.

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**Section IV**

**PROVISIONS COMMON TO SECTIONS SECOND AND THIRD.**

**Art. 154. Aggravating and extenuating circumstances in relation to the duration of the absence.**

In the cases provided for in section second and third:

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1. if the absence is longer than six months, the punishment shall be increased by a third to a half;
2. if the absence is lower than fifteen days, the punishment shall be decreased by a third to a half.

**Art. 155. Person who replaces the deserter or the person missing to the call.**

In the cases provided for in paragraph 5 of article 149 and in article 153, the person who replaces a deserter or a person missing to the call shall be punished as prescribed therein. However, the punishment may be decreased.

**141**

**Art. 156. Dismissal.**

The sentence for some of the offences provided for in sections II and III, except for the offence named in the last subsection of article 151, carries dismissal.

**Chapter IV  
ON MUTILATION AND MALINGERING.**

**Art. 157. Self-injury for the purpose of permanently avoiding military service.**

Any person subject to this Code who, with intent to permanently avoiding military service, either imposed by law or voluntary, inflicts upon himself a mutilation, injury, physical defect, or any other permanent disablement making him unfit for military service, shall be punished with confinement from six to fifteen years.

Attempted felony shall be punished according to art. 46, replacing confinement with "military confinement".

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**Art. 158. Self-injury for the purpose of temporarily avoiding military service.**

Any person subject to this Code who, with intent to temporarily avoiding military service, either imposed by law or voluntary, inflicts upon himself a mutilation, injury, physical defect, or any other permanent disablement making him temporarily unfit for military service, shall be punished with military confinement for not more than five years.

The same punishment shall be inflicted to any person subject to this Code who, with intent to avoiding a particular duty with a corps, branch or speciality, or in any case to impairing his unconditional fitness for military service, inflicts upon himself a mutilation, injury, physical defect or any other disablement making him unfit for a particular duty with a corps, branch or speciality, or impairs his unconditional fitness for military service, or intentionally becomes temporarily unfit for military service.

If a permanent unfitness for military service derives from the above-mentioned actions, he shall be punished with confinement from five to ten years.

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**Art. 159. Malingering.**

Any person subject to this Code who feigns illness or disablement, so that he misleads his superiors or any other military authorities, shall be punished with military confinement for not more than three years, if malingering is aimed at avoiding military service either imposed by law or voluntary, and with military confinement for not more than one year, if malingering is aimed at avoiding a particular duty with a corps, branch or speciality.

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**Art. 160. Offences committed by persons already included in the draft lists awaiting actual induction and by discharged personnel.**

The provisions of the previous articles shall also apply to:

1. persons already included in the draft lists awaiting actual induction;
2. personnel discharged to the reserve. If recalled and as soon as they report for duty, they may be charged with offences committed while discharged.

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**Art. 161. Self-injury or malingering for the purpose of avoiding some of the duties related to military service.**

Except for the cases mentioned in the previous articles, any person subject to

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this Code who, for the purpose of avoiding any duties related to military service, makes himself in any way unfit for such duties, or feigns illness or disablement, shall be punished with military confinement for not more than six months.

If the person in question becomes unfit for military service as a result of this offence, article 158 shall apply.

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**Art. 162. Aggravation for principals in the second degree.**

Punishment of principals in the second degree in any offences provided for in this chapter shall be increased if they participated with a view to profit.

The public official, the physician, the surgeon or any other person practising a medical profession, who is a principal in the second degree in an offence provided for in the previous articles, shall be adjudged a punishment increased by a third to a half.

Punishment shall be increased by a half if the offender is an officer.

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**Art. 163. Additional military punishment.**

In the cases mentioned in the previous articles the sentence entails dismissal, when demotion is not applicable.

**Chapter V**

**ON DESTRUCTION, DISPOSAL, PURCHASE OR WITHHOLDING OF MILITARY PROPERTY.**

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**Art. 164. Destruction or disposal of military armament equipment.**

Any person subject to this Code who diverts, destroys, suppresses, wastes, spoils, makes totally or partially unserviceable or otherwise disposes of the weapons, war ammunition, equipment or other items which are issued to him by the military administration according to regulations as part of his military equipment, shall be punished with military confinement for not more than four years.

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**Art. 165. Destruction or disposal of military clothing or equipment.**

Any person subject to this Code who diverts, destroys, suppresses, wastes, spoils, or otherwise disposes of items which are issued to him by the military administration as part of his military clothing or equipment, shall be punished with military confinement for not more than six months.

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**Art. 166. Purchase or withholding of military items.**

Any person subject to this Code who, for any reason, purchases or withholds any military clothing, equipment or armament or any other items intended for military use, shall be punished according to the previous articles, unless such items are marked as disused or he can prove that they have lawfully ceased to be a military property.

**Chapter VI**

**ON DESTRUCTION OR SPOILAGE OF MILITARY PROPERTY.**

**Art. 167. Destruction or sabotage of military assets.**

Except for the cases provided for in articles 105 to 108, any person subject to this Code who totally or partially destroys or makes unserviceable, even temporarily, any vessels, aircraft, convoys, roads, workshops, depots or other military assets or any assets used by the Armed Forces, shall be punished with confinement for not less than eight years.

If the offender has compromised the national military preparedness or efficiency, he shall receive a death penalty (1) from demotion.

If the offence was committed culpably, it will be punished by military confinement for not more than five years.

