



## Security has a social dimension

### Ground-breaking summer



When this edition of the EUROMIL NEWS appears in your mailbox or lies as a printed version on your desk, most of us have already started to think about the coming summer vacation. Often the last weeks before the summer break are used to tie-up loose ends or to prepare new initiatives that will be discussed in September since there is no time to rest on past achievements.

2009 is slightly different though: This year, summer will bring changes that influence our future.

First, there is the decision by the Head of States and governments at the NATO Strasbourg-Kehl Summit to appoint the Danish Prime Minister Anders Fogh Rasmussen as the next Secretary General. He will take up this position on 1 August, succeeding Jaap de Hoop Scheffer of the Netherlands. Afghanistan will be the top priority among the many challenges of NATO. Hopefully, political and military leaders will eventually invest more resources into the "comprehensive approach", combining military and civilian measures in a more coherent way. Additionally, Mr. Fogh Rasmussen will be challenged

by some EU member states, who wish to see a true and efficiently working relationship established between the EU and NATO in the military field; and the NATO-Russia partnership.

Secondly, we will have a newly elected European Parliament after the Europe-wide elections on 4- 7 June. We all know that with the results will come a time of uncertainty, generating several unanswered questions: Which will be the biggest political faction in the European Parliament? With which political groupings will the national candidates align themselves? Who will lead the political groupings, and more importantly, who will preside over the new Parliament? And who will chair the respective committees? Which brings me to an essential question: Will there be a Defense Committee? During the 2004-2009 term, the Security and Defense Committee was a 'subcommittee' (SEDE) of the Foreign Affairs Committee (AFET). We have noticed with great satisfaction that the last European Parliament was very engaged in raising the awareness and the profile of security and defense matters. The European Parliament

has already demonstrated with the SAFE project - initiated by the former President of the European Parliament and supported by the former Chairman of SEDE - that it cares for the social interests and working conditions of soldiers.

A credible European Security and Defence Policy is not possible without significant military capabilities and these, in turn, depend on motivated, well-equipped and provided-for soldiers. An investment in the well-being of soldiers, is thus not only of interest to service personnel but is also to the wider benefit and security of all European citizens. We therefore hope that the European Parliament will also during the coming five years listen constructively to the concerns of the European citizen in uniform.

**Emmanuel Jacob**

President

## EDITORIAL

### INTERNATIONAL OPERATIONS

A Swedish military trade unionist on mission in Afghanistan

*By Mikael Boox* 3

### SOCIAL AFFAIRS

Poland cares for its wounded veterans

*By Anatol Tichoniuk* 6

Portugal: Health and safety at work also for military personnel

*By Carlos Pires* 8

### THE CHAIRMAN'S COLUMN

Strength through rights

*By Flemming Vinther* 10

### REVIEW: 99<sup>th</sup> EUROMIL PRESIDUM IN BERLIN

Common rules of engagement in common military missions 13

How can International Human Rights be used to advance the right of association for soldiers? 16

### FUNDAMENTAL RIGHTS OF SOLDIERS IN THE MEDITERRANEAN BASIN

Two steps ahead, one step back: Italy anno 2009

*By Emmanuel Jacob* 19

¡Derechos-Rights! 21

The pending homework of the armed forces in Spain

*By Mariano Casado Sierra* 22

Portugal: ANS celebrates 20 years  
*By Paulo Contreiras* 23

First steps in Albania?  
*By Bernhard Gertz* 26

### INTERNAL

British Armed Forces Federation: raising awareness

*By Douglas Young* 27

Council of Europe, Strasbourg: Fundamental rights of soldiers under fire 28

New Association for Officers of the Cyprus Army: CAO

*By Kypros Kyprianou* 30

Greece: Introducing SYSMED  
*By Dimitrios Karimiris* 31

## A Swedish military trade unionist on mission in Afghanistan

**There is no contradiction between the work as a member of a military trade union and the work as a military officer on active duty**

By Mikael Boox

One of the most important elements of the international exit strategy in Afghanistan is the Operational Mentor and Liaison Teams (OMLT). The mission of the OMLT is to coach, teach and mentor the Afghan National Army (ANA) to support the development of a self-sufficient, competent and professional force. The OMLT also provides the conduit for liaison and command and control, and when required, support the operational planning and employment of the ANA units to which they are assigned.

I was privileged to serve with the OMLT at the headquarters of the 209<sup>th</sup> Shaheen Corps in Mazar-e-Sharif. Since 2005, I have been an ombudsman at the Swedish Association of Military Officers (SAMO). As such, I have been representing our OF 4 to OF 9 (Lieutenant Colonel to General) members, as well as collaborating closely with the Swedish Armed Forces in respect to future activities and strategies, in particular in relation to the area of personnel. So how would a Swedish ombudsman end up in Afghanistan as an advisor to the ANA?

From my perspective, part of the legitimacy as an ombudsman stems from being an officer, either serving or retired. A military background thus enables one to appreciate the conditions of our members and the activities of the Swedish Armed Forces in general. Personally my military career started in 1979 and culminated in 2005, when I applied for a position with SAMO as an ombudsman. My primary focus as an officer was the operational perspective. In 1989, I became interested in international operations and subsequently deployed to Lebanon in 1990 and to Bosnia in 1994. Since then, my primary

From November 2008 to May 2009,

Photo: Boox

### BLUE BOOK

Name: Mikael Boox.  
Rank: Lieutenant Colonel  
Town: Sollentuna  
Function: Mentor to ANA  
Military career:

Starting in 1979 with compulsory military service for 10 months after which he was employed as a NCO candidate. Worked as an NCO until Sweden abandoned the NCO system in 1983. He entered the officer academy and graduated in 1984. Since he has worked various levels in the army ranging from platoon to brigade. Attended the advanced command and staff course 1996-98 after which he worked at the Armed Forces Headquarters and the National Defence College until he became an ombudsman for SAMO in 2005

Family: Married, 8 year old son  
Missions: Lebanon (1990), Bosnia (1994), Afghanistan (2009)  
Future: Working as an ombudsman for SAMO



involvement with international missions was as a planner in the Armed Forces headquarters and as a teacher at the National Defence College.

My reasons for going to Afghanistan were fourfold; two of which have already been mentioned: First and foremost, my sincere interest in the field of operations and international missions. Secondly, the legitimacy as an ombudsman. Thirdly, the fact that SAMO supports ombudsmen, who wish to return to the armed forces for a tour of duty. In this context, the successful and positive deployment in Kosovo of one of my colleagues was a source of inspiration. And finally, the decision was founded on the support of my family, without which the deployment would never have happened.

### Pre-mission phase

In August 2008, I left SAMO to attend the pre-mission training. For me, having been away from the armed forces for a number of years, the training seemed exceptionally

Photo: Boox



Beautiful Afghanistan

important, and so as to better prepare, I started an extensive work-out programme more than six months in advance of the actual training course. This turned out to

be a wise decision, as I found myself carrying new and significantly more equipment, than ever before in my military career. The actual pre-mission training was conducted in a very professional manner, and I am very satisfied with the way it was conducted. When deploying in theatre after three months of training I thus felt mentally set, confident in the equipment and the comrades with whom, I would deploy to Afghanistan. Honestly, I do not think, that I have ever been as good a soldier as at that stage. In addition to combat training, we also covered the full spectrum of cultural aspects of the mission area, underlining the embedded approach in OMLT. The NATO Concept of Operations thus states that OMLT should live, eat, and when necessary, fight with their respective ANA unit, in order to develop the mutual

trust and confidence required for the Mentor and Liaison Team to effectively perform its mission.

Our main task, coaching, teaching and mentoring was, however, only partly covered during the pre-mission training. Yet, I honestly doubt, whether this is something that

Photo: Boox



Chief G3 Colonel Zemerai (right) and his deputy LtCol Sheriaty

can be taught, and not something that is tied to actual professional experience, either as an officer or NCO. In hindsight, though, the training should, I feel, have included attendance at the NATO Joint Forces Training Centre in Poland, which organises a course that covers OMLT on corps and brigade level. Several of our international comrades attended that course prior to their deployment. Subsequently, following an exchange of lessons learned, Sweden has decided that our future OMLT will attend this multinational course.

### On mission

In Regional Command North the lead nation is Germany, reflecting the current composition of OMLTs in northern Afghanistan. At the time, seven nations manned some 37 OMLT positions at the 209<sup>th</sup> Corps HQ and its first brigade HQ. Apart from the leadership at corps level.

Germany contributed to eleven of the above mentioned positions as well as adding a heavy support element.

In addition, one should mention the German, Croatian and Norwegian Kandak level OMLTs and the



corresponding embedded training teams/ logistical support teams by the United States, as well as OMLTs from Germany, Belgium and Hungary attached to the 209<sup>th</sup> ANA Corps second brigade, fielded in the spring of 2009,.

My everyday work consisted of mentoring the chief G 3 operations branch, an Afghan Colonel as well as his various staff sections – about 36 individuals all in all. Working together with me in the operations branch was a Croatian NCO and two mentors in the planning section. The work did not only consist of mentoring operational matters and the military decision-making process but also everyday staff actions and staff procedures. The most significant challenge in mentoring was, of course, related to various cultural aspects of military procedures, although being part

the imposition of restrictions is an expression of national political control, and it is questionable whether these can be overridden by any international body. However, I am convinced that national caveats have implications, not only in relation to the accomplishments of the mission itself, but also by putting allied soldiers at risk.

