



**EUROMIL aisbl**  
(European Organisation of  
Military Associations and Trade Unions)  
Rue John Waterloo Wilson 78  
B-1000 Brussels  
Tel: +32.2.626.06.80  
E-mail: euromil@euromil.org  
N° Ent.: 0538.809.759

## **Contribution of EUROMIL to the report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity**

### **About EUROMIL**

The European Organisation of Military Associations and Trade Unions (EUROMIL) is an umbrella organisation composed of 33 military associations and trade unions from 22 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, including lesbian, gay, bisexual, transgender and intersex (LGBTI) 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. EUROMIL promotes inclusive armed forces. The organisation is an ECOSOC-accredited NGO.

### **I. LGBTI people inclusion at the workplace, the case of the armed forces**

EUROMIL would like to draw the attention of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity on discriminatory laws and practices preventing the inclusion of LGBTI people in the armed forces in Europe.

The principle of non-discrimination as well as the right to privacy are enshrined in a number of international human rights instruments. In Europe, while some countries have adopted laws and policies to promote equality and non-discrimination based on sexual orientation or gender identity in the military, others are still reluctant to recognize equal rights to LGBTI people and sometimes ban their access to the armed forces.

Experience has shown that countries that adopted inclusive policies and promoted diversity in the armed forces have highly benefitted from this change of culture. Nowadays, LGBTI inclusion is thus not only considered as a matter of human rights, justice and equality, but also as a strategic opportunity to increase operational effectiveness. It is needed to attract and retain a talented workforce, embracing all potential recruits with their various skills and competencies.



**EUROMIL aisbl**  
(European Organisation of  
Military Associations and Trade Unions)  
Rue John Waterloo Wilson 78  
B-1000 Brussels  
Tel: +32.2.626.06.80  
E-mail: euromil@euromil.org  
N° Ent.: 0538.809.759

## **II. Root causes for LGBTI exclusion**

Important steps have been taken worldwide for LGBTI rights, especially on the European continent. However, the reality is that in many countries LGBTI people continue to face discrimination, harassment and violence, including in occupation and employment.

In the armed forces, LGBTI exclusion is often, wrongly, justified by service requirements and operational effectiveness. Having LGBTI people serving in the armed forces would affect the moral of the troops, their unit cohesion and discipline. Many countries, including in Europe where social acceptance of LGBTI people is generally considered as higher than in other regions of the world, ban LGBTI from joining the armed forces or consider LGBTI rights as a non-issue, making it hard for LGBTI people to complain in case of discrimination, harassment, or violence and see their cases properly handled.

In these countries, the root causes for homophobia, transphobia and biphobia and therefore discrimination and violence against LGBTI people, are rooted in cultural, traditional or religious values. Additionally, defence being traditionally perceived as a male domain, the problem is exacerbated in the armed forces. An organizational behavior determined by a male-dominated macho working culture where typical male stereotypes are mostly valued therefore highly impair on LGBTI equality and inclusion.

Legislation and effective policies are not always in place or well-implemented in practice. Although some states do not officially ban access to LGBTI people in the armed forces, numerous people are considered as mentally ill or unfit for service and subsequently discharged of the armed forces or put in reserve.

This negative situation leads people to conceal who they really are when accepted in the armed forces and keep silent when they are faced with discrimination, harassment or violence, making the armed forces believe that such problems do not exist. Failure to report is explained by the fear of having private information revealed in the process.

Moreover, almost no country collects data on discrimination, harassment and abuse against LGBTI military personnel and employee satisfaction at work, but data collection is needed to be properly informed and adopt effective measures to protect and promote LGBTI inclusion.

Another issue of importance is employee benefits, leave and family recognition. When personnel are not granted leave and do not see their partner being recognized as such, they feel lesser motivated.



