



European Organisation of Military Associations

**“The Situation of Military Personnel in Cyprus,
Greece, Italy, Portugal and Spain”**

15 October 2015

Brussels



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Introduction of EUROMIL

Fundamental Rights for Military Personnel

Added value of military unions/associations

Situation on the RoA in Europe



Factsheet: EUROMIL

- Founded: 1972
- 40 associations from 25 countries
- Representing: Approx. 500.000 soldiers and their families
- Representation / Accreditation:
 - EP, EC, OSCE, ODIHR, DCAF, EMI, FoE, NATO PA, Kangaroo Group,
 - NGO with participatory status at the Council of Europe
 - Special consultative status at ECOSOC (UN)



Mission

Representing human rights,
fundamental freedoms
and professional interests of
military personnel in Europe



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The Right of Association

- “everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and join trade unions for the protection of his interests” (*European Convention on Human Rights, Art. 11*)
- “with a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom” (*European Social Charter, Art. 5*)
- “everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests” (*Charter of Fundamental Rights of the European Union, Art. 12*)



Fundamental Rights for Military Personnel in the European Union



- Resolution of the European Parliament 1984 demanding the recognition of the right of association of members of the armed forces
- 1995 Annual report on 'Observance on Human Rights in the European Community'
- "Report on the Situation of Fundamental Rights in the EU 2004-2007"
 88. *Armed forces*: Points out **that fundamental rights do not stop at barrack gates and that they also fully apply to citizens in uniform**, and recommends that the Member States ensure that fundamental rights are also observed in the armed forces.



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Fundamental Rights for Military Personnel in the scope of the Council of Europe



Parliamentary Assembly of the Council of Europe
(April, 2006):

“Members of the armed forces cannot be expected to respect humanitarian law and human rights in their operations unless respect for human rights is guaranteed within the army ranks”.



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Fundamental Rights for Military Personnel in the scope of the Council of Europe

- Resolution 903 (1988)
- Parliamentary Assembly Recommendation 1572(2002) of the Council of Europe
- PACE Recommendation 1742(2006)
- **Recommendation CM/Rec (2010)4 of the Committee of Ministers to member states on human rights of members of the armed forces** (*Adopted by the Committee of Ministers on 24 February 2010 at the 1077th meeting of the Ministers' Deputies*)



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Fundamental Rights for Military Personnel in the scope of the OSCE



“Each participating State will ensure that military, paramilitary and security forces personnel will be able to enjoy and exercise their human rights and fundamental freedoms...”

(OSCE CoC on Pol-Mil Aspects of Security, para 32)

<http://www.osce.org/fsc/41355>



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Restrictions on fundamental rights but...

- “No restrictions shall be placed on the exercise of these rights other than such as prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.” (*European Convention on Human Rights, Art. 11*)



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Decisions of the European Court of Justice and the European Court of Human Rights

2 Oct 2014 in cases Matelly and Adefdromil c. France:

- RoA can be subject to legitimate restrictions
- but no blanket ban on forming or joining a trade union



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The changing role of the soldier

- conventional warfare vs. operations other than war
- “warrior” vs. “mediator”

Not reasonable or effective to send soldiers abroad to defend principles, which they are not able to exercise or enjoy themselves!



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The Right of Association

- successful partnership arrangements: Austria, Belgium, Denmark, Finland, Germany, Hungary, Ireland, the Netherlands, Norway, Switzerland, Sweden.
- countries, in which the right of association of active service personnel is still denied or not implemented: Belarus, Bosnia and Herzegovina, Italy, Latvia, Slovakia, the United Kingdom, Lithuania.