### After mission

Following deployment, soldiers in Sweden are demobilised by passing through a mandatory two days programme. The program consists amongst other things of a medical

### WHAT IS THE ROLE OF AN OMBUDSMAN IN A SWEDISH MILITARY TRADE UNION

An ombudsman represents the members and takes care of their interests as employees towards the employer, mainly from a collective point of view but also from an individual perspective if so is required. For SAMO this includes negotiations with the employer in respect to collective agreements, salaries, benefits and other work related matters where the trade union has an equal status as one of two parties undergoing an agreement. But it also includes negotiations within the collective agreement on collaboration, or concurrence with the employer when it comes to plans, strategies and decisions on various levels in the organisation. When it comes to collaboration or concurrence we are not equal partners with the employer and they will in the end have the final decision.

cannot comment on the official stand of SAMO with regard to the ten EUROMIL recommendations, however, in my personal capacity, I cannot help but note that many of the *pre-mission phase* recommendations also form part of the Swedish pre-mission training programme. Some of the recommendations *during the mission phase* are also implemented by the Swedish Armed Forces, although some are still in need of attention. The greatest challenge, though, is the responsibility for the various aspects of the post-deployment phase, thus while several initiatives are carried out, new challenges constantly arise.

At the moment, I am enjoying a well needed rest and recreational time with my family. I am very content with my overseas contribution, and feel pleased by the fact that all of my former team members returned home without suffering either psychical or mental scars. In closing, I would like to extend my gratitude to SAMO for allowing me the unique opportunity of once again returning to the field. Hopefully, SAMO too will benefit from my experience in Afghanistan. In August 2009, I will return to my normal position as ombudsman.



Mentoring Lt.Col. Sheriaty (Deputy G3) together with his Norwegian colleague Lt.Col. Brunborg

of a multinational force entailed problems of its own, e.g. language and communication. In what respect we were and are successful in our advisory mission shouldn't be judged by us but by the Afghans and their development. Yet, according to the members of national and multinational teams, who served a second tour in the region, the ANA has made significant progress.

Other challenges facing not only the OMLT but the mission as a whole are national caveats. Of course,

check-up and psychological sessions, so as to identify individuals at risk. With a banquet dinner and the issuing of a national campaign medal, the armed forces demonstrate its appreciation to every participating soldier.

In this short article, I have related some of the issues covered by the EUROMIL workshop in October 2007 – “Challenges of European soldiers in the field, the human factor in modern military missions”. Since this is a personal account, I

# Poland cares for its wounded veterans

Poland recently enacted a law that guarantees that any wounded mission veteran can be designated to a new post in service provided he meets the requirements and wishes to stay in the military service. KONWENT used in its successful negotiations best-practice from another European country.

By Anatol Tichoniuk, Chairman of KONWENT

The number of missions abroad, as well as the number of soldiers participating in them is currently rising. Ensuring the health and safety of these soldiers therefore becomes a growing challenge for us. It is commonly known that most of the tasks on the missions that our soldiers have recently been involved in, differ from the typical day-to-day business they do in their home country. Their lives are threatened by a multitude of factors ranging from a direct terrorist attack in operation, through remote controlled improvised explosive devices on the way to or from a base, to a mortar shelling once they are sleeping, let alone to tropical diseases. Consequently,

### Responsibility of society

Furthermore, for the injured or the relatives left behind who might suddenly lose their main source of income the case of proper care and assistance is particularly important as they need to safeguard their further existence. It is self-evident that state governments should be obliged to assume their responsibility for the soldiers, as it were these governments that decided to send them on the mission abroad. This responsibility results from the moral obligations and human beliefs of any civilized society towards those who devoted their life and health to them.



Anatol Tichoniuk, Chairman of KONWENT (Poland), Board member of EUROMIL

this leads to permanent stress that affects the health of soldiers.

### Unanimous parliamentary support

Taking this into account, an adequate act was amended and passed by the Polish Parliament after some months of work. On 14<sup>th</sup> May 2009, the President of Poland signed the amendment of the Act of the Military Service of Professional Soldiers, which from the point of view of the soldiers and their families will introduce very important regulations starting from January 1, 2010. A significant novelty is a new health categorization, abolishing existing legislation which restricted the continued service of disabled veterans in the armed forces.

The new Act has been created with the aim of meeting war veteran's expectations, in particular those with serious injuries, who are for the time being unable to carry out their normal duties. Parliamentary members, sympathetic to the injured soldiers, appreciated their dedication to the Homeland, as well as the experience gained during duty performance, and included new regulations in the Act. The Act was passed unanimously by the members of parliament to allow wounded veterans, in spite of their disabilities to stay in their previous unit or any other one if they so wish. They can perform their duty on posts they



are suitable for in terms of the requirements of these posts. If it is necessary, additional training is offered in order to boost applicants' skills and knowledge.

Moreover, it is worth noticing that temporary regulations will apply for 24 months to all war/mission veterans who were discharged for their disability. They can be reinstated to the Armed Forces in accordance with their skills and experience gained. In my opinion, it is a fair solution as the veterans deserve not merely our esteem and gratitude but first and foremost our real assistance and support.

### **Re-train and re-appoint veterans**

The process of introducing this solution had been initiated by the Polish soldier's representative body KONWENT. During the work to amend the Act in the Parliament's National Defence Commission, we presented a project solution that provide the wounded with the possibility of further service despite their health limitations. It means in practice that any war/mission veteran who has suffered injury can be appointed to a new post he/she qualifies for, provided that he/she wishes to stay in the military service. Consequently, any unit commander will be obliged to appoint the applicant to the post that is suitable for him/her in terms of his/her skills and abilities, or if required, offering him/her additional professional training to improve his/her qualifications. Examples of wounded war/mission veterans from other nations, who have served in the army and still are, as well as those who were discharged for their disability from the military service were very useful and persuasive. Members of the Parliamentary Commission were very interested in the solutions that had been found in other countries.

### **EUROMIL as source of information**

During the elaboration of the final project solutions we drew from our EUROMIL friends' experiences. The German experiences as incorporated in the respective act (Einsatzweiterverwendungsgesetz) and introduced in 2007 turned out to be particularly helpful. Thanks to the kind assistance from our partners at the German Bundeswehr Verband, we were able to present some characteristic extracts of the act to the Parliamentary Commission members, including respective arguments supporting it. These were debated by all participants at the Commission's sittings coming eventually to the above mentioned consensus. Once again it becomes obvious that EUROMIL is the right forum for sharing experience and a common basis for the promotion of soldiers' rights and privileges, as well as the appropriate forum for developing best standard solutions for military service.

To sum up, this innovative regulation is another step towards preparing the Armed Forces for the challenges of contemporary missions, in particular asymmetrical threats. The certainty of social care that follows from the Act will enable soldiers to minimize their fears concerning the missions in which they are participating. I am fully convinced that respective state authorities should be aware of the necessity to bear additional expenses in order to provide soldiers not merely with an ambiguous impression but with the certainty of the state's protection and welfare any time should the need arise. I am furthermore convinced that this leads to mutual confidence and guarantees mission success.



ISAF increases UXO awareness in Kabul



### Portugal: Health and safety at work also for military personnel

AOFA has proposed a new bill to the Portuguese parliament, political parties and to the government. This bill is needed in order to grant military personnel equal conditions for health and safety provisions at work.

This was the framework and background for the international conference “Health and Safety at work in the military profession” that took place in Oeiras-Lisbon at the Armed Forces Social Service (IASFA) Auditorium, on 28 May.

By Colonel Carlos Manuel Alpedrinha Pires, President AOFA

The EU directive 89/391/CE on the introduction of measures to encourage improvements in health and safety at work was transposed into Portuguese national law in 1991 through the 441/91 bill. Its objective is to define the principles for the promotion of Health and Safety at Work (HSW). In general terms the legislation was applied to all activity within the public and private sector. It lists obligations for employees and employers. The scope of this bill excepts certain aspects of public service activities such as the Police and Armed Forces, as well as specific activities of civil protection services.

However, the European Court of Justice ruled that the restriction clause in the directives cannot serve to exclude *in totem* an occupational group, such as the armed forces from the application of the directive in national legislation. It only enables the individual Member States to exclude precisely defined and delimited activities in the services mentioned. In Portugal, even though the armed forces, police and civil protection services should be object to measures ensuring health and safety at work of their personnel, this has not happened yet.

AOFA considers the correction of this situation essential and has proposed a new bill to the Portuguese parliament, political parties and to the government. This bill is needed in order to grant military personnel equal conditions for health and safety provisions at work.

According to the European legal framework and

following the best-practice of other EU Member States, this bill should include the minimum principles to create and maintain an efficient management, and provide the following for Armed Forces:

- HSW Services Organisation at unit-level;
- Systematic risk evaluation, prevention and professional protection;
- Definition of authority, responsibilities and activities of HSW services in Armed Forces;

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Panel: D. Santos, LtGen dos Santos, Dr. Lopes, E.Jacob



- Creation of independent mechanisms for inspection on HSW compliance;

- Qualification of military personal in HSW, equivalent to and recognized by national HSW authorities;

- Creation of databases for working accidents and professional diseases, their treatment and investigation obligation. Availability and access to information on HSW in Armed Forces.

This was the framework and background for the international conference “Health and Safety at work in the military profession” that took place in Oeiras-Lisbon at the Armed Forces Social Service (IASFA) Auditorium, on 28 May. Among those attending the event were officials from the MoD, members of political parties, personnel from Navy, Army and Air-Force, the National Authority for Working Conditions (ACT), the “Security Magazine” (Revista Segurança), private security companies, IASFA, a delegation from EUROMIL and other representative military staff associations, police unions and other civil society representatives.