**EUROMIL aisbl**  
(European Organisation of  
Military Associations and Trade Unions)  
Rue John Waterloo Wilson 78  
B-1000 Brussels  
Tel: +32.2.626.06.80  
E-mail: euromil@euromil.org  
N° Ent.: 0538.809.759

Faced to these recruitment and retention issues, soldiers would fail to integrate and progress in the organisation, they will feel dissatisfied with their job and ultimately leave the armed forces. Other potential recruits would not apply to the armed forces, leaving a whole group of individuals excluded from an important sector of employment.

### **III. States efforts and best practices**

LGBTI integration in the armed forces is first and foremost a human rights, justice and equality issue. States started understanding their responsibility to protect and promote LGBTI rights in the armed forces in the 1970s. In 1974, the Netherlands was the first country to allow lesbians and gays to openly serve in the armed forces. Amending their legislation, other European countries followed the path, especially after the European Court of Human Rights, in 1999, ruled in the cases *Lustig-Prean and Beckett v. the United Kingdom* and *Smith and Grady v. the United Kingdom* that dismissing personnel of the armed forces on the basis of their sexual orientation was amounting to discrimination and violating their right to privacy.

In Europe, anti-discrimination legislations protecting people on the basis of their sexual orientation or gender identity have not been adopted everywhere yet. Policies and positive provisions protecting and promoting the rights of LGBTI in the armed forces is thus even more scarce. They exist in Belgium, Bosnia and Herzegovina, Denmark, Finland, Ireland, Malta, the Netherlands, Norway, Slovenia, Sweden, and in the United Kingdom.

Preventing and sanctioning discrimination and violence based on sexual orientation and gender identity in the armed forces is a first step towards LGBTI equality and inclusion in the armed forces. As an example of best practices, the French Ministry of Defence created in 2014 a body called THEMIS, independent from the chain of command, to which victims or witnesses can report about aggressions, discriminations or sexual harassment, based on sex, sexual orientation or gender identity and which contributes to preventing violence and discrimination. Three years later, the country adopted a national action plan against LGBT hatred and discrimination that should be reviewed before the summer this year, including concrete measures for the public sector.<sup>1</sup>

Unfortunately, only few countries collect data on discrimination and violence in the armed forces as well as on employee satisfaction. However, countries where data is registered, tend to have effective diversity and inclusion policies in their armed forces. For instance, the United Kingdom issues continuous attitude surveys in its

---

<sup>1</sup> [Plan de mobilisation contre la haine et les discriminations anti-lgbtf](#)



**EUROMIL aisbl**  
(European Organisation of  
Military Associations and Trade Unions)  
Rue John Waterloo Wilson 78  
B-1000 Brussels  
Tel: +32.2.626.06.80  
E-mail: euromil@euromil.org  
N° Ent.: 0538.809.759

armed forces<sup>2</sup> and Ireland conducted a 'climate' survey of Irish military personnel that was released in 2017<sup>3</sup>.

In recent years, some countries have started viewing LGBTI rights as a matter of human rights, justice and equality as well as of operational effectiveness. The armed forces should be reflective of the society they serve and open to all potential talent in society. Moreover, personnel who feel satisfied with their job and accepted in their working environment, would better contribute to the organization and therefore enhance operational effectiveness.

Nowadays, the British armed forces and more particularly the Army consider inclusion as being central to the generation of operational effectiveness and received several prizes for LGBTI integration. *"LGBT+ personnel have the same terms and conditions as everyone else; this includes maternity benefits and pension arrangements for same-sex spouses or civil partners. The Army welcomes transgender personnel and all who apply to join the Army must meet the same mental and physical entry standard as any other candidate. If you have completed transition you will be treated as an individual of your affirmed gender. The Army LGBT Forum exists to ensure that all LGBT+ serving personnel can find advice and support with issues that affect their daily lives."*<sup>4</sup>

A series of best practices have been highlighted in several diversity and inclusion studies, particularly focused on LGBTI people integration, adopted in the states listed above.<sup>5</sup> In 2014, The Hague Centre for Strategic Studies created the LGBT Military Index, ranking countries by their inclusion of LGBT personnel in the armed forces.<sup>6</sup>