(1) See note at article 22.

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**Art. 168. Damage to military buildings.**

Except for the cases provided for in the first two subsections of the previous article, any person subject to this Code who damages military buildings shall be punished with military confinement for not more than five years.

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**Art. 169. Destruction or spoilage of military movable property.**

Except for the cases provided for in articles 164 and 165, any person subject to this Code who totally or partially destroys, wastes, spoils or makes unserviceable any items, weapons, ammunition or any other military movable property shall be punished with military confinement from six months to four years.

In case of offence committed on board a naval vessel or military aircraft, the offender shall be punished with military confinement from two to five years; this term can be extended to fifteen years, if the vessel/aircraft got lost or could no longer perform its assigned task as a result of this offence.

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**Art. 170. Culpable offences.**

If the offences provided for in articles 168 and 169 are committed culpably, the offender shall be punished with military confinement for not more than six months.

156

**Art. 171. Aggravating and extenuating circumstances related to the extent of damage.**

In the cases provided for in articles 168 and 169:

1. the offender shall be punished with confinement for not less than five years, if the resulting damage is of considerable extent;
2. the punishment shall be mitigated in case of particularly slight damage.

**Art. 172. Killing or ill-treating a horse or another animal in service with the Armed Forces.**

Any person subject to this Code who unnecessarily kills or ill-treats a horse or another animal in service with the Armed Forces with the result that it cannot be used any more, shall be punished with military confinement from six months to four years.

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**Title III**

**ON OFFENCES AGAINST MILITARY DISCIPLINE.**

**Chapter I  
ON DISOBEDIENCE.**

**Art. 173. Definition of the offence and aggravating circumstances.**

Any person subject to this Code who refuses or fails to obey or is late in obeying an order of a superior related to service or discipline shall be punished with military confinement for not more than one year.

If the offence was committed during service or on board a ship/aircraft, the term of military confinement shall range from six months to one year; this term may be extended to five years if the offence was committed during a fire/epidemic or in another situation of serious danger.

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**Chapter II  
ON MILITARY REVOLT, MUTINY OR SEDITION.**

**Art. 174. Revolt.**

Any person subject to this Code who, in a group of at least four members:

1. refuses or fails to obey or is late in obeying an order of a superior while on armed duty;
2. takes up arms arbitrarily and refuses or fails to obey or is late in obeying the order given by a superior to lay them down;
3. behaving in a violent and unrestrained way, refuses or fails to obey or is late in obeying the order of his superior to disperse or return to normal;

shall be punished with military confinement from three to fifteen years.

The person who promotes, organizes or directs the revolt shall be punished with military confinement for not less than fifteen years.

The sentence entails dismissal.

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**Art. 175. Mutiny.**

Except for the cases provided for in the previous article, any person subject to this Code who, in a group of at least four members:

1. refuses or fails to obey or is late in obeying an order of a superior;
2. persists in submitting a written or oral request, statement or complaint;

shall be punished with military confinement from six months to three years.

The person who promotes, organizes or directs the mutiny shall be punished with military confinement from one to five years.

If the offence was particularly serious due to the number of offenders and the reasons which gave rise to the mutiny, or if it was committed on board a ship/aircraft in a state of danger, the above punishments shall be increased by a half to two thirds.

The sentence entails dismissal.

If the offender yields to the first order to stop the mutiny, he shall be punished

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with military confinement for not more than six months, or one year if he promoted, organized or directed the mutiny.

**Art. 176. Provocation by a superior.**

If an offence provided for in the two previous articles was committed in a fit of anger aroused by an unjust act of a superior, such as a violent or seriously offensive act against the subordinate, who reacted immediately after, the above-mentioned punishments shall be decreased by a third to a half.

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**Art. 177. Failure to report an offence.**

Any person subject to this Code who, having learned of an offence named in articles 174 and 175, even if he did not witness it, fails to make it known immediately to his superiors, shall be punished with military confinement for not more than one year.

If the offender is an officer, the term of military confinement will range from one to two years.

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**Art. 178. Agreement to revolt or mutiny.**

When four or more persons subject to this Code agree to commit an offence of revolt or mutiny provided for in the previous articles and fail to commit it, they shall be punished with the punishment provided for the commission of the offence, decreased by a third to a half.

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**Art. 179. Conspiracy aimed at compromising the security of the place or the commander's authority.**

When several persons subject to this Code agree to commit an offence in order to compromise security of a ship, aircraft, fort or place or to prevent the Commander from exercising his powers, for this sole reason each of them shall be punished with military confinement for not less than two years.

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**Art. 180. Collective request, statement or complaint agreed in advance .**

When ten or more persons subject to this Code, collectively or separately but in concert, file the same application or the same complaint or petition, each of them is punished with military confinement up to one year. (1)

If the request, statement or complaint is submitted by four or more persons subject to this Code through a public demonstration, punishment shall be military confinement from six months to three years.

*(1) Sub-section declared unlawful by the Constitutional Court by sentence n. 126 of April 29, 1985.*

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**Art. 181. Non punishable offenders.**

The following persons are not punishable for the offences named in the three previous articles:

1. those who withdraw from the agreement before the relevant offence has been committed as well as before arrest or proceedings;
2. those who prevent in any way the relevant offence from being committed.