In the premises of the International Seminar on HSW, EUROMIL President Emmanuel Jacob together with several EUROMIL Board Members and the Presidents of the Portuguese Associations (AOFA, ANS, APA) hosted a luncheon with Member of the European Parliament, Ana Gomes (PES). During this meeting human rights issues of relevance for the Armed Forces members and the implementation of the legislation concerning the professional associations were addressed.

The conference offered five speeches. Opening remarks were presented by Lieutenant General Silvestre dos Santos, AOFA Deontological Council Board Member and a former Portuguese Air-Force General Inspector. First speaker was the representative of the National Authority for Working Conditions (ACT), Dr. Luis Filipe Nescimento Lopes. He argued in favour of the application of the HSW legal framework to military personnel. The EUROMIL President Emanuel Jacob gave an overview on the implementation of the Framework Directive Safety and Health at Work 89/391/EEC (2007/30/EC) and the Working Time Directive 2003/88/EC in selected European member states’ armed forces. The third presentation, by Captain Sequeira Alves, AOFA Secretary-General, focused on the national situation of HSW activities in the Portuguese Armed



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**A. Coelho (President ANS), E. Jacob (EUROMIL President) and C. Pires (President of AOFA ) meeting with Ana Gomes, Member of the European Parliament (former Vice-Chairwoman Security and Defence Committee)**

Forces and its incipient way of regulation. Lieutenant Commander Rogério Marques, AOFA HSW Specialist Board Member presented the HSW organization in the Portuguese Armed Forces. Finally, AOFA President, Colonel Carlos Alpedrinha Pires summarized the conclusions and closing remarks. He called on the Portuguese Parliament and the political parties to approve special legislation to rule HSW activities for military, security and emergency personnel in order to grant protection on their regular activities.

The initiative received great acceptance from the military field. It will be followed by a case study seminar, which intends to integrate contributions from other organizations, including EUROMIL members. The initiative now in place will be developed through open coordination by collecting contributions from the different HSW actors at national and international levels that wish to exchange experiences and cooperate in the HSW application to armed forces, security and emergency personnel.

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E. Jacob, President EUROMIL presenting the implementation of the EU directive (Framework Directive 89/391/EC) in EU countries' armed forces

## THE CHAIRMAN'S COLUMN

### Strength through rights

By Flemming Vinther, President of HKKF

As President of the Union of Enlisted Privates and Corporals in the Danish Army, I experience the strength enjoyed by our organisation and our members, thanks to the fact that we have the same rights as all other trade unions and employees in Denmark, on a daily basis. From where I sit, therefore, it makes absolutely no sense that some countries are so ardently opposed to soldiers gaining union rights.

And we are not talking about distant dictatorships. We are talking about countries such as Great Britain, France and Italy where soldiers are prevented, by statute, from joining a trade union. And about other European countries such as Portugal, where soldiers have this right in theory, but where in practice the political and military leaders make it impossible to exercise this right.

**Denmark – a strong national defence with strong trade unions**

In Denmark, trade unions have been part of the armed forces for more than 50 years. And since 1973 they have

all enjoyed collective bargaining rights. This means that we are on an equal footing with the rest of the trade unions in the Danish labour market.

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Flemming Vinther, President of HKKF in front of the Danish Parliament

On the other hand, this does not mean that we always have our way or that we suspend work or go on strike whenever we feel like it. We are, in fact, prevented from taking any industrial action at all as we are subject to the same rules and regulations as other Danish civil servants. And, as already mentioned, we do not always get our way – but to be honest that is not very important. What is important is that we have a formal right to be consulted and involved. And it is the strength of our arguments that counts. Rights are not to be taken for granted. They require hard work.

It is often said that if soldiers are granted union rights, all hell breaks loose. Fighting qualities, the spirit of solidarity and not least discipline will be destroyed.

But that is sheer nonsense! Denmark boasts some of the strongest military trade unions in the world, and today our members endure some of the worst fighting ever in the Helmand province in Afghanistan. They are on daily patrols in areas still hit by the Taliban-led insurgency, and since April 2009 we have lost 22 soldiers and 44 have been wounded in Afghanistan. Our soldiers are praised and commended for their contribution, and even people in powerful positions in the US and UK have nothing but respect for the Danish soldiers. Today, Denmark contributes with soldiers who fight shoulder to shoulder with the best in the world and they are commended for it!

That would hardly have been the case with an army whose fighting qualities, spirit of solidarity and discipline had been destroyed by the trade unions!

In my opinion, resistance and opposition against the rights of military personnel go back to the days when soldiers were levied. It does – after all – make some sense that levied soldiers are not allowed to voice their opinions too loudly.

Levied soldiers, however, would not be able to perform the very demanding tasks present-day soldiers are facing. All countries require highly trained, committed and professional soldiers. Consequently, they need soldiers who have chosen this job voluntarily for a shorter or longer period of time.

Today's soldiers only stay in the armed forces for as long as they find the job exciting, challenging and attractive. When this is no longer the case, they leave. Just like any other employee. Some argue that they are under a contractual obligation. That is correct, and some contracts are more binding than others. But take some time to think this through: Going to war with your fellow soldiers just because you are under a contract that you cannot get out of. Well, I am glad it is not me!

### **The fight for soldiers' rights**

In many countries initiatives are being taken to guarantee soldiers union rights. Everywhere national organisations are being established, struggling to

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guarantee to soldiers the same rights as they already exist for well-established military trade unions.

They need all the support they can get from us who have already seen the positive results and who regard rights as a natural part of our everyday lives. But also from other trade unions in countries where the military trade unions are popping up.

Unfortunately, however, it is not uncommon for the established trade union movement to disassociate itself from military trade unions. They are seen as “the enemy” as their members are sometimes used by governments against protesters or strikers.

It is crucial, therefore, that the trade union movement is able to distinguish between the soldier – or the police officer – carrying out an order and the person wearing the uniform who is just as entitled to trade-union rights as the protester he or she has been ordered to remove.



## Citizen in uniform

If there is a genuine wish for the armed forces not to be a state within the state, it is important to see the soldier as a “citizen in uniform”. Only by making sure that the individual soldier appreciates the importance of freedom of speech, freedom of association and respect for people who do not share his thoughts and beliefs, will we get soldiers capable of showing authority and empathy when solving complex tasks.

As President of a Danish military trade union, I have just been elected chief negotiator on behalf of all central government employees in the upcoming collective bargaining process in 2011. My role will be to negotiate on behalf of military personnel, police officers and civilian colleagues, a total of 165,000 government employees. My deputy in the negotiation process is the President of the Danish Police Union.

I am extremely proud that my colleagues in the Danish trade union movement have chosen me as their chief negotiator. Personally proud, but equally proud on behalf of my union. This is an unambiguous signal that Danish soldiers are considered employees. Employees holding an uncommon job, that is true, but nevertheless employees like everyone else.

I hope our fellow European unionists will see this as a signal that soldiers are “citizens in uniform” and that we – in this field as well – are stronger if we stand united!



Danish patrolling in Helmand province

Photo: HKKF



## Common Rules of Engagement in Common Military Missions

High-level military experts from NATO, the European Parliament, the German Bundestag and France discussed the topic “common rules of engagement in military missions” on the occasion of the 99th Presidium EUROMIL on

17 April 2009 in Berlin.

EUROMIL advocates in its recommendations for multinational crisis-management and peace-keeping that political mandates should best reflect the reality of the theatre and the mission. Furthermore, EUROMIL advocates that the number and effect of national caveats are minimised, and that common rules of engagement are attained.

Therefore EUROMIL organised the workshop „Common Rules of Engagement in Common Military Missions” to have an exchange of views between the association’s delegates and invited experts from the European Parliament, the German Federal Parliament, NATO, EUMS and the military. The workshop was moderated by Flemming D. Vinther, Chairman of the Danish association HKKF and

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EUROMIL Board Member.

In his presentation<sup>1</sup>, **Mr. Ruiz Palmer**, Head of Planning NATO Operations Division, stated that the problem for soldiers in multinational missions does not stem from rules of engagement (RoE) per se but rather from national caveats. As operations planner, at the NATO HQ he acknowledged the adverse impact of caveats on operations. Caveats are, so Ruiz Palmer, a political matter, stemming from the fact that various nations have different views and traditions on the aim and scope of multinational missions. Their culture, preferences and set of skills to perform different missions vary significantly. Also, different nations have different views on the balance between the military and civilian dimensions of their engagement, which may be reflected

in the composition of contingents and caveats.

According to Mr. Ruiz Palmer differences are the norm in an alliance of sovereign, democratic nations, and may compromise efficient and effective operations. Yet the establishment of common rules of engagement and the elimination of caveats can only be achieved by addressing the issue at the highest level.

Mr Ruiz Palmer encouraged EUROMIL, as the representative of soldiers, to maintain the dialogue with politicians and the national chain of command, and recognized EUROMIL as a forum that can help advance the views of ordinary soldiers.

**Mr. Ioan Pascu**, MEP, Chairman of the Committee for Foreign Affairs and former Minister for Defence of Romania, subscribed to the views of Mr. Ruiz Palmer concerning the reason for national caveats, adding that these are also influenced to a great extent by public opinion. As such, caveats are difficult to eliminate even in a long-term perspective.

