

DEFENDING AND STRENGTHENING TRADE UNION RIGHTS IN PUBLIC SERVICES

RESEARCH TEAM

- First step: creation of a team (collaboration between UGent, University of Amsterdam and University Carlos III Madrid)
- Experienced researchers with regard EU-projects and comparative research
- Background of legal analysis in the different countries aiming to get a certain conceptualization

RESEARCH NATIONAL LEVEL

- Focus shall be on the limitations with regard to officials (working term including military staff, police staff and civil servants) in different European countries:

Austria, Belgium, Germany, Ireland, Luxembourg and The Netherlands

Division of tasks between the researcher has been made although the aim obviously is to provide information as one research group. The UGhent has dealt with these group of countries.

RIGHT TO JOIN AND FORM A TRADE UNION

The right of association is enshrined in the Constitution of each of the researched countries.

- But: in some countries the constitution allows limitations and conditions in the light of public interest provided by law

RIGHT TO JOIN AND FORM A TRADE UNION

A. Civil servants

- The freedom of association is guaranteed to civil servants: Austria, Belgium, Luxembourg, The Netherlands

	Right to form a trade union - Civil servants	Right to join a trade union - Positive right
Austria	Yes	Yes
Belgium	Yes	Yes
Germany	Yes	Yes
Ireland	Yes	Yes
Luxembourg	Yes	Yes
The Netherlands	Yes	

RIGHT TO JOIN AND FORM A TRADE UNION

B. Police officers

	Right to form a trade union - Police officers	Right to join a trade union - Police officers
		Positive right
Austria	Yes	Yes
Belgium	Yes	Yes
Germany	Yes	Yes
Ireland	No, but	No, but
Luxembourg	Yes	Yes
The Netherlands	Yes	Yes

RIGHT TO JOIN AND FORM A TRADE UNION

C. Armed forces

	Right to form a trade union - Armed forces	Right to join a trade union - Armed forces
		Positive right
Austria	Yes	Yes
Belgium	Yes	Yes
Germany	Yes	Yes
Ireland	No	No
Luxembourg	Yes	Yes
The Netherlands	Yes	Yes

RIGHT TO COLLECTIVE BARGAINING

A. Civil servants

Systems tend to differ: Austria (for the civil servants), Belgium, Germany (for the civil servants), Luxembourg – collective bargaining without collective binding agreements

Collective binding agreements: the Netherlands

Laissez faire-model: Ireland

RIGHT TO COLLECTIVE BARGAINING

B. Police officers

Collective bargaining remains at the same socle as in the public sector in general in Austria, Belgium,

Germany, Luxembourg

Specific situation for the Netherlands: excluded from “normalisation”

Ireland within its specific context

RIGHT TO COLLECTIVE BARGAINING

C. Armed forces

Negotiation and consultation with trade unions in
Belgium, Austria, Germany, Luxembourg

Role of advice for the military staff in The Netherlands

Specific situation for Ireland

RIGHT TO COLLECTIVE ACTION / STRIKE

- Article 6, §4 (R)ESC was not accepted by: Austria, Luxembourg, (the Netherlands: with regard to military personnel in active service and civil servants within Ministry of Defence)
- The right to strike is only enshrined in the Constitution of a few of the researched countries:
 - Explicitly: Luxembourg
 - Not explicitly, but derived from the Constitutional freedom of association (however civil servants): Germany
 - Not guaranteed by the Constitution: Austria, Belgium, Ireland and the Netherlands

THE RIGHT TO COLLECTIVE ACTION / STRIKE

A. Civil servants

	Right to strike - Civil servants	
	General prohibition?	Explicitely allowed?
Austria	No	No
Belgium	No	No, derived from RESC
Germany	Yes	No
Ireland	No	No
Luxembourg	No	Yes
The Netherlands	No	No, derived from RESC

- In 5 of 6 of the researched countries neither the Constitution nor statutory law recognizes **explicitly** the right to strike (Austria, Belgium, Germany, Ireland and the Netherlands)

RIGHT TO COLLECTIVE ACTION / STRIKE

C. Police officers

	Right to strike - Police officers	
	General prohibition?	Explicitly allowed?
Austria	No explicitly	No
Belgium	No	Yes, but conditions!
Germany	Yes	No
Ireland	Yes, but compensation	No
Luxembourg	Yes	No
The Netherlands	No, but casuistic case law	No

RIGHT TO COLLECTIVE ACTION / STRIKE

D. Armed forces

	Right to strike - Armed forces
	General prohibition?
Austria	No, but in practice: duty of loyalty
Belgium	Yes
Germany	Yes
Ireland	Yes
Luxembourg	Yes
The Netherlands	Yes, but other forms of collective action are allowed.

- The right to strike in the armed forces still often prohibited.

Alexander De Becker

Professor

VAKGROEP CRIMINOLOGIE, STRAFRECHT EN
SOCIAAL RECHT

- ONDERZOEKSGROEP SOCIAL LAW

- LAB FOR INTERNATIONAL & INTERDISCIPLINARY SOCIAL
AFFAIRS (LIISA)



Universiteit Gent



@ugent



Ghent University

E alexander.debecker@ugent.be

T +32 9 264 68 44

www.ugent.be