

# Human Rights of Armed Forces Personnel:

COMPENDIUM OF STANDARDS, GOOD PRACTICES AND RECOMMENDATIONS

This is one of many rights covered in 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](https://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)

## Military Unions and Associations

Military unions and associations provide assistance to service personnel in a variety of areas, including raising awareness of their rights, promoting their welfare, representing their interests and consulting or negotiating on the conditions of their service. Freedom of association, which is defined as the freedom to join professional bodies and trade unions, is a fundamental right. However, it does not apply without limitations to men and women in the armed forces throughout the OSCE region.

There are two main arguments for restricting service personnel's freedom of association:

- » Discipline – when service personnel take collective action or jointly demand

change, this is seen as disrupting the chain of command and, with it, operational effectiveness; and

- » Outside influence – military unions may provide a rival source of authority, with service personnel subordinate not only to their commander but also to union officials.

Many states address these legitimate concerns while simultaneously upholding the right to freedom of association. Associations that focus on the social and professional aspects of military life – as opposed to operational and strategic issues – have been found to have no discernible impact on operational effectiveness in Austria, Belgium, Denmark, Finland, Germany, Ireland, the Netherlands and Sweden.

## Approaches to military unions and associations

There are three broad approaches to this issue in OSCE participating States:

- » Total prohibition on membership of service personnel in military unions and associations;
- » State provision of legal mechanisms for the collective representation of service personnel; and
- » No restriction on membership in associations that function independently of the state.

## State-provided legal mechanisms for collective representation

In states where service personnel are not permitted to join independent military associations, legal mechanisms for representing their collective interests may be provided by the state.

Example: France's Higher Military Council (Conseil Supérieur de la Fonction Militaire) provides indirect representation for service personnel by advising on the conditions of service and providing input on related legislation. This Council is elected by and from among the members of seven councils representing the army, the air force, the navy, the military constabulary, the medical corps, the procurement agency and the energy agency.

## Independent military associations

Military associations that are independent of the state are accountable to their members and able to speak with authority on their behalf. They may be recognized by the ministry of defence for negotiating purposes. Rates of membership in such associations tend to be very high.

Example: The Bulgarian Armed Forces' Women Association represents the interests of female service personnel, thereby helping to ensure that their specific needs are met.

## Trade union federations

In several states, military trade unions may be part of a federation of trade unions. Despite concerns over potential external influence, the experience of federation membership has generally been positive: strike action in the Netherlands for example, has never been taken.

### Types of associations armed forces personnel are permitted to join in OSCE participating States

General trade unions	Austria, Finland, Germany, Malta, Norway, Slovenia, Sweden
Sector-specific trade unions	Austria, Finland, Norway, Slovenia, Sweden, Switzerland
Military associations	Albania, Austria, Cyprus, Czech Republic, Denmark, Estonia, Finland, Greece, Ireland, Montenegro, Norway, Poland, Slovenia, Sweden, Switzerland, United Kingdom
Other examples	Romania – Professional, technical and cultural associations Latvia – Councils of elected non-commissioned officers Italy – Representative bodies within the military

## Restrictions on military unions or associations

In states that permit membership in military unions and associations, the following limitations usually apply:

- » The union or association must be comprised exclusively of armed forces personnel and cannot be linked to other trade unions (to counter the concern of outside influence); and
- » Strikes or other forms of collective action that could disrupt operations or threaten security are forbidden.

Some states seek to balance restrictions on association by providing service personnel with opportunities to make individual complaints, such as via a military ombuds institution. Such mechanisms also exist in states where membership in military associations is permitted, including in Germany and the United Kingdom.

### Good practices include:

- » Permitting all members of the armed forces to join either a professional association or a trade union representing their interests;
- » Giving special attention to representing the interests of women serving in the armed forces;
- » Allowing military associations to join national and international umbrella organizations;
- » Engaging in dialogue with military associations on issues concerning the conditions of service;
- » Guaranteeing that members of the armed forces are not subjected to disciplinary action, victimization or discrimination for participating in the activities of professional associations or trade unions; and
- » Ensuring that any restrictions on collective action are prescribed by law, proportionate to legitimate state interests recognized in human rights treaties, and non-discriminatory.