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**Art. 182. Seditious activities.**

Any person subject to this Code who stirs up discontent with military service or with performance of special duties in other persons subject to this Code, shall be punished with military confinement for not more than two years.

**Art. 183. Seditious demonstrations and shouts.**

Any person subject to this Code who has a seditious behaviour or gives seditious shouts in public, for this sole reason shall be punished with military confinement for not more than one year.

**Art. 184. Subscription for complaint or protest. Military gathering.**

Any person subject to this Code who promotes or signs a subscription for a collective complaint or protest on matters concerning military service or discipline shall be punished with military confinement for not more than six months.

The same punishment is applicable to any person subject to this Code who arbitrarily promotes or participates in a military gathering in order to deal with matters related to military service or discipline.

**Art. 185. Unauthorized release of statements or declarations.**

Any person subject to this Code who, in concert with any other persons subject to this Code, releases unauthorized statements or declarations concerning military personnel or matters shall be punished with military confinement for not more than six months.

**Chapter III  
ON INSUBORDINATION.**

**Art. 186. Violent insubordination.**

Any person subject to this Code who uses violence against a superior shall be punished with military confinement from one to three years.

If the act of violence consists in murder, either attempted or consummated, manslaughter or serious/very serious physical injury, it shall be punished with the punishment provided by the penal Code for the commission of the corresponding offence. The term of temporary confinement may be increased.

**Art. 187. Aggravating circumstances.**

Punishment for the offence named in the previous article may be increased if the act of violence is committed against the Unit commander, a military person in charge or the post chief.

**Art. 188. Extenuating circumstance: cause unrelated to military service and discipline (1)**

*(1) This article is to be considered superseded by article 7, Law n. 689 of November 26, 1985.*

**Art. 189. Insubordination accompanied by threats or insults. (1)**

Any person subject to this Code who, in the presence of a superior, threatens

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to cause him an unjust injury shall be punished with military confinement from six months to three years.

Any person subject to this Code who hurts the prestige, honour and dignity of his superior in his presence shall be punished with military confinement for not more than two years.

The same punishment shall be inflicted to any person subject to this Code who commits the offences named in the previous subsections by addressing his superior by telegraph, telephone, radio, television, drawings, writings or through any other means of communication.

*(1) This article has been replaced to reflect article 3 of Law n. 689, dated 26th November 1985.*

**Art. 190. Aggravating circumstances. (1)**

The punishments provided for in the previous article are increased:

1. if the threat is aimed at forcing the superior to commit an act contrary to his duties, to commit or fail to commit an act relevant to his office/service, or to exert any influence on the superior;
2. if the superior in question is the Unit commander, a military person in charge or a post chief;
3. in case of serious threats or in the cases named under art. 339, subsection 1 of the penal Code.

The cases named in art. 339, subsection 2 shall be punished with military confinement from three to fifteen years.

*(1) This article has been replaced to reflect article 4 of Law n. 689, dated 26th November 1985.*

**Art. 191. Use of threats or insults in the absence of a superior. (1)**

*(1) This article has been abrogated by article 7, Law n. 689 of November 26, 1985.*

**Art. 192. Extenuating circumstance: cause unrelated to military service and discipline. (1)**

*(1) This article has been abrogated by article 7, Law n. 689 of November 26, 1985.*

**Art. 193. Functions exercised by a superior. (1)**

*(1) This article has been abrogated by article 7, Law n. 689 of November 26, 1985.*

**Art. 194. Provocation of a superior. (1)**

*(1) This article has been abrogated by article 7, Law n. 689 of November 26, 1985.*

**Chapter IV  
ON ABUSE OF AUTHORITY.**

**Art. 195. Violence against a subordinate. (1)**

Any person subject to this Code who offers any violence against a subordinate

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shall be punished with military confinement from one to three years.  
If the act of violence consists in murder, either attempted or consummated, manslaughter or serious/very serious physical injury, it shall be punished with the punishment provided by the penal Code for the commission of the corresponding offence. The term of temporary confinement may be increased.  
*(1) This article has been replaced to reflect article 5 of Law n. 689, dated 26th November 1985.*

**Art. 196. Threats or insults to a subordinate. (1)**

Any person subject to this Code who, in the presence of a subordinate, threatens to cause him an unjust injury shall be punished with military confinement from six months to three years.

Any person subject to this Code who hurts the prestige, honour and dignity of his subordinate in his presence shall be punished with military confinement for not more than two years.

The same punishments shall be inflicted to any person subject to this Code who commits the offences named in the previous subsections by addressing his subordinate by telegraph, telephone, radio, television, drawings, writings or through any other means of communication.

The punishment shall be increased in case of serious threats or in the cases named under art. 339, subsection 1, of the penal Code.

The cases named in art. 339, subsection 2, shall be punished with military confinement from three to fifteen years.

*(1) This article has been replaced to reflect article 6 of Law n. 689, dated 26th November 1985.*

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**Art. 197. Extenuating circumstance: causes unrelated to military service and discipline. (1)**

*(1) This article has been abrogated by article 7 of Law n. 689 of November 26, 1985.*

**Chapter V**

**PROVISION APPLICABLE TO CHAPTERS THIRD AND FOURTH.**

**Art. 198. Provocation. (1)**

If one of the offences provided for in chapters III and IV was committed in a fit of anger aroused by an unjust act either of a superior or of a subordinate, immediately after the unjust act or as soon as the culprit learned of it, the life sentence shall be replaced with confinement for not less than fifteen years and the other punishments shall be decreased by one third to one half.