**Mr. Gert-Jan van Hegelsom**, legal Adviser to the European Union Military Staff/ Committee, explained that the RoE will depend on the mandate, political and military intentions and legal concerns. EU operation plans and RoE are adopted by the Council of Ministers unanimously after processing by the Committee of Permanent Representatives (COREPER), the EU Military Committee (EUMC) and the Political and Security Committee (PSC). The PSC exercises political control and strategic direction of an operation,



Ioan Pascu, MEP, former Minister for Defence of Romania and Mr. Ruiz Palmer, Head of Planning NATO Operations Division debating the necessity of caveats

<sup>1</sup> The views expressed in this address are those of Mr. Diego Ruiz Palmer and should not be taken to necessarily reflect those of NATO.



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Expert panel and delegates of 99th EUROMIL Presidium

which may include the review of the RoE profile at the request of operations commander as processed through the EU Military Committee.

Different RoE may apply in the same theatre of operations, reflecting tactical concerns and the strategic environment. Nevertheless, they are applicable to all forces under unified command, although countries may impose national restrictions. Mr. van Hegelsom agreed that caveats should always be declared as they affect the operational capability.

**Major General Christian Houdet**, General Secretary of the High Council of Reservists (France) and former commander of UN peace-keeping mission in DR Congo (MONUC) stated that only undeclared caveats pose real problems for operation. He further said that caveats should reflect changes in the military operation/scenario and that force commanders should actually not accept caveats contrary to operational effectiveness.

**LtCol Andreas Henne**, Officer for Security and Defence of the Parliamentary Working Group of the Christian Democrat faction (CDU/CSU) said that the German Parliament had learned in Kosovo and subsequently reduced caveats so as to make soldiers “handlungssicher”- secure in their actions, and officers “handlungsfreier” – freer in their decisions. Nevertheless, the German Armed Forces are a Parliamentary army, where decisions are based on compromise which might sometimes lead to caveats. In general,

the Parliament does not deal with Rules of Engagement, but with the overall mandate of the mission.

**The Discussion was opened with EUROMIL Secretary General Mr. Harjulehto questioned, whether parliamentarians are actually aware of problems caused by national caveats?**

MEP Pascu replied that as former Defence Minister the dialogue between the military and politicians should address the issue of caveats to illuminate the lack of logic and the difficulties they cause for operations.

Lt.Col. Henne stated that parliamentary committees do discuss RoEs and caveats once problems are identified. To his knowledge, this led in the past to improvements as shown by the example of the successful review and correction of a caveat originally prohibiting the German Armed Forces to meet necessary requirements for riot control in Kosovo 2004.

Mr. van Hegelsom explained that declared caveats are not so much a problem. Yet, undeclared caveats cause problems in the chain of command; e.g. they are disrupting the trust between the national contingents. Identified problematic rules should be immediately reported and addressed

by the chain of command so that the political control can review the RoE and caveats.

**EUROMIL Vice-President Mr. Bernhard Gertz called attention to the restrictions on German soldiers - not to carry weapons in transit from the airport to their base - during deployment in the EU mission to the DR Congo 2006 - questioning why the EUMS and the responsible force commander accepted such restrictions.**

Mr. van Hegelsom replied that to his knowledge a measure like this was never discussed in Brussels nor did the planning process show any indication of such a constraint on German troops. If the EUMS should have dealt with a matter such as this it would have to be referred to the EUMS through the chain of command.

**EUROMIL President Mr. Emmanuel Jacob inquired what can be done if caveats are stemming from budget problems reflected by lack of equipment and capabilities rather than political sensitivities. He further showed concern about the soldier on the ground, who must be enabled to manage his tasks within the mandate, the RoE and national caveats. In this light Mr. Jacob asked the experts about the consequences if soldiers, even unintentionally, violate the rules.**

Mr. Ruiz Palmer replied that it is not



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President of EUROMIL during Q&A session



likely to achieve equal capabilities with forces that do not join in common training and governments with different defence spending. Nevertheless, true multinational cooperation should involve a rotation of responsibilities. Rotation and multinationality spread the responsibility and allow for contingents to conduct different tasks. This also helps to carry public opinion and legitimise the own contribution to a common mission.

Mr. van Hegelsom suggested that contingents with caveats reflecting capability problems can easily take up critical operational elements or specialise in niche-capabilities. Answering the second question, he stated that while RoE should not be a concern for the individual soldier, any violation against them would lead to legal prosecution. In the case of national caveats a violation will not lead to any legal action.

**Antonio Lima Coelho from the Portuguese ANS asked about the likelihood of developing common RoE and limiting caveats in the near future. Michael Geraghty from the Irish PDFORRA asked how EUROMIL should best act to influence RoE. EUROMIL Vice-**

**President Gertz asked what can be done against disparities in RoE and caveats as they could conceivably result in a rift between forces.**

Major General Houdet considered it unlikely that future international missions will be governed by common RoE. Operation theatres will see more divisive factors, as various nations and organisations with differing goals and traditions operating in differing crisis-management missions in the same area. A real integrated mission, and therefore a real burden sharing, based on common RoEs and no national caveats will only be possible once there is a real European Army.

Mr. van Hegelsom agreed, stating that different operations in the same theatre are becoming common place and that de-confliction of multinational missions and tasks are more important than operationally unachievable common RoE. He proposed that EUROMIL consider advocating coherent RoE rather than common RoE. In this context, EUROMIL should concentrate on national lobbying as neither the EUMS nor NATO are the decisive factors.

Summarizing the workshop, Mr.

Vinther concluded that national caveats are a factor to be taken into account and that it is in the hands of the planners and the chain of command to work around these exceptions.

**The Workshop was concluded** with the remark of EUROMIL President Mr. Jacob that the present experts as well as politicians and military leaders can observe that military unions and representative associations are working on topics that have an impact on international security and on public opinion. In times of increased operational pace but declining defence budgets military unions and representative associations can be legitimate and useful partners for governments and the military leadership. They can assist in the common effort to articulate the concerns of military professionals and to increase awareness of the challenges faced by soldiers. Associations, promoting the professional interests of the military, can also enhance the status of the military profession in society. **TML**

## EUROMIL CALENDAR

10-11	September Board meeting	London
24-25	September DH-DEV-FA Group on Human Rights of Members of the Armed Forces	Strasbourg
12-14	October DH-DEV Committee of Experts for the Development of Human Rights	Strasbourg
13	October Päälystöliitto 80 Years Anniversary	Finland
5-7	November Presidium meeting	Brussels
24-27	November CDDH Steering Committee for Human Rights	Strasbourg

# How can International Human Rights be used to advance the right of association for soldiers?

Academic human rights experts and EUROMIL delegates discussed this question on the occasion of the 99th Presidium meeting of EUROMIL on 17 April 2009 in Berlin.

**Prof. Ian Leigh** (Durham University Human Rights Centre and co-author of the Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel, University Durham, United Kingdom) pointed in his keynote speech to positive developments in the field of fundamental freedoms for military personnel, in particular to a stricter interpretation of legitimate restrictions to the right of association for military personnel. He emphasized that legitimate restrictions have always to be proportionate to the aim pursued and may not impair the very essence of the fundamental right itself. This has been underlined by a recent judgment of the European Court of Human Rights, the case of *Demir and Baykara v. Turkey* from November 2008.

Leigh emphasized that the freedom to associate with others is a fundamental right that is clearly recognized in the major human rights treaties and international conventions, and this extends to the freedom to join professional bodies and trade unions.

However, it is common in many countries for the freedom of association of public servants, including members of the armed forces, to be limited. This difference in treatment in comparison with other workers may be justified because of the public interest in ensuring that essential public services are not disrupted. It can be argued that members of the armed forces are not workers in a conventional sense in that, when enlisting, they subject themselves to a comprehensive system of restrictions under a system of military discipline that is far more extensive than the usual control of an employer over an employee.

Nevertheless, it is notable that some legal bodies have treated members of the armed services as “workers”.

In countries where they are permitted collective representative bodies commonly work under two constraints. The first is that the representative body may be limited to members of the armed forces and not linked to other trade unions. Second, legal barriers may be imposed that forbid strikes or other forms of industrial action that could disrupt operations or threaten security.

The ECHR restriction was applied by the European Commission on Human Rights to reject the claim of a violation of Art. 11, by workers at a UK intelligence establishment affected



Human rights expert panel

by a change in their conditions of service denying the right to belong to a trade union. Likewise, in a case from Hungary (*Rekvényi v. Hungary*). It was found that there was no violation of Art. 11 in prohibiting members of the armed forces, the police, and security services from joining any political party or taking part in various forms of public protest.

Even under this approach the concept of a “lawful restriction” under Art. 11.2 did not mean that *all* domestic laws restricting rights will necessarily

be compatible with the Convention. The Convention organs employed a qualitative test: a legal restriction must be foreseeable in its effect and there must be an absence of arbitrariness.

There has recently been an important shift, however, in the approach that the European Court of Human Rights takes towards legal restrictions in national law affecting public servants, which shows the Court is now applying a *stricter* test. In the *Rekvényi* case, the Court preferred to leave open the related issue of whether Art. 11.2 is subject to a proportionality test when it applied to the police, members of the administration of the state, and the armed forces.

In two recent cases from Turkey, however, the ECHR has made clear that a proportionality approach will apply to *all* the restrictions under Art. 11.2 and not just those referring to restrictions necessary in the interests of a democratic society.

From these two decisions it appears that the approach is fourfold:

1. The Court will review not just the ECHR but also the broad range of international legal commitments e.g. ICCPR, International Covenant Economic and Social Rights, ESC, Conventions from the ILO and interpret the ECHR in the light of these other HR commitments.
2. Moreover the Court does refer to Council of Europe and European Parliament recommendations.
3. The Court is influenced in considering proportionality by emerging European practice.
4. There are signs of slow progressive development in the ECHR jurisprudence

**Prof. Leigh concluded** that attitudes are changing and that human rights law is increasingly receptive to the freedom of association. It may take some time but this is likely to be one more area in which a citizen in uniform approach ultimately prevails.



