



EUROMIL aisbl

*(European Organisation of
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Report from the roundtable discussion on the role of military associations and unions in Central and Eastern Europe

held in Riga on
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Ewa Sapiezynska (Human Rights Officer, Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe, OSCE ODIHR) opened the meeting by pointing out that despite the international legal framework in place and its increasing international recognition, the right of association for military personnel is still not fully respected in all OSCE participating States. The aim of the meeting therefore was to bring together representatives from governments, military associations and the armed forces to exchange views and best practices on the issue.

Emmanuel Jacob (President, European Organisation of Military Associations, EUROMIL) presented EUROMIL and its work. He emphasized that the associations represented in EUROMIL are very different in their organisational set-up and the legal circumstances under which they operate. EUROMIL on the one hand offers a networking platform to its members and on the other hand monitors closely (and influences when necessary) the EU policy in relevant fields.

Session 1: International standards and good practices concerning human rights of armed forces personnel

Will McDermott (Project Officer, Geneva Centre for the Democratic Control of Armed Forces, DCAF) elaborated on the international standards and good practices concerning human rights of armed forces personnel. He presented the work of DCAF and made reference to many useful tools and the "[Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel](#)" the organisation has published together with OSCE ODIHR. A core concept DCAF wants to promote is the concept of the soldiers as "Citizen in Uniform", which means that military personnel should be entitled to the same fundamental rights and freedoms as any other citizen.

Also for the promotion of gender equality within the armed forces, DCAF identified some good practices, especially on special complaints mechanisms listed in this [handbook](#). However, one key element to the promotion of gender equality within the armed forces is, to acknowledge how gender diversity enhances the effectiveness of the armed forces. Future challenges to the protection of the rights of military personnel can arise from multinational missions with complex command structures, competing or even conflicting legal structures as well as difficult or dangerous working environments.



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Session 2: Creating Conditions for military associations to be effective in safeguarding human rights

Mika Oranen (President, military union Aliupseeriliitto, Finland) conveyed four key messages to the audience with regard to how a successful social dialogue could be organised. Firstly, fundamental democratic rights must be granted to soldiers via national legislation, no difference should be made between a soldier and other citizens. In **Finland**, this principle is the foundation all activities and actions of military trade unions. Secondly, representation rights must be clear and confirmed by law, including a dispute settlement system which equally engages and commits both sides. Thirdly, since the legal foundations are clear, military trade unions in Finland are constructive and essential actors on all levels of the defence forces. Fourthly - and most importantly - trust, respect, cooperation and the will to find a consensus are essential for good functioning trade union work. The best example to illustrate this mind-set is probably the fact, that the Finnish soldiers – unlike most of their European colleagues – have the right to strike. However, they never used it, but instead “negotiated the problems away”.

Jörg Greiffendorf (Board Member of German Armed Forces Association, DBwV, Germany) explained that the legal context in **Germany** is slightly different from the Finnish, resulting in a different working method for his association. While the Finnish association works as a trade union, the German association could be best described as a lobbying organisation. It influences law-making through lobbying activities in Parliament and participation talks with the Ministry of Defense (MoD). Another way in which the association can defend the rights of its members is to support lawsuits. One important example is the case of Tanja Kreil, supported by the DBwV at the European Court of Justice. The Court finally ruled that women should have the right to serve in all parts of the German armed forces; restrictions were considered to be illegal. As a result the Parliament had to adapt legislation – to the benefit of all women.

Session 3: Freedom of association and status of military associations in the Baltic countries and Eastern European region – Challenges faced by servicemen and servicewomen

Kristīne Pakārkle (Deputy Head of Political and Civil Rights Division, Ombudsman Office, Latvia) pointed out that legal limitations to freedom of association of military personnel in **Latvia** need to be related to military requirements. In her work in the ombudsman office however, she noted a limited number of complaints from military and police forces. Recently a border guard addressed the ombudsman office with regard to the ban on forming and joining trade unions. The office supported his case at the Constitutional Court, which concluded that putting a ban on border guards’ joining trade unions is not



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legitimate. This very positive ruling of the Court may be used as a precedent for military personnel.

Dzintars Klava (Vice Chairman, Latvian Rifleman Association, LSA, Latvia) reminded that military personnel is not allowed to form and join trade unions in **Latvia**, however, they may organise themselves in non-political associations. In this context, the Latvian Rifleman Association strives to enhance the situation of military personnel by focusing on topics such as working time and pension systems.