*(1) Article here introduced and so replaced by article 8, Law 26 November 1985, n. 689.*

**Art. 199. Offences for reasons unrelated to service or military discipline. (1)**

The provisions of chapters III and IV are not applicable if any of the relevant offences have been committed for reasons unrelated to service or military discipline, not in the presence of military personnel assembled for duty and if the offender was not on duty or on board a naval vessel/military aircraft.

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*(1) This article has been replaced to reflect article 9 of Law n. 689, dated 26th November 1985.*

**Chapter VI (1)**

**ON DUELLING.**

(1) The provisions of this chapter are to be considered superseded and therefore no longer applicable, because the provisions of the Penal Code (from article 394 to article 401), concerning ordinary offences of duelling, have been abrogated by article 18, Law n. 205, June 25, 1999.

**Section I**

**GENERAL PROVISIONS.**

**Art. 200. Applicable military provisions. (1)**

*(1) See note at this Chapter.*

**Section II**

**DUEL BETWEEN A SUPERIOR AND A SUBORDINATE.**

**Art. 201. Subordinate challenging a superior; acceptance; duel. (1)**

*(1) See note at this Chapter.*

**Art. 202. Superior challenging a subordinate; acceptance; duel. (1)**

*(1) See note at this Chapter.*

**Art. 203. Promotion of a subordinate. (1)**

*(1) See note at this Chapter.*

**Section III**

**DUEL BETWEEN PEERS.**

**Art. 204. Challenge; acceptance; duel. (1)**

*(1) See note at this Chapter.*

**Section IV**

**PROVISIONS APPLICABLE TO SECTIONS SECOND AND THIRD.**

**Art. 205. Instances of non punishableness. (1)**

*(1) See note at this Chapter.*

**Art. 206. Aggravating circumstances and extenuating circumstance. (1)**

*(1) See note at this Chapter.*

**Art. 207. Exclusion of dismissal. (1)**

*(1) See note at this Chapter.*

**Art. 208. Failure to submit the case to the court of honour. (1)**

*(1) See note at this Chapter.*

**Art. 209. Instances of imposition of the punishments authorized for insubordination, abuse of authority, murder and personal injury. (1)**

*(1) See note at this Chapter.*

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**Art. 210. Authority of not submitting to trial or not pronouncing judgement.**

*(1)*

*(1) See note at this Chapter.*

**Art. 211. Duel between military personnel on active duty and discharged personnel and between military personnel on duty and persons unrelated to the national Armed Forces. (1)**

*(1) This article is to be considered superseded by article 5, Law n. 167 of March 23, 1956).*

#### **Chapter VII ON INSTIGATION TO CRIME.**

**Art. 212. Instigation to commit military offences. (1)**

Unless otherwise provided for by law, any person subject to this Code who instigates another or other persons in military service to commit a military offence shall, if instigation has no effect or if the offence solicited is neither attempted nor committed, be punished with military confinement for not more than five years. However, the punishment for instigation shall always be less than half the punishment for the corresponding offence.

The same punishment shall be applied in case of instigation of a military person discharged to the reserve to commit an offence for which the military penal law is also applicable to discharged personnel (see article 7 of this Code).

If the culprit is higher in rank than the instigated person, the sentence entails dismissal.

*(1) This article has been replaced to reflect article 3 of Law n. 167, dated 23rd March 1956.*

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**Art. 213. Instigation of military persons to break the law.**

Any person subject to this Code, who is found guilty of the offences of instigation or illegal apology of crime mentioned in article 266 of the penal Code towards military personnel either in military service or discharged, shall be punished with the punishments provided in the above article increased by one sixth to one third.

The same punishments are applicable to any person subject to this Code who instigates any persons already included in the draft lists awaiting actual induction not to fulfil the duties relevant to their status.

The sentence entails dismissal, when demotion is not applicable.

**186**

**Art. 214. Discharged personnel. (1)**

Article 212 is also applicable to military personnel discharged to the reserve, if instigation concerns exclusively military offences or offences for which the

military penal law is also applicable to discharged personnel (see article 7 of the Peacetime Military Penal Code).

*(1) This article has been replaced to reflect article 4 of Law n. 167, dated 23rd March 1956.*

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**Title IV**

**SPECIAL OFFENCES AGAINST THE MILITARY ADMINISTRATION, AGAINST PUBLIC FAITH, AGAINST THE PERSON AND AGAINST THE PROPERTY.**

**Chapter I**

**ON LARCENY AND WRONGFUL APPROPRIATION.**

**188**

**Art. 215. Larceny.**

Any person subject to this Code performing administrative or command functions who, having in his care for reasons of his office or service money or any other movables belonging to the military administration, unlawfully appropriates them shall be punished with a term of confinement from two to ten years.

**Art. 216. Wrongful appropriation to the detriment of the military.**

Any person subject to this Code performing administrative or command functions, who wrongfully takes or in any case withholds money or other movables belonging to another military of which he is in possession for reasons of his office or service, shall be punished with a term of confinement from two to eight years.

**189**

**Art. 217. Wrongful appropriation of the postman.**

Any person subject to this Code, serving as a postman who commits the appropriation or misappropriation as provided for in the two previous articles, or who by any means appropriates to his own use or the use of others valuables or, items of which he is in possession for reasons of his office or service, to the detriment of the military administration or the military, shall be adjudged the punishments envisaged in the above mentioned articles reduced by a third to a half.