The first action to change mindsets concern education at large. This includes internal and external education, training and awareness-raising activities. Promoting LGBTI equality is necessary to ensure that military personnel respect the fundamental rights and freedoms of those with whom they have to interact, including those of their colleagues. Human rights education, including LGBTI rights should be provided to the general public through various forms of activities as well as in the armed forces, in military schools and academies as well as in the barracks. Awareness-raising and public communication campaigns to change mindsets in the institutional culture are essential. Specific actions could also be done to attract new potential recruits, for example, anonymous recruitment procedures.

---

<sup>2</sup> [UK Regular Armed Forces Continuous Attitude Survey Results 2018](#)

<sup>3</sup> [Workplace Climate in the Defence Forces Phase 2: Results of the Focus Group Research](#)

<sup>4</sup> [British Army, online application information, May 2019](#)

<sup>5</sup> Example of reading: [LGBT Military Personnel, A strategic Vision for Inclusion, Polchar et al., HCSS, 2014](#)

<sup>6</sup> [LGBT Military Index](#)



**EUROMIL aisbl**  
(European Organisation of  
Military Associations and Trade Unions)  
Rue John Waterloo Wilson 78  
B-1000 Brussels  
Tel: +32.2.626.06.80  
E-mail: euromil@euromil.org  
N° Ent.: 0538.809.759

Participating in pride and raising the rainbow flags are other concrete examples of measures to adopt.

Political and military leaders need to cooperate and consult with trade unions, representatives of LGBTI military personnel, equality bodies, ombuds institutions and other LGBTI associations to further promote and protect the rights of LGBTI personnel. Diversity and inclusion officers could be appointed in Ministries of Defence, receive specific training on LGBTI needs and informed about the risks of discrimination. Procedures and sanctions against discrimination and violence should be clearly stipulate. The LGBTI community needs champions and role-models inside the organization to foster integration. Senior LGBTI staff should be given visibility. Besides legislation and policies, leadership is key. Leaders should lead by example, consult with personnel, establish best practices, give direction, and monitor progress.

Another main motivation issue is the recognition of same-sex partners and freedom of movement for all families. In this regard, NATO, as international organization, is leading by example by recognizing spouses in same-sex marriages or same-sex partners even in countries where marriage is not possible for staff mobility and employment benefits.

Finally, states should consider the particular needs of transgender and intersex personnel. Gender identity is still a major issue in recruitment. Attention should be paid to the fact that some countries officially recruit armed forces personnel without discrimination but are particularly hostile towards transgender and intersex people, considered as having a mental pathology which would affect operational effectiveness. Sterilization and mental health diagnosis for gender recognition should stop. In addition to discrimination in recruitment and harassment and violence at the workplace, trans and intersex people face issues regarding their treatment and related leave. Not enough provisions for them, especially intersex people, exist in European countries. In Sweden, transgender and intersex personnel are explicitly protected by national legislation in the armed forces.<sup>7</sup>

In its Annual Report 2018, the German Parliamentary Commissioner for the Armed Forces notes that *"A new guide on the treatment of transsexual people pooled the legal, medical and other aspects of transgender in service and operations. (...) The Bundeswehr's philosophy is that no one has to give up their identity at the barracks gates."*<sup>8</sup>

---

<sup>7</sup> Trans and Intersex equality rights in Europe: a comparative analysis, European Network of experts in gender equality and non-discrimination, European Commission, 2018

<sup>8</sup> [German Parliamentary Commissioner for the Armed Forces, Annual report 2018, P.64](#)



**EUROMIL aisbl**  
*(European Organisation of  
Military Associations and Trade Unions)*  
Rue John Waterloo Wilson 78  
B-1000 Brussels  
Tel: +32.2.626.06.80  
E-mail: euromil@euromil.org  
N° Ent.: 0538.809.759

#### **IV. Complaint mechanisms, National Human Rights Institutions, Equality bodies and Ombuds Institutions of the armed forces**

In order to end discrimination and violence against LGBTI people in the military, it is essential that complaint mechanisms exist, complaints registered and efficiently dealt with, victims informed about their possibilities to complain and offenders properly prosecuted and sanctioned. Military personnel should be able to fully exercise their right to an effective remedy in order to speak up and prevent violation of human rights in the armed forces.

