



## RESPONSES TO INFORMATION REQUESTS (RIRs)

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20 January 2005

### GTM43295.E

Guatemala: Update to GTM31626.E of 11 May 1999; whether the incidence of prosecution and penalties for desertion has changed (May 1999-January 2005)  
Research Directorate, Immigration and Refugee Board, Ottawa

Information on whether the incidence of prosecution and penalties for desertion has changed was limited among the sources consulted by the Research Directorate.

Two news sources in January 2005 reported that a new military code (codigo militar) would eventually replace the current code, which came into effect 127 years ago (*Siglo Veintiuno* 3 Jan. 2005; CERIGUA 4 Jan. 2005). The new military code—recently approved by the Defence Commission of the Congress (Comision de Defensa del Congreso)—includes four laws: the Military Criminal Law (Ley Penal Militar), the Military Criminal Process Law (Ley Procesal Penal Militar), the Law of Organization and Functioning of Military Jurisdiction (Ley de Organizacion y Funcionamiento de la Jurisdiccion Militar) and the Military Penitentiary Law (Ley Penitenciaria Militar) (*ibid.*; *Siglo Veintiuno* 3 Jan. 2005). Although the articles did not outline the penalties for desertion, they did mention that the new Military Criminal Law establishes penalties for some 60 crimes, including rebellion, sedition, espionage, treason, and disobedience (*ibid.*; CERIGUA 4 Jan. 2005). Information about when this law would come into force could not be found within time constraints.

Nevertheless, an April 1998 War Resisters' International (WRI) report noted that under the old military code the punishment for desertion ranged between two months and one year in prison, with "the death sentence during wartime" (30 Apr. 1998).

Human rights and government sources also reported that in 2003 and 2004 a number of steps were taken to demilitarize the country and modernize its military with the aim of reining in the armed forces under civilian authority (US Dec. 2004; UN 30 Aug. 2004). These reforms include the replacement of the military-oriented Presidential Guard Staff with a civilian-based "presidential security force," (*ibid.*) and the introduction of a "citizen service" law in May 2003 to provide youth from 18 to 24 (WRI May 2004) the "option of performing social service instead of mandatory military service" (UN 30 Aug. 2004). In addition, the country's military doctrine was redrafted to emphasize human rights, and the army was reportedly downsized from 27,000 to 15,500 soldiers (*ibid.*).

Please note that *Country Reports 2003* mentioned that a 1994 presidential

decree suspending "all conscription, including forced recruitment" was still in effect, however, the military did use monetary and "education incentives" to enlist "volunteers from impoverished areas" (25 Feb. 2004, Sec. 1f).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

### References

Centro de Reportes Informativos Sobre Guatemala (CERIGUA) [Guatemala City]. 4 January 2005. "Ejercito: Nuevo Codigo Militar, ¿modernizacion del regimen castrense?" <<http://www.cerigua.org/test1/modules.php?op=modload&name=News&file=article&sid=5014&mode=thread&order=0&thold=0>> [Accessed 17 Jan. 2005]

*Country Reports on Human Rights Practices for 2003* . 25 February 2004. "Guatemala." United States Department of State. Washington, DC. <<http://www.state.gov/g/drl/rls/hrrpt/2003/27900.htm>> [Accessed 10 Jan. 2005]

*Siglo Veintiuno* [Guatemala City]. 3 January 2005. "Civiles Juzgarian Delitos Militares." (*Guatemala Hoy* Website). <<http://paginas.corpotelsa.com/ceg/diario/2005/ene2005/dimr0103.html>> [Accessed 13 Jan. 2005]

United Nations. 30 August 2004. *MINUGUA's (U.N. Verification Mission) 9<sup>th</sup> and Final Report on Fulfillment of the Peace Accords in Guatemala* . [Network in Solidarity with the People of Guatemala (NISGUA) Website]. <[http://www.nisgua.org/articles/minugua\\_Final\\_Report\\_Aug2004.htm](http://www.nisgua.org/articles/minugua_Final_Report_Aug2004.htm)> [Accessed 10 Jan. 2005]

United States. December 2004. Department of State. Bureau of Western Hemisphere Affairs. "Background Note: Guatemala." <<http://www.state.gov/r/pa/ei/bgn/2045.htm>> [Accessed 10 Jan. 2005]

War Resisters' International (WRI). May 2004. *The Broken Rifle* , No. 61. <<http://wri-irg.org/pubs/br61-en.htm>> [Accessed 14 Jan. 2005]

\_\_\_\_\_. 30 April 1998. *Refusing to Bear Arms: A World Survey of Conscription and Conscientious Objection to Military Service* . "Guatemala." <<http://wri-irg.org/co/rtba/guatemala.htm>> [Accessed 14 Jan. 2005]

### Additional Sources Consulted

Two oral sources could not provide information within time constraints.

**Internet sites, including:** Amnesty International, *Central America Report* [Guatemala City], Congreso de la Republica de Guatemala, Conscription and Conscientious Objection Documentation (CONCODOC), *Country Reports 2003* ,

Ejercito de Guatemala, Equipo Nizkor, Facultad Latinoamericana de Ciencias Sociales (FLACSO), Freedom House, Guatemala Human Rights Commission/USA, Human Rights Watch, *Latinamerica Press* [Lima], Peace Brigades International, Political Database of the Americas, *Prensa Libre* [Guatemala City], Red de Seguridad de America Latina (RESDAL), Resource Center of the Americas, World News Connection.

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