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AMENDMENTS

1986—Pub. L. 99-661, div. A, title VIII, §802(a)(2), Nov. 14, 1986, 100 Stat. 3906, added item 850a.

§ 836. Art. 36. President may prescribe rules

(a) Pretrial, trial, and post-trial procedures, including modes of proof, for cases arising under this chapter triable in courts-martial, military commissions and other military tribunals, and procedures for courts of inquiry, may be prescribed by the President by regulations which shall, so far as he considers practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts, but which may not, except as provided in chapter 47A of this title, be contrary to or inconsistent with this chapter.

(b) All rules and regulations made under this article shall be uniform insofar as practicable, except insofar as applicable to military commissions established under chapter 47A of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 50; Pub. L. 96-107, title VIII, §801(b), Nov. 9, 1979, 93 Stat. 811; Pub. L. 101-510, div. A, title XIII, §1301(4), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 109-366, §4(a)(3), Oct. 17, 2006, 120 Stat. 2631.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
836(a)	50:611(a).	May 5, 1950, ch. 169, §1
836(b)	50:611(b).	(Art. 36), 64 Stat. 120.

In subsection (a), the word “considers” is substituted for the word “deems”. The word “may” is substituted for the word “shall”.

In subsection (b), the word “under” is substituted for the words “in pursuance of”.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-366, §4(a)(3)(A), inserted “, except as provided in chapter 47A of this title,” after “but which may not”.

Subsec. (b). Pub. L. 109-366, §4(a)(3)(B), inserted before period at end “, except insofar as applicable to military commissions established under chapter 47A of this title”.

1990—Subsec. (b). Pub. L. 101-510 struck out “and shall be reported to Congress” after “as practicable”.

1979—Subsec. (a). Pub. L. 96-107 substituted provisions authorizing pretrial, trial, and post-trial procedures for cases under this chapter triable in courts-martial, military commissions and other military tribunals, for provisions authorizing procedure in cases before courts-martial, military commissions, and other military tribunals.

§ 837. Art. 37. Unlawfully influencing action of court

(a) No authority convening a general, special, or summary court-martial, nor any other commanding officer, may censure, reprimand, or ad-

monish the court or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or his functions in the conduct of the proceeding. No person subject to this chapter may attempt to coerce or, by any unauthorized means, influence the action of a court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to his judicial acts. The foregoing provisions of the subsection shall not apply with respect to (1) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial, or (2) to statements and instructions given in open court by the military judge, president of a special court-martial, or counsel.

(b) In the preparation of an effectiveness, fitness, or efficiency report, or any other report or document used in whole or in part for the purpose of determining whether a member of the armed forces is qualified to be advanced, in grade, or in determining the assignment or transfer of a member of the armed forces or in determining whether a member of the armed forces should be retained on active duty, no person subject to this chapter may, in preparing any such report (1) consider or evaluate the performance of duty of any such member as a member of a court-martial, or (2) give a less favorable rating or evaluation of any member of the armed forces because of the zeal with which such member, as counsel, represented any accused before a court-martial.

(Aug. 10, 1956, ch. 1041, 70A Stat. 50; Pub. L. 90-632, §2(13), Oct. 24, 1968, 82 Stat. 1338.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
837	50:612.	May 5, 1950, ch. 169, §1
		(Art. 37), 64 Stat. 120.

The word “may” is substituted for the word “shall”.

AMENDMENTS

1968—Pub. L. 90-632 designated existing provisions as subsec. (a), substituted “military judge” for “law officer”, inserted provisions specifically exempting instructional or general informational lectures on military justice and statements and instructions given in open court by the military judge, president of a special court-martial, or counsel from prohibitions of subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90-632, set out as a note under section 801 of this title.

§ 838. Art. 38. Duties of trial counsel and defense counsel

(a) The trial counsel of a general or special court-martial shall prosecute in the name of the United States, and shall, under the direction of the court, prepare the record of the proceedings.

(b)(1) The accused has the right to be represented in his defense before a general or spe-