**Prof. Dr. Pommerin** (Professor of Modern History, Chairman of the Advisory Board on Leadership and Civic Education of the German Minister of Defence, University of Dresden, Germany) pointed to the development of the right of association for soldiers in Germany and the concept of the *Staatsbürger in Uniform*- the Citizen in Uniform. He clearly underlined that the *Bundeswehr*, the German Armed Forces were never endangered in any way by the existence of an independent association for soldiers and there has never been a loss of military effectiveness due to the work of staff associations.

He mentioned the signature by the EU Heads of States and Governments and proclamation on 7 December 2000 in Nice of the EU Charter of Fundamental Rights.

This text is in harmony with the Universal Declaration of Human Rights, and therefore can be taken as a confirmation by the Council, Commission and Parliament of the pre-existing rights contained therein, while adding widely-accepted principles as for example social rights and bioethics.

The concept of the so-called *Staatsbürger in Uniform*, the “Citizen in Uniform” became the pivot of the basic guidelines of the *Bundeswehr*. For the founding fathers of the Federal Republic of Germany it was after the experiences with the Wehrmacht in the “Third

Reich” absolutely necessary to make the armed forces to a complement of a democratic society.

The concept not only wanted to integrate the armed forces into state and society on one hand, but also on the other hand regulate the way of leadership, civic education and internal military interaction of superior and subordinates. The concept of the “citizen in uniform” therefore reflected the understanding of the soldiers and the civilians in the *Bundeswehr* as human beings with democratic rights and obligations. The Basic Law does not make any distinction between the fundamental rights of the soldier, the citizen in uniform and the citizen in civilian clothes. The servicemen and the servicewomen are the defenders of the constitutional order. Basic rights are for the soldiers in the *Bundeswehr* therefore limited only as far as it proves to be absolutely necessary to ensure military effectiveness.

Due to historical traditions and the fear that a union of soldiers with strong leaders might negatively influence on the efficiency of the new armed forces, many elder officers had not much sympathy for this development. It took nearly 10 years till in 1966 the right of association for soldiers was finally established by a special decree, the so-called union-decree.

He added that the crucial question to answer for EUROMIL is if there is any danger or risk that the mere existence of an association for soldiers is hampering military effectiveness. For the *Bundeswehr*, it is clear that it has never been the case. On the contrary, the German Federal Armed Forces Federation has even had a positive impact on military effectiveness.

He advised to concentrate on first fighting all the prejudice against the right of association for soldiers by proving that this right is neither endangering the role, the structure, the task or the will and ability to combat in a democracy. As the OSCE Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personal rightly points out, it is not at all conflicting with the unique nature of

the military and its role in maintaining national and international security and public order.

He pleaded that the right of association for soldiers should, wherever possible become part of the basic laws of the constitutions of all democratic nations maintaining armed forces, or at least find a guarantee in a specific law or decree.

**Jacques Bessy** (Senior Vice-President of the French association ADEFDROMIL) presented the report on human rights in the French armed forces with collected



case examples in the period from 2005 to 2008 edited by ADEFDROMIL.

It is divided into four parts. Firstly, it explains why such a report is necessary. Secondly, it outlines the legislative and regulatory situation of human rights in the armed forces. The third part is dedicated to case examples that illustrate the situation of human rights in the French armed forces. The last part of the report concludes with recommendations.

The French military association ADEFDROMIL aims with this report at taking stock of the human rights situation in the armed forces since the application of the “new French general statute” in 2005. The report states that the liberties and civil and political rights of soldiers have not been changed with the new statute but have remained the same as in the text of 1972.





**Antatol Tichoniuk, Chairman of KONWENT, Poland**  
und **Otto Heiling, Vice-President of HOSZ, Hungary**

Bessy explains that this report is of actuality because of the French President's White Paper on Defence issued at the beginning of 2009 and it has been conceived against the background that the year 2008 marked the anniversary of the Universal Declaration of Human Rights.

It aspires to raise awareness over the efforts that still have to be undertaken to improve the human rights situation in the armed forces. Equally, it is aimed to inform political, military, trade union, and judiciary decision-makers.

He concludes by pleading for the implementation of the Council of Europe Parliamentary Assembly Recommendation 1572 (2002) which calls on the governments of the member states to allow members of the armed forces and military personnel to organize themselves in representative associations (with the right to negotiate on matters concerning salaries and conditions of employment), to lift the restrictions on their right to association, to allow them to be members of legal political parties, and to incorporate all the appropriate rights in military regulations.

## Discussion

**The Moderator Vice-President B. Gertz** opened the discussion by saying that the implementation of the right of association is a progressive development in Europe. He emphasizes, however, that servicemen and servicewomen must be conscious of fundamental rights and must also be entitled to experience them within the armed forces if they are expected to stand up for them and

defend them as e.g. during international operations. This self-understanding of human rights and the fight for prejudices against fundamental rights takes time to evolve. He argues that the best strategy to follow is by assuring and bringing forward their implementation and concentrating on diplomacy and not to accuse governments.

**Flemming Vinther** agreed and put forward that it is very important to have a strategy to win the case of fundamental rights in the armed forces. EUROMIL has to think more in terms of its strategic goals in cooperation with those associations that need EUROMIL's solidarity.

**General Houdet** provocatively suggested that representative military staff associations should not be allowed. Armed forces can best be characterized by discipline, disposability, neutrality, and negotiation. Social dialogue including the right to strike is undermining discipline. A unit officer in-charge has the moral obligation to take care of his subordinates in the best possible way; thereby he is supported by the chain of command. There is no necessity for independent structures.

**Flemming Vinther** answered that these arguments are preconceived ideas that have no valid ground to exist since there is no proof that trade unions contribute to an ineffective chain of command. In Denmark trade unions work very well in cooperation with and within the armed Forces. Danish troops and in particular Danish combat units are very effective and appreciated allied partners as e.g. in a very volatile area as the Helmand region in Afghanistan, where unionized soldiers combat very successfully. There is no contradiction between being a member of a trade union and being a soldier

integrated into a well-functioning chain of command.

**Professor Pommerin** emphasized that he strongly believed that e.g. in France an independent representation system will be introduced in the long-run. However, it can take decades to pull down stereotypes and prejudices as it was the case for e.g. for the German Federal Armed Forces Federation, which had to surmount several obstacles.

**Professor Leigh** reminded the audience that from a legal point of view attitudes are changing and that human rights law is increasingly receptive to the freedom of association. It may take some time but this is likely to be one more area in which a *citizen in uniform* approach ultimately prevails.

**The Vice-President** concluded that to win the case of the right of association for soldiers a mix of instruments to attain the strategic goals of EUROMIL is important. The European Court of Justice case of Tanja Kreil showed that in Germany only legal action resulted in a change of policy and the integration of women into other occupational functions than the music or medical services. However, diplomatic and convincing lobbying of political decision-makers is key to success. The combination of legal and political action can bring the added value to a successful outcome. CJ



**Mr. Michael Geraghty and Mr. Adrian Ryan, RACO Ireland**

# FUNDAMENTAL RIGHTS OF SOLDIERS IN THE MEDITERRANEAN BASIN

## Two steps ahead, one step back: Italy anno 2009

A promising bill about 'military representation' has now been tabled in the Italian Senate by the Partito Democratico (PD). This draft bill foresees several changes in the composition of COCER, COIR and COBAR, the internal staff representation system for military personnel in Italy.

By Emmanuel Jacob, President EUROMIL



Senate member of Partito Democratico, President EUROMIL, President Assodipro Mr. Vincenzo Frallicciardi (l.to.r.)

Regularly we point to European countries that don't grant the right of association to their soldiers. Very often this goes in pair with a lack of participation or negotiation rights. Looking at the Italian situation from a positive angle, we could say that this is not completely correct. Not that Italian soldiers would have the right to form or join independent military associations or trade unions. No, that is definitely not the case, but in Italy an internal system of 'representation' exists, which is structured into a central, a regional and a local level.

On the central level an intermediate body is the COCER (*Consiglio Centrale delle Rappresentanza*

militare), on the regional level it is called COIR (*Consiglio Intermedio de Rappresentanza*) and finally the local-barrack level which is the COBAR (*Consiglio di Base di Rappresentanza*). The COCER has consultative status for all questions related to service and labor regulations of the armed forces and has an advisory role in all questions for the CHOD or the Defense Staff. Nevertheless, a lack of transparency and the undemocratic way of the composition make these bodies susceptible to criticism. Another point of criticism is that COCER, COIR and COBAR are not working efficiently. The fact that these bodies are not independent and remain under close control of the military leadership will unfortunately not contribute to an improvement of the situation.

### A new draft bill!

In December 2007 EUROMIL had several political meetings in Italy about the situation of the Italian soldiers and particularly the right of association. At that time, Senator Marini from the center-right Forza Italia proposed a bill to the Parliament amending the actual system of COCER, COIR and COBAR. Even if these proposals were then not completely approved by the existing Italian military associations, they could have provided an opening for discussion. But in spring 2008 Italy went into national elections, the parties of the opposition and the majority changed places on the benches of the Parliament - and the draft bill was lost in this process.