National Human Rights Institutions (NHRI), and Ombuds Institutions in particular, play an important role in addressing complaints of maladministration or violation of human rights in the armed forces and guaranteeing effective remedies. They also ensure that the needs of everyone are taken into account and that the armed forces are reflective of the society they serve.

Although Ombuds Institutions have various ways of functioning and mandates, three models exist in the armed forces (Inspector General, Military Ombuds Institution or General Ombuds Institutions).<sup>9</sup> The International Conference of Ombuds Institutions of the Armed Forces (ICOAF) gathers representatives of Ombuds institutions for the armed forces from around the world to establish best practice and lessons learned related to the mandate, powers, and functioning of these institutions.<sup>10</sup> EUROMIL participates as observer in ICOAF.

It is therefore essential that states establish Ombuds Institutions competent for the armed forces. Moreover, integrating sexual orientation and gender identity in the defence sector oversight will contribute to end discrimination and human rights abuses against LGBTI people. This means that Ombuds Institutions should develop the necessary expertise on issues faced by LGBTI personnel.

#### **V. Role of professional military associations, military trade unions, LGBTI military associations and other support groups**

In the armed forces, professional military associations, military trade unions, LGBTI military associations and other support groups play an important role in the promotion and protection of the rights of LGBTI persons. True equality can only be ensured if LGBTI personnel are represented, their voice heard and considered by political and military leaders. Only a structured dialogue between decisionmakers

---

<sup>9</sup> [Ombuds Institutions for the Armed Forces: A Handbook, Buckland and McDermott, DCAF, 2012](#)

<sup>10</sup> [ICOAF website](#)





**EUROMIL aisbl**  
(European Organisation of  
Military Associations and Trade Unions)  
Rue John Waterloo Wilson 78  
B-1000 Brussels  
Tel: +32.2.626.06.80  
E-mail: euromil@euromil.org  
N° Ent.: 0538.809.759

and representatives of military personnel allows the formulation of policies which will benefit the personnel and the armed forces as a whole.

These associations exchange experience and best practices regarding LGBTI military personnel with similar associations at national and international levels on developments regarding legislation, research and policies, helping fighting discrimination at work. In addition to monitoring such developments, they liaise, inform and advise military and political leaders on issues of concern and best practices for inclusive armed forces. They organise various awareness-raising activities to promote human rights and social acceptance of LGBTI personnel in the armed forces and provide advices as well as moral or legal support to LGBTI military personnel where needed. It is therefore essential that states grant military personnel the rights to freedom of assembly and association and ensure an enabling environment for civil society organisations to operate.

The “Foundation for Homosexuality in the Armed Forces” (SHK) in the Netherlands is an example of an LGBTI military organisation, effectively working hand-in-hand with the armed forces as an employer. Established by a number of officers in 1987, the foundation was the first in the world to advocate for equal rights for LGBTI people in the armed forces.<sup>11</sup>

Specific LGBTI military associations exist for instance in Belgium, Germany, Italy, Ireland, the Netherlands, Switzerland and the United Kingdom. Contrary to the police sector, the defence sector has no European umbrella organization dedicated to LGBTI rights. EUROMIL, as a unique European platform protecting and promoting the rights and interests of military personnel, fills that void by raising the voice of all soldiers at international level.