Laimonas Jakas (President, Soldiers Rights Defence Centre, KTGC, Lithuania) presented the work of his association in **Lithuania**. A major challenge to their work is the fact that military personnel has the right to form and join associations, however, all association work must be conducted during the soldiers' free time.

Vilma Juknevičienė (Ministry of Defence, Lithuania) pointed out that military personnel in **Lithuania** can form and join non-political associations, the right to join and form trade unions is however denied to them, as well as the right to strike. The Lithuanian legal system foresees different mechanisms to protect the rights of servicemen and servicewomen: They can either launch a complaint within the military hierarchy, or directly address the Inspector General with their problem.

During a round of discussion participants debated on terminology used: "*trade union*" evokes negative associations in some countries, especially because the term is linked to political actions. However, the example from Finland shows that trade union work can and has to be independent from political parties in order to succeed. "Terminology matters – explain what you are talking about" is a clear message to remember from this lively discussion.

Jacek Zmarz (Legal Adviser at Council of Senior Officers of the Corps of Regular Soldiers, KONWENT, Poland) explained that in **Poland**, the Constitutional Court considers the ban for military personnel on forming and joining trade unions legal. However, servicemen and servicewomen are allowed to form representative associations to defend the rights of the soldiers. A Council of Women at the Ministry of National Defence ensures that the gender perspective is taken into account.

Tomasz Oklejak (Head of Division of Soldiers and Uniformed Services, Commissioner for Human Rights, Poland) emphasized the importance of the concept of neutrality of the armed forces in **Poland**. In order to ensure this neutrality, servicemen and servicewomen are not allowed to join political parties or trade unions. The Commissioner for Human Rights also has the power to help protecting the rights of military personnel. In a recent case the Commissioner supported a pregnant soldier dismissed during her pregnancy. The Commissioner could advocate for a change in legislation while tackling this issue.



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Raul Kütt (ret. Member of the Armed Forces, Estonia) discussed the characteristics of the situation in **Estonia**. Inside the army, soldiers have the possibility to turn towards the Chief Inspector Office or the Officers Assembly with their problems and complaints. Outside the armed forces, different associations (like the reserve officers association and the retired officers association) exist. Complaints can also be addressed to the State Chancellor of justice or a civilian criminal court, although this hardly happens in practice. An association able and competent to deal with the problems of active serving personnel is not in place in Estonia.

Bogdan Kryklyvenko (Head of Secretariat of the Parliament Commissioner for Human Rights, Ukraine) pointed to the fact that the current fighting in **Ukraine** has changed the situation of the military personnel fundamentally. Protection of soldiers' rights becomes increasingly important when the troops are continuously involved in fighting activities. More than 100 associations have been established in the last years in Ukraine by soldiers themselves or by their friends and relatives who wish to support them. The Commissioner is dealing with complaints but can also initiate own investigations.

In her closing remarks, **Ewa Sapiezynska** thanked the participants for their contributions, the interesting discussions and the inclusion of the gender aspects of the topic: benefits for servicemen and servicewomen from forming trade unions and independent associations, the recruitment and advancement of women in the armed forces, as well as parental leave for both men and women in the military. Acknowledging that the national situations and legislations differ from country to country, she pointed to the [OSCE Code of Conduct on Politico-Military Aspects of Security](#) as a useful norm-setting document, as well as the "Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel" (see link above) which sets out practical recommendations and best practices. She quoted the recommendations from the Handbook as extremely valid and useful to summarize the event's conclusions:

- States should permit all members of the armed forces to join either a professional association or a trade union representing their interests;
- These associations or unions should enjoy the right to be consulted in discussions concerning conditions of service for members of the armed forces;
- Disciplinary action or victimization of individual members of the armed forces for participation in the activities of such professional associations or trade unions should be prohibited;
- Any restrictions on freedom of association (for example, with regard to industrial action) should be: prescribed by law, proportionate to legitimate state interests recognized in human rights treaties, and also be non-discriminatory.



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To these recommendations, **Emmanuel Jacob** added more specific remarks about the functioning of military trade unions and associations:

- Participants should work towards establishing an open and constructive dialogue with all stakeholders on national level. Trust and respect are an essential foundation of good trade union and association work.
- Equally important is the coordination between the association- and ombuds-institution work. No energy should get lost by “fighting each other” on minor issues but should instead be used to work together on the big issues.

Last but not least, Emmanuel Jacob emphasized the availability of EUROMIL for future discussions and support on the right of association as such or on the functioning of military trade unions and associations.