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**Art. 218. Larceny by taking advantage of another's error.**

Any person subject to this Code who, in performing administrative or command functions and taking advantage of another's error, unlawfully receives or keeps for his own use or the use of others money or other movables belonging to another military person or the military administration shall be punished with a term of confinement from two months to three years.

**Art. 219. Additional Punishment.**

All sentences in respect of any of the offences specified in the foregoing articles entail discharge, if demotion is not applicable.

**192**

**Chapter II  
ON FORGERY.**

**Art. 220. Forged leave and travel orders and the like.**

Any person subject to this Code who falsely makes, fully or partially, a leave or travel order or a pass or a permit of movement within a military workshop or a pass to have access to a military medical facility, or alters any of the above mentioned genuine papers, permits or documents shall be punished with confinement for no more than a year.

**193**

The same punishment is applicable to any military person who utilises any of the papers, permits or documents specified in the foregoing sub-section, falsely made or altered by others or unaltered and regularly given to another person.

**Art. 221. Unlawful wearing of military decoration and badges.**

Any person subject to this Code who unlawfully wears military decorations, or military licences, specialities, positions or rank insignia in public shall be punished with confinement for no more than six months.

**194**

**Chapter III**

**ON OFFENCES AGAINST THE PERSON.**

**Art. 222. Assault.**

Any person subject to this Code who commits an assault on another military person, shall be punished with confinement for no more than six months, provided that it does not produce a physical or mental illness.

**195**

This provision is not applicable when the assault is considered by law an essential constituent or an aggravation of another offence.

**196**

**Art. 223. Personal injury.**

Any person subject to this Code who causes damage to another military person from which a physical or mental illness derives shall be punished with military confinement from two months to two years.

If the duration of the illness is inferior to ten days and none of the aggravations provided for in articles 583 and 585 of the penal Code occurs, a term of military confinement of not more than six months is applicable.

**Art. 224. Serious or very serious personal injury.**

If the personal injury caused by the military person to another military person is serious, a term of confinement from two to seven years is applicable. If the injury is very serious, a term of confinement from five to twelve years is applicable.

**197**

**Art. 225. Aggravating and extenuating circumstances.**

In the cases provided for in the two foregoing articles, the punishment shall be increased by a term of confinement from a third to a half if any of the aggravations specified in article 576 of the penal Code occurs; it shall be increased by no more than a third if any of the aggravations specified in article 577 of the above mentioned Code occurs, or if the injury is committed with weapons or corrosive substances.

If any of the offences provided for in the three foregoing articles is committed for reasons of honour, under the circumstances specified in article 587 of the penal Code, the provisions of this Code are applicable and the relevant punishment of confinement is replaced with the punishment of military confinement.

198

**Art. 226. Abuse.**

Any person subject to this Code, who offends the honour or dignity of another military person in his presence, shall be punished with a military confinement of no more than four months provided that it is not a more serious offence.

The same punishment shall apply to any military person who commits the offence addressing the offended person by telegraph, telephone, writings or drawings.

A term of military confinement of no more than six months is applicable if the offence consists in the attribution of a given fact.

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**Art. 227. Defamation.**

Any person subject to this Code who, except for the cases named in the previous article, in speaking to others, offends the reputation of another military person, for this sole reason, shall be punished with a term of military confinement of no more than six months.

If the offence consists in the attribution of a given fact, or is committed through the mass media or in public, the punishment shall be a term of military confinement from six months to three years.

If the offence is committed against a military corps or a military judicial or administrative body, the punishment shall be increased.

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**Art. 228. Mutual offences. Provoking speeches or gestures.**

In the cases provided for in article 226, if the offences are mutual, one or both offenders can be declared not punishable by the judge.

Any military person who has committed any of the offences provided for in articles 226 and 227 in a state of fury caused by an unjust act of others or immediately after it is not punishable.

101

**Art. 229. Threat.**

Any person subject to this Code, who threatens another military person with an unjust damage, for this sole reason, shall be punished with a term of military confinement of no more than two months.

In case of a serious threat, a military confinement of no less than six months is applicable.

If the threat is exerted as provided for in article 339 of the penal Code, the punishment shall be a term of military confinement of no less than a year.

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**Chapter IV  
ON OFFENCES AGAINST THE PROPERTY.**

**Art. 230. Larceny.**

Any person subject to this Code who, in a military place, wrongfully takes

anything from the possession of its owner in order to appropriate it to his own use or the use of any person other than the owner shall be punished with a term of confinement from two months to two years.

If the offence is committed against the military administration it shall be punished with a term of military confinement from one to five years.

The sentence does not entail dismissal.

Under the military penal Code, the terms of military place include barracks, ships, aircraft, workshops and any other place in which military personnel can be found although temporarily, by reasons of service.

**Art. 231. Aggravating circumstances.**

The punishment shall be a term of confinement from one to five years in the case provided for in the first subsection of the foregoing article and a term of confinement from two to seven years in the case provided for in the second subsection of the same article:

1. if the culprit offers violence against property or acts with intent to defraud;
2. if the culprit has weapons or drugs in his possession without using them;
3. if the offence is committed with skill or snatching anything from the hands or body of any person;
4. if the offence is committed by three or more persons, or also by only one disguised person.