However, once a train is set in motion, it is difficult to stop: a new and promising bill about 'military representation' has now been tabled in the Italian Senate by the Partito Democratico (PD). This draft bill foresees several changes in the composition of COCER, COIR and COBAR. Senator Pinotti, one of the main proponents of the draft bill, compared the Italian situation with the legal regulations in Belgium, France and Germany and intends to make COCER, COIR and COBAR more efficient. I was invited to a round-table discussion 5 May 2009 in Rome to share with the audience the added-value that independent



President of Assodipro (Associazione Solidarietà Diritto e Progresso) presenting the added-value of an independent military staff representation system in Italy

military associations bring to both democratic society and the defence forces.

Article 12 of the draft bill is particularly positive as it proposes to grant to all members of the Italian armed forces and the police forces under military command the right to constitute and join associations. This proposal is a milestone in Italian military history. Even if it still needs to be improved, our Italian colleagues and EUROMIL agree that it is a big step forward. If this bill would be approved by a majority in the Italian Parliament it would not immediately lead to a complete replacement of the existing bodies by a negotiation system that includes the military associations, but it would give our Italian friends the time to build up their associations and prepare a new future system with the support of the trade unions in co-operation with the delegates in the existing bodies, COCER, COIR and COBAR.

### **PASTRENGO**

But reality is sometimes a two-sided coin. Leaving Rome on Tuesday we thought that some doors were

finally open. Four days later we were confronted again with the hard reality. On Saturday 9 May 2009 EUROMIL was invited by Pastrengo, an association of Carabinieri, to participate and give a presentation at a conference on 'military representation, associations and trade unions'.

Pastrengo is an association that functioned more than eight years inside the Carabinieri in Italy. Yet, when Pastrengo became more and more interested in the social and economical situation of their members of the Carabinieri, the Ministry of Defense banned Pastrengo in August 2007. The directors and members of Pastrengo decided then to continue outside the Carabinieri as an independent association. Meanwhile, the defense forces continued to collect the €3 membership fee from the monthly payment of the Carabinieri but seemingly 'forgot' to forward it to Pastrengo. Before a court, the government declared that this money could not be forwarded to Pastrengo as it is an illegal association. However, the judge stipulated that this was another

discussion on another level and ordered the government to forward the amount of €120,000.

Meanwhile, Pastrengo continues its struggle for a legal status before the Italian justice and is waiting for the final decision of the Constitutional Court. If they do not succeed in their demand, Pastrengo is determined to appeal to the European Court of Human Rights.

Apparently, the planned conference on 9 May 2009 was unacceptable for the military leadership and the head of the Carabinieri 'urged the concerned personnel not to participate at this event'. In spite of these obstacles, Pastrengo found another location and organized a successful conference with the participation of an expert from the OSCE's Office for Democratic Institutions and Human Rights. During the different presentations and speeches, the participants compared the Italian, the American and the European systems of military representations and analyzed the national and international regulations in the field of human rights and fundamental freedoms.

EUROMIL will continue to monitor the Italian situation and supports the Italian associations in their struggle.



# ¡Derechos- Rights!

On May 23rd 2009, the Spanish military personnel decided to take a step further in their fight for their rights. AUME has facilitated the submission of a formal complaint, on an individual basis, to the “Ombudsman”. AUME has also filed a complaint in which it describes the general state of the military personnel with regards of the limitation of rights, showing the problems that the latest law has generated.

Tired of not being listened to, and tired of having to endure the lack of rights and appropriate means of representation of the old fashioned system, a system that only increases the feeling of isolation and submissiveness of the military and their families, they took a firm and sound step further by the means of an action that has received a great deal of attention from the media.

It is a permanent flaw of all politicians in power to forget their electoral commitments and the parliamentary mandates in terms of military rights. It is hence AUME’s persistent claim to underline the need of a law that regulates the rights and duties of the military people, a law that has been promised to us many times but never granted.

A law to regulate military personnel matters has recently been approved in Spain. This law produces a major change in the military career and in the deontological

code that guides the soldiers. Since there is no established system of participation for the military personnel, this law has been made without consultation, thus bypassing the interests of the soldiers, and



resulting in an extremely poor legal framework that has created a great deal of discontent in all Armed Forces. This has, in turn, led the military personnel to use the last means available to show their grief to politicians: the use of emails and postal mail, anonymously most of the times.

Aware of this situation, AUME decided to take a step further, on that encourages the soldiers to take an active part in the resolution of their problems. AUME has facilitated the submission of a formal complaint, on an individual basis, to the “Ombudsman”. AUME has also filed a complaint in which it describes the general state of the military personnel with regards of the limitation of rights, showing the problems that the latest law has generated. AUME has hence asked the “Ombudsman” to talk to the Government about those claims.

There has been a full collaboration of the Ombudsman, opening kindly its Registry office on Saturday with the help of several civil-servants to receive the complaints.

AUME supplied to all military personnel the forms to be filled in with personal data. It also announced the gathering on one precise day and at the same timeframe, as indicated by the Ombudsman Office. This has led to all military personnel involved went to the Registry at the same time. To get a legal coverage, AUME asked –and got it- some days before for the permission to meet.

As a result of initiative, almost 300 servicemen and women gathered before the Ombudsman to present their complaints. Before and after that day thousands of



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Queuing in front of the Spanish Ombudsman office



Members of AUME in the Ombudsman office

complaints have been sent by e-mail from the whole of Spain.

It is a fact that Spanish soldiers haven't got an associative culture (AUME is working hard to try to change it), as well as a lack

of decision to carry out actions such as that of May 23rd 2009. This has been used by some superiors, due in some cases perhaps to their own ignorance, or in other cases trying to impose their moral standards, that have taken advantage to

intimidate the personnel in some Units in order to undermine the scheduled action before the Ombudsman. Afterwards, in general no disciplinary measures have been taken in the Units, although there are evidences of some trouble concerning possible punishments that we believe will not be implemented.

In summary, the event has been a great success for AUME, but an especially great success for the Spanish military personnel that have seconded this action by using a constitutional right and have thus for a few hours only be able to feel like first-class citizens.

## The pending homework of the armed forces in Spain

*By Mariano Casado Sierra, Secretary General AUME*

Free translation of article published 30 May 2009 in the Spanish newspaper "El Pais"

The Armed Forces Day, whose ceremony is taking place this year in Santander, is certainly a suitable date for Spanish society to acquaint itself with the concerns of the thousands of Spanish servicemen and women. It would be desirable that the knowledge of the citizens on their Armed Forces went beyond official ceremonies, military parades, drills, displays and all this sort of events that do not allow the people to see the above mentioned concerns.

If we ask the citizens in uniform about what they expect from this Armed Forces Day, their answers would naturally differ. But they would undoubtedly want that their co-citizens knew the real nature of their true concerns and desires.

They would like to tell to everyone that an important legislative change – the Law on the Military Career - has given rise to inequalities and restlessness. It is a consequence of important changes which affect the military career; changes introduced without the previous knowledge of those concerned and, therefore, without a chance to voice their opinion on the wisdoms, failures and deficiencies of this new law.

They would like to tell everyone that very experienced, skilled, highly qualified officers have to pass an adaptive course that is only justified if its real nature is revealed, one that is far from military training, and close to the safeguard of certain outdated privileges, inconsistent with the constitutional principles of merit, ability and equality.

They would like as well to tell them about the situation of thousands of active NCOs without a chance of promotion to officer. In addition, these NCOs are subjected to a unification of the promotion ladder which they have to face without knowing their future tasks and without a solution to the problems stemming from the ranking differences in their corps of origin.

They would furthermore like to raise public awareness of the fact that the professional privates, airmen and sailors are subjected to a contractual regime that would be unacceptable if it were an ordinary employment.

All things considered, every one of them would like to point out that their fundamental rights are still not adapted to the time we live in and not appropriate of a concept of full citizenship, as enjoyed today in other EU countries by the citizens in uniform.

The regulation of the fundamental rights for the military personnel –human rights for the OSCE- in the core of the Spanish Armed Forces is a pending matter. One government after another, regardless of its political orientation, reiterates its commitment to bring to the Parliament a Bill on Rights and Duties for the members of the Armed Forces, including the appropriate legislative mandates, but which they then systematically fail to carry out. It is quite serious to avoid an observance of agreements or mandates due to a lack of energy to promote the necessary changes against the existing and predictable resistances. The members of the Guardia Civil have experienced in the past the same situation that military people are experiencing today.

Regulations of fundamental rights that cannot be postponed include the disappearance of the arrest punishment, more defence warranties in the disciplinary procedures, the freedom of speech, freedom of peaceful demonstration and assembly and, above all, the freedom of association. In addition, other regulations concerning the members of the Armed Forces which should be adapted to the new fundamental rights environment are the law on the Criminal Military Code, the disciplinary regime, rules of behaviour and the new Royal Orderly.

Lastly, it would be appropriate if all citizens were informed about the state of affairs of what is called a Military Justice. That is to say the judiciary organs by which the servicewomen and men can obtain effective judicial protection on the application of the public *ius puniendi* (criminal law), military delicts and disciplinary misdemeanours. In that respect, it is necessary that the Military Court of the High Court be composed of civilian magistrates and not of military personnel, most of them coming from the legal service of the military Headquarters or from the Ministry of Defence.

The removal of the military members from the court to discard any doubts on its independence is absolutely necessary. It is not acceptable, for instance, that the same person be judge, prosecutor, court reporter and military legal advisor. On the other hand, one of the big shortfalls of this system that should be dealt with immediately is the lack of properly remunerated human resources in the military courts.



## ANS celebrates 20 years

By Paulo Contreiras

Since 1968, under the dictatorship that ruled Portugal, non-commissioned officers (NCO) have strived to organise collectively so as to overcome common challenges. Whilesome of these were successfully resolved with the Revolution on 25 April 1974, new issues arose – e.g. the non-entitlement of soldiers to a professional statute or the lack of a career outline. So, small local meetings started to appear to commemorate the day of the Revolution and to commemorate the 31st of January. These commemorations gradually evolved into regional meetings, culminating in 1989 with a National NCO meeting, in Lisbon, gathering more than 4.200 members, where the National NCO's Association (ANS) was created.

