



DEPARTMENT OF THE ARMY  
DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER  
AND PRESIDIO OF MONTEREY  
OFFICE OF THE STAFF JUDGE ADVOCATE  
1336 PLUMMER STREET, BLDG. 275  
MONTEREY, CALIFORNIA 93944

REPLY TO  
ATTENTION OF:

ATZP-JA

July 2010

MEMORANDUM FOR ALL

SUBJECT: Request for Redress Under Article 138, UCMJ

1. PURPOSE: To inform commanders and officers of the process for redress under Article 138, UCMJ, and to provide basic information on handling complaints under Article 138, UCMJ.

2. REFERENCE:

a. AR 27-10, Military Justice (16 November 2005), Chapter 20, "Complaints Under Article 138, UCMJ."

b. AR 15-6, Procedures for Investigating Officers and Boards of Officers (2 October 2006).

3. DISCUSSION:

a. Article 138 is a formal procedure for complaints against any commander in the chain of command. A member of the Armed Forces may submit an Article 138 complaint for any act or omission by the member's commanding officer that the member believes to be a wrong (see para 20-4e), and for which the member has requested redress and been refused. A member who, through no fault of his or her own, has not received a final response within 15 days (or 60 days from an RC commander) may elect to treat that as a refusal of redress. It is only available if there is no other statutory or regulatory avenue of appeal. Examples of actions for which Article 138 is inappropriate can be found at AR 27-10, paragraph 20-5(b).

b. An Article 138 complaint involves the following steps:

(1) A Soldier files a written request for redress with the commander concerned. The commander is thereafter designated as a "respondent." The commander/respondent has 15 days to reply.

(2) If the commander denies redress, the Soldier submits an Article 138 complaint to his immediate superior commissioned officer. The complaint must be submitted within 90 days of the alleged wrong-doing. The time that a request for redress is pending does not count towards the 90 day time period.

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(3) The complaint is processed through the chain of command of the officer exercising general court-martial jurisdiction over the respondent at the time of the alleged wrong-doing. Anyone in the chain of command may grant redress.

(4) The General Court-Martial Convening Authority (GCMCA) will examine the complaint. The type of examination conducted by the GCMCA is discretionary. The GCMCA may delegate the examination of the complaint. Examinations delegated will be conducted in accordance with AR 15-6.

(5) The GCMCA will personally act on the complaint. Whether or not redress is granted, the GCMCA will forward the complaint to HQDA.

c. Commanders should not discuss the specific facts of any case with a Soldier who is considering Article 138 procedures. That Soldier should be informed of his or her right to legal advice from the Office of the Staff Judge Advocate.

d. Soldiers may seek legal counsel when deciding whether to pursue an Article 138 complaint. If the matter involves a violation of the UCMJ, the soldier may seek assistance from the Legal Assistance Office.

4. If you have any questions or need further information, please feel free to contact the Office of the Staff Judge Advocate, Administrative Law Division, at (831) 242-6402.



CHRISTOPHER CHATELAIN  
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Chief, Administrative Law Division