If two or more circumstances listed in the previous subsection occur, or if one of these circumstances occurs together with another of those mentioned in article 61 of the penal Code or article 47 of this Code, a term of confinement from two to eight years is applicable in the case provided for in the first subsection of the previous article and a term of confinement from three to ten years in the case provided for in the second subsection of the same article. The sentence entails dismissal if demotion is not applicable.

**Art. 232. Theft performed to the detriment of a superior or in the latter's house by a military person assigned to his service.**

Any military person in the personal service of a superior, who in any place wrongfully takes from the possession of a superior any item and appropriates it to his own use or the use of any person other than the owner, shall be punished with a term of confinement from two to seven years.

The above provision applies also if the theft is performed in the superior's house to detriment of a person living with him.

In the presence of any of the circumstances specified in the first subsection of the preceding article, a penalty from three to ten years is applicable.

In the presence of two or more circumstances specified in the first subsection of the preceding article or if any of these circumstances contributes with any other specified in article 61 of the penal Code or in article 47 of this Code, a term of confinement from four to twelve years is applicable.

The sentence involves dismissal if it does not carry demotion.

**Art. 233. Larceny of another's personal property of small value or with the**

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**intent to use it. Larceny of clothes or equipment.**

A term of military confinement of no more than six months is applicable:

1. if the culprit has acted only with intent to temporarily use the stolen property which has been immediately returned after its temporary use; (1)
2. if the theft concerned items of small value or the offence has been committed to satisfy a serious and urgent need;
3. if the theft concerned military clothes or equipment in order to make up for shortages in personal outfit.

These provisions do not apply under any of the circumstances specified in paragraphs 1, 2 and 3 of the first subsection of article 231.

*(1) The Constitutional Court, by sentence 10 January 1991, n. 2, has declared the constitutional illegitimacy of this number in the part where it does not extend the there envisaged discipline to the case of non return of the stolen good, due to unintentional events or for reasons beyond control.*

**Art. 234. Fraud.**

Any person subject to this Code, who by artifices or tricks, deceives another to his own advantage or to the advantage of any other person to the detriment of another military person, shall be punished with a term of military confinement from six months to three years.

The punishment shall be a term of military confinement from one to five years:

1. if the offence is committed against the military administration or on the pretext of exempting any person from military service;
2. if the offence is committed causing the offended person to believe in an imaginary danger or to be erroneously convinced of having to carry out an order.

The sentence entails dismissal.

**Art. 235. Wrongful appropriation.**

Any person subject to this Code, who appropriates to his own use or the use of any person other than the owner any money or item in his possession for whatever reason, shall be punished with a term of military confinement of no more than three years.

If the offence is committed in connection with property held on consignment by reasons of service or belonging to the military administration, the punishment shall be increased.

If the offence is committed in connection with military items of clothing and equipment in order to make up for shortages in one's own personal outfit, a term of military confinement of no more than six months is applicable.

In the cases provided for in the first and second subsections, the sentence entails dismissal.

**Art. 236. Appropriation of lost properties or properties obtained by mistake or by chance.**

Any person subject to this Code who:

1. having found lost money or property in a military place appropriates it

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END

- or does not hand it over to his superior within 24 hours;
2. appropriates items belonging to other military or to the military administration or obtained by mistake of others or by chance, shall be punished with military confinement for no more than six months.

If the culprit knows the owner of the property he has misappropriated, he shall be punished with military confinement for no more than two years.

**Art. 237. Receiving stolen goods or property.**

Except for abetment, any person subject to this Code who, to his own advantage or to the advantage of others, acquires, receives or hides money or any items resulting from any military offence or is somehow involved in their acquisition, reception or concealment, shall be punished with military confinement for no more than two years.

If the money or the property have been taken in connection with a military offence entailing confinement for more than five years or a longer confinement, a term of confinement of no more than six years is applicable. The provisions of this article are applicable even if the person who has committed the offence through which the money or the property have been obtained cannot be charged or punished.

The sentence entails dismissal if demotion is not applicable.

**Title V**

**PROVISIONS CONCERNING DISCHARGED PERSONNEL, MOBILIZED CIVILIANS AND OTHER PERSONS UNRELATED TO THE ARMED FORCES.**

**Chapter I**

**PROVISIONS CONCERNING DISCHARGED PERSONNEL.**

**Art. 238. Offences committed by discharged personnel in connection with service. (1)**

Any discharged person who, in connection with service, commits an offence named in Title III, Chapters III, IV and VI of this Code against any military person either in military service or discharged shall be punished according to the respective provisions of this book, on condition that the offence was committed within two years after discharge.

*(1) This article has been replaced to reflect article 4 of Law n. 167, dated 23rd March 1956.*

**Art. 239. Offences committed against discharged personnel in connection with service.**

Any military person either in military service or considered as such who commits an offence named in Title III, Chapters III, IV and VI of this book against a discharged member in connection with service shall be punished according to the respective provisions of this Code.

**Art. 240. Offences against discharged personnel wearing a military uniform, although unlawfully. (1)**

Any military person, either in military service or considered as such, who

commits an offence named in Title III, Chapters III, IV and VI of this book against a discharged member wearing military uniform, although unlawfully, shall be punished according to the respective provisions of this Code.