Considerations



Military discipline
Loyalty to the armed forces
Outside influence
Respect for hierarchy



Represent members' interests
Promote their welfare
Consult and negotiate on their behalf



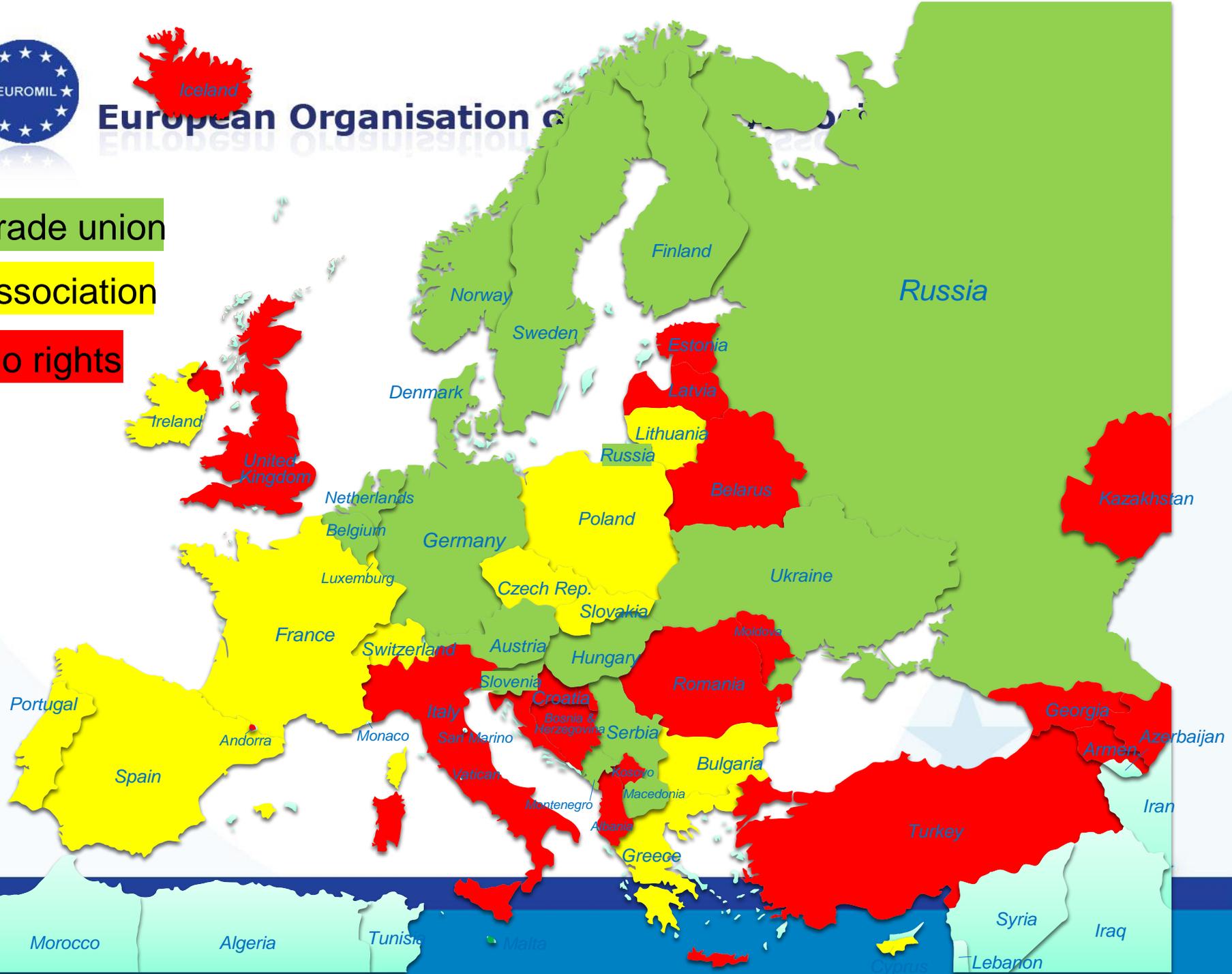


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Trade union

Association

No rights





SUMMARY

- Fundamental rights for military personnel is an issue in Europe
- The right of association for military personnel does not undermine military authority or disrupt the chain of command
- No loss of military efficiency or discipline in countries which have granted full association rights for their soldiers



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Needed?

Wanted?

Acceptable?