ANS organises sergeants from all three branches of the armed forces (army, navy and air force), both active and retired. Since 1989, the organisation is exclusively funded by membership fees. The Board is elected every second year, supported

by local delegates in all military units (wherever possible). ANS issues a newspaper, "O Sargento" about five times annually. At the same time, members are up-dated through electronic newsletters and the official homepage ([www.ans.pt](http://www.ans.pt)). The Head Office is located in an apartment that is owned by ANS.

In 1992, ANS obtained observer status in the European Organisation of Military Associations (EUROMIL), and full membership in 1993. In this context, ANS has enjoyed the benefits of exchange of information and lessons learned with military associations and trade unions from all over Europe. Under the Charter of EUROMIL, ANS has a Partnership with PDFORRA (Ireland) since 2008.



EUROMIL Board in discussion with Senior Air Force NCOs



President of ANS Antonio Lima Coehlo receiving a gift from Willie Webb, President Irish PDFORRA

In a country like Portugal, where the fundamental rights of citizens in uniform are not yet fully implemented and respected, the importance of the assistance and support of the EUROMIL network is of paramount significance. It is of the utmost importance to belong to an organisation that includes military unions and associations that are 50, 100 or more years old, proof enough that their existence only contributes to the armed forces prestige and effectiveness.

On 30 May 2009, a dinner was held in Lisbon, celebrating the 20<sup>th</sup> anniversary of ANS. More than one hundred ANS members and their relatives attended the event, which also saw the participation of the EUROMIL Board; a delegation from PDFORRA (Ireland) consisting of the President Willie Webb, the Vice-President Vanessa Fox and the Member of the Board Ken Holland; a delegation from

AUME with President Jorge Bravo, Secretary General Mariano Casado and Board Member Antonio Leon. The anniversary was also attended by the Greek military association S.Y.S.M.E.D from, represented by Colonel Dimitris Karmiris. S.Y.S.M.E.D is starting the EUROMIL adhesions process and its presence was highly estimated and appreciated by ANS.

Of great importance to ANS was the representation of the Chief of Staff of the Air Force and Army, respectively, who were represented by their sergeant “*aide-de-camp*”, i.e. the most senior sergeant in each weapons branch. Significantly, the Air Force Chief of Staff sent a message of congratulation, which was read out by Master Sergeant João Coxo. Similar messages were received from the Ministry of Defence and the Bishop of the armed forces.

The impressive turnout of so many friends and colleagues was a particular honour to ANS. This includes the Privates Association (APA) represented by its President Luís Reis; the Officers Association (AOFA) represented by Secretary Tasso de Figueiredo; the Navy Sergeants Club (CSA) represented by President Albano Ginja (not to mention the magnificent choir

of CSA, who not only performed during the evening, but also offered the very touching gift: the song “Sargento de Portugal”, which will from now on be the official ANS anthem); the Disabled Military Association (ADFA) represented by President José Arruda (most of their members are disabled veterans from the Portuguese Colonial war); the 25 April Association represented by Vice-President Colonel Villalobos (one of the Revolution captains); and the Association of Portuguese Gendarmerie represented by President José Manageiro.

The political parties of the Portuguese Parliament were all invited to the anniversary, and only the Vice President of the Portuguese Parliament António Filipe of the Communist Party attended the dinner.

Last but certainly not least, several military and civilian friends were also present at the event, people without whom our daily work would be much more difficult, like former Assistant Attorney General Dr. Bernardo Colaço; former Military Supreme Court Judge Lieutenant-General Silvestre dos Santos; Colonel (ret.) Eduardo Pamplona from ANS Legal Department.

The presence of so many friends from so many countries, so many backgrounds and experiences made the event particular emotional and memorable. The past was remembered, the present was accounted, and the future was faced with determination.

And to prove that there is reason to worry, parliamentary approval of the new Military Disciplinary Regulation (RDM) was announced. The RDM will take military discipline and justice back to the Middle Age containing wording such as: “... ***Hierarchy is authorized to use any extraordinary means thought necessary to compel to obedience***”

The interpretation of which could be taken to imply and legitimate the use of physical violence. While Portuguese soldiers, therefore, are fighting to introduce democracy in “less privileged” countries, they are treated as little else than slave gladiators by their government. Sadly, the government chose to ignore all the amendments proposed by ANS and other military associations.

Though many gifts were offered during the dinner, the most precious of all was the chance to enjoy the company of so many good friends and colleagues. In such magnificent company, it is an honour to serve the Portuguese NCO’s association and the Portuguese Military Family.

Photo: ANS



Navy Sergeants Club (CSA) choir offering the very touching gift: the song “Sargento de Portugal”

# Right of association: first steps in Albania?

By Bernhard Gertz, Vice-President EUROMIL

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EUROMIL Vice-President Gertz, Chief of General Staff BrigGen Maxim Malaja, Mr. Sotiraq, Director Institute Democracy and Mediation, Dr. Alfred Diebold, Head of Tirana Office Friedrich-Ebert Foundation (l.to r.)

At the end of April EUROMIL participated in a conference in Tirana that was dedicated to one of our core topics: “the right of the military to be organized in professional associations to protect their freedoms & rights.” The Institute of Democracy and Mediation, the Friedrich-Ebert Foundation organized the project supported by the defence academy of Tirana as well as the Ombudsman of the Republic of Albania, Ermir Dobiani.

The programme was introduced by Sotiraq Hroni, the Director of the Institute and by Colonel Nexhmedin Shehu, the Commander of the Defence Academy. Ombudsman Dobiani pointed to Article 11 paragraph 2 of the European Convention of Human Rights and declared literally: “the right to be organised is a fundamental right.”

The contribution of the Chief of the General Staff Brigadier General Maxim Malaj avoided stipulations- contrary to the statement of Dr. Alfred Diebold, Director of the Friedrich-Ebert Foundation in Tirana.

Approximately 100 participants, most of them in uniform and members of the Ministry of Defence or course participants of the Military Academy listened to the following session “European experiences & best practices professional associations in the armed forces”.

I focused in my keynote speech on the German and EUROMIL’s experiences. This was complemented by contributions from Italy and Bulgaria. The participants asked questions that gave the opportunity to discuss additional aspects.

The feedback of the organizers gives reason to hope that this seminar was only the beginning of a development towards granting the fundamental right to form to organise for the Albanian soldiers.



International panel with representatives of Albanian military staff



## British Armed Forces Federation: raising awareness

The British Armed Forces Federation (BAFF) welcomed members of both Houses to a parliamentary reception on Wednesday, 20 May 2009 to explain more about the campaign for recognition of a professional staff association for the armed forces.

By Douglas Young, Chairman of BAFF

The British Armed Forces Federation welcomed members of both Houses to a parliamentary reception on Wednesday, 20 May 2009 to explain more about the campaign for recognition of a professional staff association for the armed forces.

The event was sponsored by Linda Gilroy MP (Plymouth Sutton - Defence Committee member) and the speakers included Commandant Michael Geraghty of RACO- Representative Association of Commissioned Officers (Ireland) and Flemming Vinther, Chairman of HKKF- Union of Enlisted Privates and Corporals in the Danish Army. Michael and Flemming explained how recognised staff representation operates in their respective countries.

It became very clear from the presentations that while the two organisations had much in common, there were also national differences. BAFF had also looked at successful military associations in the United States and Australia, and was not putting forward some kind of European “one size fits all” solution for the British armed forces. Unlike RACO and BAFF, HKKF was a trade union but their Chairman emphasized that like other public service unions in Denmark they had signed up not to undertake industrial action.

In fact, despite occasional attempts to suggest otherwise, BAFF has found no evidence of any recognised representative military association in any modern European country having ever involved itself in any kind of industrial action, whether registered as a trade union or not.

The final speaker was a senior serving officer who had previously commanded the Danish Battle Group fighting in Helmand province alongside British forces. In an utterly unforgettable presentation, he spoke from a commander's perspective about the unit relationship with the representative organisation back home, which had helped to sustain his soldiers and their families and, in so doing, to maintain the unit's endurance and

effectiveness on operations.

Also present were the Secretary-General of HKKF Denmark, and representatives of the British Gurkha Welfare Society and of law firm Russell Jones & Walker.

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Chairman of BAFF (2nd right) with Linda Gilroy MP (fourth left) and representatives of RACO, HKKF, British Gurkha Welfare Society and the law firm Russell Jones & Walker in front of the Houses of Parliament

# FUNDAMENTAL RIGHTS

Council of Europe, Strasbourg

## Fundamental rights of soldiers under fire

Working group re-examined draft recommendation

The Council of Europe Working Group “Human Rights for Members of the Armed Forces” finished its work last October and forwarded a draft recommendation. However, due to the opposition of some Member States the Working Group reconvened 13-15 May 2009 to re-examine the draft recommendation.

EUROMIL thus issues the following position on Council of Europe Parliamentary Assembly recommendation 1742 adopted in 2006.

EUROMIL acknowledges that armed forces might limit or temporarily derogate from certain fundamental freedoms. This might for example be necessary in times of national emergency due to overriding reasons of national security or during military operations. EUROMIL does not accept though that certain states abuse the possibility for reasonable limitations to impose disproportionate bans on their service personnel's basic rights. Certain states suppress for example to an unacceptable level their soldiers' right of association or the freedom of expression.

