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Disciplinary sanctions are applied as a matter of punishment by a superior for breaching an internal or general rule in groups with a certain hierarchical structure.

Under international humanitarian law of international armed conflicts <sup>[1]</sup>, having a disciplinary system capable of enforcing compliance with the law is one of the requirements that organized armed groups must fulfill in order for their members to be entitled to prisoner of war <sup>[2]</sup> status (GC III, Art. 4 <sup>[3]</sup>; P I, Art. 43 <sup>[4]</sup>). On the part of the armed forces <sup>[5]</sup> of the State, such disciplinary systems are presumed to exist.

One of the conditions for the existence of a non-international armed conflict <sup>[6]</sup> is the degree of organization on the part of the non-state armed group <sup>[7]</sup>, according to which the group has to be capable of enforcing the rules of IHL through, *inter alia*, disciplinary sanctions.

In the context of the detention <sup>[8]</sup> or internment <sup>[9]</sup> of civilians <sup>[10]</sup> or prisoners of war, disciplinary sanctions may be applied in order to repress breaches <sup>[11]</sup> of law or of internal regulations. Disciplinary sanctions are to be applied, as far as possible, instead of penal sanctions <sup>[12]</sup>, where appropriate.

See Sanctions <sup>[12]</sup>; Civilian internees <sup>[13]</sup>; Prisoners of War <sup>[2]</sup>; Breaches <sup>[11]</sup>;

**OUTLINE**

POWs: Chapter 6, III. g) rules on penal and disciplinary proceedings <sup>[14]</sup>

## CASE

Afghanistan, Attack on Kunduz Trauma Centre <sup>[15]</sup>

## LEGAL SOURCE

### general

GCIII, 89 <sup>[16]</sup>-98 <sup>[17]</sup>

GCIV, 119 <sup>[18]</sup>

CIHL, 100 <sup>[19]</sup>-102 <sup>[20]</sup>

### duration

GCIII, 90 <sup>[21]</sup>

GCIV, 119 <sup>[18]</sup>

### execution of punishment

GCIII, 97 <sup>[22]</sup>-98 <sup>[23]</sup>

GCIV, 124 <sup>[24]</sup>-125 <sup>[25]</sup>

## **limitations**

GCIII, 26/6 <sup>[26]</sup>

GCIII, 71/1 <sup>[27]</sup>

GCIII, 82 <sup>[28]</sup>

GCIII, 86 <sup>[29]</sup>-88 <sup>[30]</sup>

GCIII, 89/2-3 <sup>[16]</sup>

GCIV, 107/1 <sup>[31]</sup>

GCIV, 117/2-3 <sup>[32]</sup>

GCIV, 118 <sup>[33]</sup>

GCIV, 119/2-3 <sup>[34]</sup>

GCIV, 123 <sup>[35]</sup>

## **procedure and records**

GCIII, 96 <sup>[36]</sup>

GCIV, 132 <sup>[37]</sup>

## types of punishment

GCIII, 89 <sup>[16]</sup>

GCIV, 119 <sup>[18]</sup>

## BIBLIOGRAPHIC RESOURCES

RENAUT Céline, “The Impact of Military Disciplinary Sanctions on Compliance with International Humanitarian Law”, in *IRRC*, Vol. 90, No. 870, June 2008, pp. 319-326.

VERHAEGEN Jacques, “Le refus d’obéissance aux ordres manifestement criminels”, in *IRRC*, No. 845, March 2002, pp. 35-50.

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[2] <https://casebook.icrc.org/glossary/prisoners-war>

[3]

<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=2F681B08868538C2C12563CD00>

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<https://www.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=AF64638EB5530E58C12563CD00>

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