



EUROMIL Contribution to the UPR 38th session, Belgium April-May 2021

About EUROMIL

Founded in 1972, the European Organisation of Military Associations and Trade Unions (EUROMIL) is an umbrella organisation composed of 32 military associations and trade unions from 21 countries. It is the main Europe-wide forum for cooperation among professional military associations on issues of common concern. EUROMIL strives to secure and advance the human rights, fundamental freedoms and socio-professional interests of military personnel of all ranks in Europe and promotes the concept of “Citizen in Uniform”. As such, a soldier is entitled to the same rights and obligations as any other citizen. The organisation is an ECOSOC-accredited NGO.

Human rights of members of the armed forces in Belgium

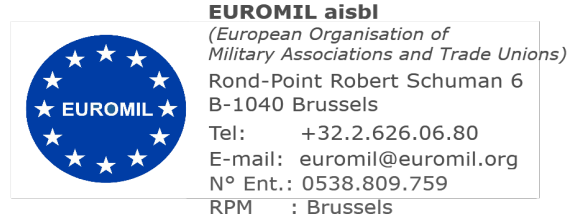
While reviewing the fulfillment of the human rights obligations and commitments of Belgium, EUROMIL would like to draw the attention of the UPR Working Group on the following issues affecting the service members of the Belgian armed forces:

1. The right to freedom of association and trade union rights

The right to freedom of association is recognized in international standards and legislation. The right to strike is an intrinsic part of the right to freedom of association and is particularly protected at international level in the article 8 of the International Covenant on Economic, Social and Cultural Rights ([ICESCR](#)) and in the work of the International Labour Organization (ILO). At European level, it is recognized in the European Convention on Human Rights and more specifically in the European Social Charter as well as in the European Union Charter of Fundamental Rights.

Currently, service members of the Belgian armed forces are legally prohibited to strike, both within the framework of a trade union as on the individual level (article 175 of [the law of 28 February 2007](#) relative to the statute of the military personnel). This ban constitutes a violation of the fundamental rights of every citizen. Moreover, trade unions with the Belgian Defence do not have any other leverage to ‘weigh in’ on the decision-making process in order to advance the rights of the service members. Needless to say, the right to bargain collectively is recognized to military personnel and military trade unions in Belgium but it is not always taken seriously by the competent political authority.

In 2018 and 2019, the European Committee of Social Rights (ECSR) took clear positions in its decisions on the cases of [EUROMIL v. Ireland \(112/2014\)](#) and Italian General Confederation of Labour - [CGIL v. Italy \(140/2016\)](#) on granting the right to bargain



collectively and the right to strike to military personnel.

In line with its position paper on the “[Right to Strike in the Armed Forces](#)”, EUROMIL therefore calls on Belgium to entitle armed forces personnel to enjoy full trade union rights. It recommends the state to use the momentum generated by the recent case-law to open discussions with military trade unions on removing, both in legislation and in practice, restrictions on the right to strike for service members of the Belgian armed forces, while at the same time recognizing that this right might be limited or restricted in certain operational circumstances or conditions of readiness.

2. The right to an effective remedy and Ombuds Institutions

International human rights commitments, particularly in the article 2 of the International Covenant on Civil and Political Rights (ICCPR), recognize the right to an effective remedy and the establishment of accountability mechanisms for human rights violations. At European level, the right to an effective remedy is foreseen in the European Convention on Human Rights and in the European Union Charter of Fundamental Rights.

For what concerns members of the armed forces more specifically, the Council of Europe [Recommendation CM/Rec\(2010\)4](#) of the Committee of Ministers to member states on human rights of members of the armed forces stipulates that “Members of the armed forces should have the possibility of lodging a complaint with an independent body in respect of their human rights”.

The supervision of the functioning practices of the Belgian armed forces is currently carried out by an internal inspection department. This body is part of the military hierarchy and does not work in an independent way. With as a result that abuses, malpractices, and misconduct are insufficiently or not dealt with, or are covered up. Being entitled to lodge complaints to the Federal Ombudsman, members of the armed forces do have another channel to raise their grievances with an independent body. However, the Federal Ombudsman has an agreement of collaboration on military cases with the internal complaint service of the armed forces which makes it futile for service members to use this channel.

EUROMIL believes that military personnel should have the possibility to seek judicial or non-judicial remedies, for instance by bringing a complaint before an independent non-judicial body, such as an ombudsman. Establishing independent complaints mechanism outside the military chain of command is the most effective way to deal with complaints and contributes to transparency and accountability in the armed forces. It also helps in addressing systemic problems. The organization thus recommends Belgium to establish an independent armed forces ombudsperson outside of the military chain of command as it exists in other countries. It also calls on the state to start discussions with military trade unions on the possible establishment of a ‘Standing Committee of Supervision of the Armed Forces’ as an external supervisory body of the Defence department. This committee could act, under the supervision of the Federal Parliament, as an external body, both with regard to the executive (minister, government) and with regard to the armed forces (chief of defence, defence staff, internal inspection, ...). It could be in charge of supervising the overall functioning of the armed forces and the exercise of the armed military ‘function’.



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