## **VI. Recommendations**

EUROMIL would therefore like to call on UN Member States to lift the ban on LGBTI people serving in the armed forces and to those that already did it, adopt non-discrimination, equality and inclusion policies in their security sector.

a) EUROMIL supports, in particular, the recommendations set by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) in its Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel (2008), namely:

---

<sup>11</sup> [SHK website](#)



**EUROMIL aisbl**  
(European Organisation of  
Military Associations and Trade Unions)  
Rue John Waterloo Wilson 78  
B-1000 Brussels  
Tel: +32.2.626.06.80  
E-mail: euromil@euromil.org  
N° Ent.: 0538.809.759

- *A state's approach to the participation of gays and lesbians in the armed forces should be in line with its international human rights obligations, in particular those on anti-discrimination and the right to privacy;*
- *Anti-discrimination and equal-opportunities legislation should be (made) applicable to the military;*
- *Standards of social conduct should be adopted within the armed forces that aim at safeguarding operational effectiveness while reducing discrimination and abuse in the military;*
- *Standards of social conduct should regulate behaviour of all armed forces personnel regardless of their sexual orientation;*
- *The minister of defence should undertake special measures so as to ensure that no gap exists between de jure and de facto policy. Such measures include an information policy, education and awareness training, and complaints and sanctions procedures for harassment and discrimination.<sup>12</sup>*

b) At European level, EUROMIL also recalls Recommendation CM/Rec(2010)4 of the Committee of Ministers of the Council of Europe to member states on human rights of members of the armed forces, which sets important standards as regards the rights of members of the armed forces to privacy (article G), to marry (article m), to dignity and security at work (article Q) and non-discrimination (article S).<sup>13</sup>

Among others, the recommendation highlights the following:

*"Private life" includes the physical and psychological integrity of a person, aspects of an individual's physical and social identity, gender identification, name, sexual orientation and sexual life.*

*Other characteristics make certain recruits more likely to suffer from abuse on grounds such as gender, sexual orientation, ethnic origin or religion, thus requiring special attention. This regrettable situation calls for robust action by the state authorities to morally condemn any such treatment and to bring to justice and punish those responsible.*

*All members of the armed forces should enjoy the rights and freedoms as they appear in the [European] Convention [on Human Rights] and in the [European Social] Charter without discrimination on any ground such as sex, (...) sexual orientation or other status. This principle is taken directly from Article 14 of the Convention and Article E of the revised Charter which*

---

<sup>12</sup> [Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel, ODIHR and DCAF, 2008, p.141](#)

<sup>13</sup> [CM/Rec\(2010\)4 on human rights of members of the armed forces, Council of Europe, 2010](#)





**EUROMIL aisbl**

*(European Organisation of  
Military Associations and Trade Unions)*

Rue John Waterloo Wilson 78  
B-1000 Brussels

Tel: +32.2.626.06.80

E-mail: [euromil@euromil.org](mailto:euromil@euromil.org)

N° Ent.: 0538.809.759

*prohibit any discrimination in the enjoyment of any of the rights encompassed in the Convention and the Charter. (...) [Sexual orientation] is also among the grounds cited under the anti-discrimination clause of the EU Charter of Fundamental Rights (Article 21).*

*As regards gender-based discrimination, Article 20 of the revised [European Social] Charter secures the right to equal opportunities and equal treatment in matters of employment and occupation. This also applies to members of the armed forces. (...) Sexual orientation should not prevent access to the profession, nor can it be a valid reason for discharge. According to the case-law of the [European] Court [of Human Rights] access to the armed forces cannot be barred on this ground. Furthermore, in countries where same-sex partnerships or marriages are recognised by law, members of the armed forces belonging to such partnerships should be treated equally with other servicepersons as regards benefits for them and their partners.*

There is still a long way to achieve equality for all. LGBTI inclusion first needs a change of mindset which requires education, communication, consultation, trust, respect and understanding.

For further information, please contact the EUROMIL Office by email: [euromil@euromil.org](mailto:euromil@euromil.org) or phone: +32.2.626.06.80