*(1) This article has been replaced to reflect article 4 of Law n. 167, dated 23rd March 1956.*

**Art. 241. Military personnel finally separated from the Armed Forces. (1)**

The provisions of the three previous articles are also applicable if the offence has been committed against persons who belonged no longer to the Armed Forces at the time of the offence.

*(1) This article has been replaced to reflect article 4 of Law n. 167, dated 23rd March 1956.*

**Chapter II**

**PROVISIONS CONCERNING MOBILIZED CIVILIANS.**

**Art. 242. Mutilation, self-injury or malingering.**

Any person who, with intent to permanently avoiding civilian mobilization, inflicts upon himself a mutilation or injury, feigns illness or physical defect, shall be punished according to the provisions of articles 157, 158, subsections 1 and 3, and 159, concerning a military person who commits the above offences with intent to avoid military service. However, the punishment shall be mitigated.

**Art. 243. Absence from duty of a mobilized civilian.**

Any person working in a state-owned war material factory or in a private factory mobilized for war production, who is absent from his workplace without authority or remains absent after the end of leave without any sound reason for more than five days, shall be punished with military confinement from six months to two years.

The same punishment shall be inflicted to persons exempted from military service for compassionate reasons, admitted to deferral or permanently exempted from mobilization, who work in one of the above factories and are absent from their workplace without authority or remain absent after the end of leave without any sound reason for more than 24 hours.

If the offence is committed by three or more people in concert, punishment shall be increased by a third to a half.

If the absence does not exceed fifteen days, punishment may be decreased by a third to a half.

**Art. 244. Violence against superiors in the technical or administrative structure of a factory or against military personnel charged with disciplinary surveillance.**

Any person working in the factories mentioned in the previous article who offers any violence against a superior in the factory technical or administrative structure or against the representative of the military Authority charged with disciplinary surveillance in the factory, shall be punished with military confinement from two to five years.

If the offence was committed for reasons unrelated to service, it shall be punished with military confinement from one to three years.

If the offence was committed in a fit of anger aroused by an unjust act either of a superior or the representative of the military Authority, punishment shall be reduced by a third to a half.

If the act of violence consists in murder, even if attempted, manslaughter, or serious/ very serious physical injury, it shall be punished with the punishment provided by the penal Code from the commission of the corresponding offence. However, the term of temporary confinement shall be increased.

**Art. 245. Threats or insults to superiors in the technical or administrative structure of a factory or to military personnel charged with disciplinary surveillance.**

Any person working in the factories mentioned in article 243 who threatens a superior in the factory technical or administrative structure or the representative of the military Authority charged with disciplinary surveillance of the factory, or hurts their prestige and honour, in their presence, shall be punished with military confinement for not more than three years.

The same punishment shall be inflicted if the offence is committed addressing the offended person by telegraph, telephone, drawings or writings.

If the offence is committed for reasons unrelated to service, it shall be punished with military confinement for not more than two years.

If the culprit reacted in a fit of anger to an unjust act of the superior or the representative of the military Authority, punishment shall be decreased by a third to a half.

**Art. 246. Refusal to obey superiors in the technical or administrative structure of a factory or military personnel charged with disciplinary surveillance.**

Any person working in the factories mentioned in article 243, who refuses or fails to obey or is late in obeying an order related to service or discipline given by a superior in the factory technical or administrative structure or by a representative of the military Authority charged with disciplinary surveillance of the factory, shall be punished with military confinement for not more than eight months.

If the offence is committed while on duty, or in the presence of several persons working in the factory, punishment shall be increased.

**Art. 247. Violence offered by superiors in the technical or administrative structure of a factory or by military personnel charged with disciplinary surveillance.**

Any person working in the factories mentioned in article 243, who offers any violence against a subordinate in the factory technical or administrative structure, shall be punished with military confinement from six months to one year.

If the culprit reacted in a fit of anger to an unjust act of the subordinate, punishment shall be decreased by a half to two thirds.

The same provisions are applicable, if the offence is committed by the

representative of the military Authority charged with disciplinary surveillance in the factory against a member of personnel.

If the act of violence consists in murder, even if attempted, in manslaughter or physical injury, it shall be punished with the punishment provided by the penal Code for the commission of the corresponding offence.

However, the term of temporary confinement shall be increased.

**Art. 248. Threats or insults to a subordinate.**

Any person working in the factories mentioned in article 243, who threatens a subordinate in the factory technical or administrative structure to cause him an unjust injury or insults his honour and dignity, in his presence, shall be punished with military confinement for not more than eight months.

Punishment shall be military confinement for not more than two years in case of serious threat or threats made as described in article 339 of the penal Code.

The same punishment shall be inflicted if the offence is committed by addressing the offended person by telegraph, telephone, drawings or writings.

The provision of the second subsection of the previous article is applicable.

**Art. 249. Violence by reason of honour. (1)**

When an offence named in articles 244 and 247 is committed by reason of honour in the circumstances specified in article 587 of the Penal Code, the provisions of the above-mentioned Code shall apply.

*(1) Article to be considered inapplicable with reference to article 587 of the criminal Code, abrogated by article 1, Law. 5 August 1981 n. 442.*

**Art. 250. Obstructionism or sabotage during works.**

Any person working in the factories mentioned in article 243 who hinders works, causes defective production or deteriorates the materials entrusted to him, for this sole reason shall be punished with military confinement from one to five years.

If a serious damage derives from this offence, punishment shall be military confinement for not less than seven years.

