

Human Rights of Armed Forces Personnel:

COMPENDIUM OF STANDARDS, GOOD PRACTICES AND RECOMMENDATIONS

This is an overview of rights covered in Chapter 19 of HUMAN RIGHTS OF ARMED FORCES PERSONNEL: COMPENDIUM OF STANDARDS, GOOD PRACTICES AND RECOMMENDATIONS developed by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) together with the Geneva Centre for Security Sector Governance (DCAF) to safeguard and strengthen the rights of people working in the armed forces. For more information, see: osce.org/odihr/ArmedForcesRights

Civil and political rights

Equal opportunities and non-discrimination

Rights related to military life (e.g., working and living conditions)

Procedural rights (e.g., military justice and oversight mechanisms)

Ombuds Institutions for the Armed Forces

Ombuds institutions provide independent oversight of the armed forces by handling complaints, conducting investigations, issuing reports and developing recommendations. Their fundamental purpose is to protect the rights and well-being of armed forces personnel and in this way improve the effectiveness of the military.

Example: The inspector general in the Netherlands is usually a high-ranking officer who is nearing retirement. This ensures that the individual commands a high degree of authority, while also being less concerned with career prospects and, therefore, better positioned to criticize the military hierarchy.

Types of ombuds institutions: advantages and disadvantages

General ombuds institutions handle human rights complaints related to all public institutions, and not just the armed forces. This broad mandate can mean greater political influence and public prominence, while ensuring that armed forces personnel are accorded the same rights as civilians. A lack of military specialization can be offset by appointing a deputy with a specific remit.

Inspectors general are integrated within the chain of command, but remain independent of it. They are sometimes serving members of the armed forces. This gives them specialist

knowledge and makes them more accessible to service personnel. However, this also means that they may be less able to address controversial issues or pursue investigations that run counter to military interests.

Military ombuds institutions are dedicated to overseeing the military. Consequently, they can devote their attention exclusively to the armed forces and develop specialized knowledge. At the same time, they can be expensive and impractical for states with smaller armed forces.

Role of ombuds institutions

Complaints: Ombuds institutions generally handle complaints related to human rights issues and poor administration (for example, complaints concerning service personnel's pay and benefits). Potential complainants could be members of the armed forces, their family members, veterans and civilians. Receiving complaints is a sign that an ombuds institution is functioning properly.

Investigations: The ability of ombuds institutions to independently launch investigations is crucial to their operational independence. There are two main types of investigations:

» **Own-motion investigations** – when an investigation is launched without a formal complaint, but is instead triggered by media or other reports, by the friends or family of an affected person, or by requests from

members of the legislature or other government agencies. These investigations examine issues, such as bullying or harassment, where the victims may be reluctant to complain themselves. These may also indicate systemic problems or thematic issues.

- » **Systemic investigations** – these investigations can be started either on the basis of individual complaints or on the institution's own initiative. They explore widespread problems, such as misleading regulations, and aim to establish broader patterns of abuse or wrongdoing affecting more than one individual.

Inspections: Field visits and inspections enable ombuds institutions to hear first-hand from service personnel about conditions within the military. It is especially important to conduct inspections of missions, as those deployed abroad are usually less inclined to file a complaint for fear of disturbing operational effectiveness. Reaching out directly to service personnel can have a positive effect on

Example: Finland's Parliamentary Ombudsman conducts on-site inspections of Finnish defence force units and peacekeeping contingents in order to monitor the treatment of personnel.

morale, while also strengthening confidence in the ombuds institution.

Reporting and recommendations: Reporting is the primary activity of most ombuds institutions. Their reports present detailed information and statistics, followed by recommendations. By publicizing their findings, ombuds institutions can increase public pressure on policymakers to implement their recommendations. Reports can also raise awareness among service personnel of their rights and the role of ombuds institutions in protecting them.

Key elements of an effective ombuds institution

For ombuds institutions to operate effectively, it is essential that they remain impartial and independent of any political influence, including from the armed forces' chain of command. Without institutional, operational and personal independence, conflicts of interest and a lack of confidence will undermine the credibility of their work.

Ombuds institutions must also have access to information, including classified information, to ensure they are able to carry out investigations and assess armed forces' compliance with law. In particular, they should be granted the right to demand information, so that they can not only request information but can also take measures to ensure the authorities' compliance with the request (such as via a court order). Staff responsible for conducting investigations should be given appropriate security clearances to handle sensitive or classified information.

Example: The United Kingdom's Service Complaints Ombudsman regularly conducts an Armed Forces Continuous Attitude Survey to gauge perceptions of its efficiency and effectiveness. Survey results have enabled the ombuds institution to identify pitfalls, such as anxiety that a complaint could disadvantage their career.

The trust of the public and particularly women and men working in the armed forces is fundamental to the functioning of ombuds institutions' complaints mechanisms. To ensure that potential complainants come forward, it is a good practice to regularly monitor the complaints process and assess perceptions of the institution among service personnel.

Good Practices include:

- » Ombuds institutions remaining institutionally, operationally and personally independent from the armed forces;
- » Considering complaints a sign of a functioning, rather than a malfunctioning, system;
- » Allowing former armed forces personnel, the family of armed forces personnel, civilians and associations to file complaints if they have been concretely harmed by the armed forces;
- » Enabling ombuds institutions to conduct own-motion and systemic investigations;
- » Ensuring ombuds institutions have access to all information necessary to carry out investigations, including the ability to visit the premises of any military installation at any time, without prior notice, and with limitations on their access clearly and narrowly defined by law; and
- » Authorizing ombuds institutions to issue periodic and ad hoc reports, as well as recommendations to resolve complaints and prevent their recurrence.