This is very visible in the Council of Europe's Working Group “Human Rights for Members of the Armed Forces”. The positions and statements by certain

government representatives show how *restrictions for exceptional situations are in many cases made standard for military personnel by the governments of certain states. This without any stringent justification or reasoning.*

EUROMIL is a participating observer at the Council of Europe's (CoE) Working Group on Human Rights of Members of the Armed Forces. The task of the Working Group, consisting of 13 member states and a handful of NGOs, is to draft a recommendation for the Council's Committee of Ministers. The Working Group finished its work last October and forwarded a draft recommendation. But due to the opposition of some Member States the Working Group reconvened 13-15 May 2009 to re-examine the draft recommendation.



The picture shows the signature of the Charter of Fundamental Rights by the Head of States at the EU Council meeting in Nice, December 2000.

The draft recommendation contains nothing revolutionary, but merely principles which are standard and practice already in several member states of the CoE. EUROMIL advocated against any efforts to weaken the text as it now stands, as this would be a step backward for many member states. The task of the Council of Europe is to promote human rights and fundamental freedoms among its member states. Any wording which does not promote the observance of human rights in the armed forces would render the whole drafting exercise futile and senseless.

Individual member states representatives wanted to see the application of the recommendation and its human rights principles limited to “normal work” during peace-time or to the territory of CoE

Member States. These propositions would weaken the application of the recommendation to an extent that the whole recommendation would become insignificant.

The nature of modern armed conflict has blurred the distinction between peace and war. A clear distinction between “normal” work and service life on one side and participation in military operations on the other is very hard to draw. Peace-making-, peace-keeping-, crisis management-, operations or stabilization missions as well as different forms of low intensity conflict are these days’ normal and continuing features of the work lives of European soldiers.

Furthermore, soldiers remain – as state agents - under national control even when serving outside their national territory.

The position of EUROMIL is supported by Germany, Finland, Norway, Amnesty International.....and UK Courts! The UK Court of Appeal overruled the original position of the UK MoD and confirmed on 18 May 2009 earlier Court rulings by stating that members of the armed forces are at all times and in all places in the world within the UK’s jurisdiction for European Convention on Human Rights purposes on the basis of the state agent authority principles.

It remains to be seen in the coming meetings whether the representatives of progressive member states, where human rights of soldiers are standard and well-functioning practice, will reject any retrograde wording which would weaken the current draft text below the positive status-quo of their home countries.

**MH**

## **INFOBOX**

### ***Article 12 of EU Charter of Fundamental Rights***

***1. 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.***

***2. Political parties at Union level contribute to expressing the political will of the citizens of the Union.***



# New Association for Officers of the Cyprus Army

## CAOA

On 29 February 2008 the **Cyprus Army Officers' Association** was officially founded. **Kypros Kyprianou**, President of CAOAA presents the organization to the EUROMIL News readers.

For many years army staff associations were forbidden in Cyprus, but in 2005 the Parliament of Cyprus voted for a law, which allows the officers of the National Guard to form an association in which they can enter into a social dialogue with the Ministry of Defence. Since the beginning of 2007, after thorough preparation, a team of officers submitted a statute of the association for approval to the Ministry of Foreign Affairs.

It should be noted that the Cyprus Army Officers' Association is the only representative association for active serving military officers in our country.

A temporary Board of Directors was created. During working hours and with the approval of the General and after work, their members proceeded with the following actions:

- They met with the Minister of Defence and exchanged opinions on how the association

should be organised and work.

- They met with the Archbishop of Cyprus in order to acquire a place for the headquarters of the association,
- They proceeded in checking and approving membership requests as well as contacting the membership list,
- They declared and organised elections of the association with success and ensured that the officers would be presented in the elections with the command of the General,
- They toured around Cyprus informing a big number of officers of the foundation of the association and proceeded in enlisting members.

On 24 September 2008 a permanent Board of Directors was elected. Immediately it started working for the improvement of the working conditions of its members. For the promotion of the association, members of the Board of Directors met with all the relative agencies.

A first contact and the presentation of our association at the 99<sup>th</sup> Presidium of the European Association of Military Organisations, in which 32 associations from 24 countries participated was an important step on the way of the promotion of the association and consequently the interests of their members.

On 4<sup>th</sup> April 2009 the general meeting of Army officers was held for the first time under the aegis of the Minister of Defence. It was of great success. At that meeting the most important purposes of the organisation were elaborated and pointed out:

Among the most important the aims of our association are:

- To ensure the well-being and/or education of its members and their families



Delegation of CAOAA (President, Secretary General and Treasurer) at 99<sup>th</sup> EUROMIL Presidium in Berlin

- To improve the terms and conditions of employment for its members,
- To examine, organize, protect, ensure and promote the ethical and other professional interests of its members,
- To develop interpersonal relations that promote comradeship and solidarity among its members,
- To purchase, rent or otherwise acquire premises, from which the association will be operated and directed,
- To cultivate and establish military awareness and discipline and to apply the safety rules,
- To organize and carry out various sports or social gatherings, meetings, seminars and conferences, either among its members or between the association and other organizations, associations or groups of people from Cyprus or abroad,
- To fund services, projects or activities that the association considers useful for the promotion of its aims.



First general meeting of CAO A in the presence of the Minister of Defence

At present the **Cyprus Army Officers' Association** counts about 600 members and its number is still increasing.

## Greece: Introducing SYSMED

*By Dimitrios Karmiris, SYSMED*

The teachings of Aristotle and Plato telling us to do our job as best as we can, to continuously learn and improve ourselves, as well as transmitting our knowledge to others. They ask from us: to be righteousness and to respect the law; to maintaining the indivisible and universal values of human dignity, freedom, equality and solidarity; to have a sense of responsibility and generosity for the society; and lastly to let our own deeds set examples to others.

Inspired by these Ancient Greek Philosophers a group of members of the armed forces submitted the request for the creation of a non-profit association in the civil courts, on the 30-1-2007. The new association was recognized by the court of first instance as S.Y.S.M.E.D. (ASSOCIATION COOPERATION OF ARMED FORCES MEMBERS) on 6 March 2008. S.Y.S.M.E.D. was established with the aim to improve the social and professional situation of soldiers in the Greek Armed Forces and the Greek Society.

Unfortunately, two months later, on the 29-5-2008 the First Instance Court Prosecutor in Athens, together with the Legal Council of State, filed an injunction request against this association, claiming the main arguments of the involvement of political parties in the army, and the formation of groups that may abolish the Sound and the discipline of the Armed Forces.

On the 19-9-2008, the Court of Athens, carefully examined the constitution and rejected the injunction request. With this decision (7806/2008) the court allowed the S.Y.S.M.E.D. to operate and to achieve their aims:

- The professional, cultural and social uplift of its members and the development of a spirit of cooperation and solidarity between them.
- The ongoing study, data collection and an attempt to inform the members about the current legal regime and the true conditions of their job.



Copyright: SYSMED

General meeting of SYSMED members

- The design and presentation - in collaboration with scientists – of specific measures in order to promote the professional competence, the righteous guarantee and improvement of the conditions of the commencement, duration and end of a career in the armed forces.

- The organising of manifestations, conferences as well as a variety of workshops with a scientific and educational nature supporting the education of members of the Association in order to shape responsible, even and virtuous members of the Hellenic Democratic State.

- The communication and cooperation with any congener association in Greece and abroad, and with EUROMIL.

- The development of initiatives of participation in matters, problems, needs and situations of a wide social character and importance, such as blood donation campaign, disaster protection, cooperation with non-profit associations of a humanitarian policy, in favour of the public good.

- The publication and the design of a web site, where members can freely express themselves, find information as well as discuss the specificity of their job and their everyday life.

- The creation of a common fund for mutual aid and solidarity, to support members in sudden and severe economical need.

From the beginning S.Y.S.M.E.D. began to inform the Armed Forces

*Being virtuous is not enough; you also need to have the strength to do the right thing.*

*[ Aristotelous «Politics» H, 1325<sup>b</sup> 12]*

leadership and the members of its operation, stressing the fact that S.Y.S.M.E.D. is not a trade-union/Syndicate. Additional, S.Y.S.M.E.D. offered full co-operation with the three branches of the Armed Forces, even requested the active participation in their work.

In the time of its existing S.Y.S.M.E.D. participated in social activities such as tree planting in areas damaged by wildfires, activities organized by WWF and other ecological initiatives. Additionally, S.Y.S.M.E.D. supported the Pan-Hellenic Federation of Police Employees and Officers of Police with a delegation during an event against criminality and violence. To advance its own goals, S.Y.S.M.E.D. organised an open dialogue with the attendance of fellow soldiers, the academia, societal institutions, and political parties. During this

event the attendants discussed reasons that force members of armed forces to resign or retire after the completion of minimum requirements as well as visible survival problems, difficult working conditions, search for a second professional career and the consequences on Greek economy, on unemployment and on the soldier himself. Internationally, a delegation of S.Y.S.M.E.D. attended at the Seminar of Health and Safety at Work for the Military, organized by the Portuguese

Associacao de Oficiais Armadas (AOFA) in Lisbon in May 2009. Also in May a delegation of S.Y.S.M.E.D. attended the celebration of the 20<sup>th</sup> anniversary of Associacao Nacional de Sargentos (ANS) in Portugal. Prior to that, S.Y.S.M.E.D. was invited as guest by EUROMIL to their 99th Presidium in Berlin.

To raise awareness, show solidarity and to learn from the exchange of experience the members of S.Y.S.M.E.D. wish to become members of EUROMIL.



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