**Art. 251. Failure to obey order given by the government authority responsible for war manufactures.**

Except when the fact constitutes a more serious offence, any manager or person in charge of a mobilized private body/factory, who received a notice of mobilization from the government authority responsible for war manufactures and:

1. fails to notify or is late in notifying information/data on the factory activity requested by the above authority, or provides incomplete/incorrect information;
2. asks the above authority to issue larger amounts of raw materials or industrial products than necessary and sufficient;
3. diverts the raw materials or industrial products issued by the above authority or uses them for other purposes than those for which they had been issued;
4. neglects maintenance of the factory plants, thus reducing the factory

production capabilities;

5. carries out, changes, transfers or partial/total disposal of factories or departments or disposal of machinery, without authorization of the above authority, shall be punished with military confinement from three months to five years.

### Chapter III

#### PROVISIONS CONCERNING CIVIL PILOTS OF MILITARY SHIPS/AIRCRAFT AND CAPTAINS OF MERCHANT SHIPS/COMMERCIAL AIRCRAFT.

##### **Art. 252. Pilot responsible for ship loss, collision, stranding or damage.**

Any pilot steering a naval vessel or a ship sailing in convoy under military escort or direction, who is responsible for the ship loss, shall be punished with life imprisonment.

Any pilot steering a naval vessel or a ship sailing in convoy under military escort or direction, who is responsible for the collision, stranding of or serious damage to the ship, shall be punished with imprisonment for not less than eight years.

If the offence is committed culpably, it shall be punished with:

1. imprisonment for not more than ten years, in the case mentioned in the first subsection;
2. imprisonment for not more than two years, in the case mentioned in the second subsection.

##### **Art. 253. Pilot who abandons the ship.**

Any pilot steering a naval vessel or a ship sailing in convoy under military escort/direction, who abandons the ship, shall be punished with imprisonment from one to five years.

If the offence is committed in a state of danger, it shall be punished with imprisonment from three to ten years.

##### **Art. 254. Pilot who refuses or fails to perform or is late in performing his duties.**

Any pilot charged with steering a naval vessel or a ship sailing in convoy under military escort/direction, who refuses or fails to perform or is late in performing his tasks, shall be punished with imprisonment from six months to three years.

##### **Art. 255. Pilot who misleads the commander.**

The pilot of a naval vessel or a ship sailing in convoy under military escort/direction who misleads the commander through suggestions, information or in any other way, thus causing damage to the service, shall be punished with imprisonment from two to ten years.

If the mistake of the commander is a result of the behaviour the pilot's culpable offence, the latter shall be punished with imprisonment for not more than one year.

##### **Art. 256. Loss, collision, damage or abandonment of an aircraft.**

The provisions of the previous articles are also applicable to any civil pilot charged with flying military aircraft in situations similar to those mentioned in the previous articles.

**Art. 257. Offences committed by a captain of a merchant ship or commercial aircraft.**

The captain of a merchant ship or commercial aircraft in convoys under military escort/direction who is responsible for the ship/aircraft loss shall be punished with life imprisonment.

If the captain leaves the convoy, he shall be punished with imprisonment for not more than three years.

If the offence is committed culpably, it shall be punished with imprisonment for not more than ten years in the case mentioned in the first subsection, and with imprisonment for not more than one year in the case mentioned in the second subsection.

**Art. 258. Extenuating circumstances.**

If the offences named in the first and second subsection of article 252 and in the first subsection of article 253 are committed in particular extenuating circumstances, the death penalty (1) shall be replaced by imprisonment for not less than seven years, and the other punishments shall be decreased by a half to two thirds.

(1) See note at article 22.

**Art. 259. Refusal to assist a naval vessel or military aircraft.**

The captain of a merchant ship or commercial aircraft (Italian citizen) who refuses or fails to assist a naval vessel/military aircraft in danger, shall be punished with imprisonment from one to three years.

**Title VI**

**PROVISIONS COMMON TO THE PREVIOUS TITLES.**

**Art. 260. Demand for proceedings.**

The offences provided for in articles 94, 103, 104, 105, 106, 107, 108, 109, 110, 111 and 112 are punished on demand of the Minister of Defence.

The offences punished with a term of military confinement of no more than six months and the offence specified in paragraph 2 of article 171 are punished on demand of the commander of the Corps or other body to which the culprit is subordinate; if there are more offenders belonging to different Corps or services, on demand of the commander of the Corps to which is subordinate the offender who is the highest in rank or, being equal in rank, the superior in command or the most senior. (1)

Under the military penal Code, if military persons not belonging to the army are involved, the action should be taken by the corresponding commander of the other Services instead of the Corps commander.

In the cases provided for in the second and the third paragraphs the demand for proceedings can be made within a month from the day in which the authority has been informed of the offence.

In the cases provided for in the first and the second paragraphs:

1. (2)
2. if there are more culprits and some of them are not military persons, the demand for proceedings against the military culprit involves also those persons outside the armed forces who have participated in guilt.

*(1) The Constitutional Court, by sentence 13 December 1991 n. 449, has declared the constitutional illegitimacy of this sub-section in the part where it does not envisage that the crimes there provided for are punished upon request of the Commander of a different higher body, when the Commander of the Unit, the guilty military belongs to, is the person offended by the blamed behaviour.*

*(2) The provision of this number is to be considered implicitly abrogated according to Law n. 180, May 7, 1981.*

