

***“OSCE Code of Conduct on Politico-Military Aspects
of Security and Human Rights of Armed Forces
Personnel: The Role of the Ombudspersons”***



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Excellences, Distinguished Delegates, Ladies and Gentlemen,

Let me warmly thank the Luxembourg Chairmanship for the kind invitation to speak here today. I am pleased to be here and address the Forum for Security Co-operation (FSC) on the *OSCE Code of Conduct and Human Rights of Armed Forces Personnel: The Role of the Ombudspersons*.

Three weeks ago on 14 October we discussed this topic here at the Hofburg with many of you present here today. That was the second event in a series to discuss human rights and gender issues with members of the FSC. The first event focused on armed forces and women's access to combat positions, which took place on 19 April this year also here at the Hofburg.

Taking a more global view on human rights and gender in the security sector, these three events offer perspectives on ***what kind of security sector we want***. I strongly believe this question is as relevant today as it was when the OSCE was created, and is relevant both East and West of Vienna. I also believe the question and the responses to it are as relevant to the Politico-Military Dimension as they are to the Human Dimension since the security sector is an integral part of our societies and has an impact on all of us. I will return to this later in my remarks today. First we need to go back to 1975.

The Helsinki Final Act from where we trace the foundations of our unique concept of comprehensive security acknowledges human rights as one of its ten guiding principles. This was a landmark in the evolution of human rights protection. Human rights principles were put on par

with politico-military and economic issues within a regional security framework. With the end of the Cold War, ‘human security’ as a new paradigm for understanding security emerged and is acknowledged also within our own commitments (Maastricht, 2003).

Considered by some as a challenge to the traditional notion of national security, I rather concur with the view that **human security and national security reinforce each other**. There can be no security in the true meaning of the word if the rights, dignity and needs of individuals are not respected and protected. It is equally difficult to imagine security and rights protection without solid democratic institutions and a vibrant civil society. Therefore, I urge you to be people-centred in your deliberations on the Code of Conduct on Politico-Military Aspects of Security (Budapest, 1994) and its implementation.

In the Code of Conduct, the human dimension of security is evident in Article 32 on ensuring human rights of armed forces personnel. The women and men serving in the armed forces are simply ‘citizens in uniform’. Certain limitations may be imposed due to the requirements of service, but the message of this article is clear – rights do not stop at gates of the barracks. This brings me to other aspects of the Code of Conduct and other relevant OSCE commitments on the role of ombuds institution in protecting these rights.

Article 20 of the Code of Conduct articulates unequivocally the importance of the democratic control of the armed forces for stability and security. Ombuds offices are widely considered as key oversight bodies providing scrutiny of the public administration and its performance. This includes the security sector and the armed forces.

Therefore, democratic control and oversight of the security sector are an integral part of security sector governance. Without the rule of law and human rights, the concept of ‘good governance’ becomes a hollow and meaningless principle.

Furthermore, Article 33 emphasizes the importance of “*appropriate legal and administrative procedures to protect the rights of all its forces personnel.*” An effective and trusted complaints-handling procedure on part of the ombuds institution is such example of such procedures. Let me here make note of the commitment to establish and strengthen independent national institutions in the areas of human rights and the rule of law in the Copenhagen Document (1990).

Excellences, Distinguished Delegates, Ladies and Gentlemen,

Let me now move on to the specifics of the role of ombuds institutions in protecting human rights of armed forces personnel. In doing so, I will draw on some of the main discussion points and recommendations from our recent event here in Vienna. I should emphasize from the very start: ombuds institutions should not be seen as the main safeguard for human rights in the armed forces. **The main responsibility** to ensure the enjoyment and protection of rights of armed forces personnel **lies and must lie with the military itself.** Therein lies also the duty to protect on part of the commanders and the armed forces to be a responsible and professional employer.

Having said this, ombuds institutions can play a fundamental role in strengthening human rights and the rule of law both within the armed forces and in society in general. A well-functioning ombuds office can act

as a safety net for those exposed to injustice and human rights violations. It goes without saying that the watchdog function and relevance of the ombuds institutions gain additional importance in closed institutions. This is often the case in the security sector. An ombuds institution can also be an instigator for systemic change and reform of the security sector and of the armed forces. This takes courage and will on part of the military, but also civilian authorities.

Thus, the question on the role of ombuds institutions in protecting rights is perhaps rather a question to which extent such offices can live up to their full potential. There are many good practices and experiences by a number of participating States themselves provide guidance on this issue. I wish to draw your attention to seven factors that can contribute to the effectiveness of ombuds institutions in protecting the rights of armed forces personnel:

1. **Independence:** Having trust in the ombuds institutions, their ability to handle complaints, provide assistance and redress in a confidential, effective and impartial manner is crucial for service personnel. An independent mechanism outside of the chain-of-command allows for complaints to be brought forward in confidence and without fear of recrimination. Independence is therefore perhaps the single most important factor determining the effectiveness of an ombuds institution.
2. **Mandate:** Ombuds institutions require a sufficiently robust mandate in order to have operational independence. This should at a minimum include the mandate to receive and handle complaints, but could also include the power of the ombudsperson to initiate on his or her own

initiative investigations into matters as deemed necessary. The ombuds institutions should also be empowered to access classified information and have unhindered access to the military facilities.

3. **Accessibility:** Ombuds institutions need to be accessible to the complainants. If not fully operational or difficult to reach, the usefulness and effectiveness of the ombuds office in question will be in doubt.
4. **Reporting:** Annual reports to the Parliament on the activities and issues identified by the ombuds office can be a powerful advocacy tool. These reports often attract the attention of the media and the wider public and that may generate pressure on relevant authorities to heed the advice provided and take action to rectify specific issues.
5. **Resources:** It goes without saying that without adequate human and financial resources even the strongest mandate and legal anchoring of an ombuds institution will be of limited value.
6. **Training:** The staff of the ombuds institution must be properly trained to handle complaints and fulfil the mandate of the office.
7. **Cooperation:** Ombuds offices should seek to develop solid working relationships with other independent oversight and human rights bodies. These may include relevant parliamentary committees, such as defence and human rights committees, civil society organizations, as well as other ombuds institutions.

Now, let us turn back to the initial question: *what kind of security sector do we want*. In taking decisive steps to put in place robust ombuds institutions, to be sensitive to the needs, concerns and aspirations of women and men in the armed forces, we have already started answering this question: we want a better security sector. This is what **mainstreaming human rights and gender in the security sector** is all about. You may ask: *how can this contribute to improvement in security sector?*

First of all, through empowering ombuds institutions and ensuring independent oversight of the armed forces, the authorities and the military will be seen as being serious about human rights. Second, by addressing complaints, human rights violations and mismanagement in the armed forces in a transparent and proper manner, the armed forces are more likely to be seen as facing up to public scrutiny and being accountable. Third, ensuring the rights of women and men in the armed forces is a question of equality and non-discrimination, but also a question of gaining respect and trust in the military sector by the society.

Fourth, professionalism and troop morale are strengthened by a culture based on respect, human dignity and duty of care, rather than by a culture rooted in fear and humiliation. H.E. Elisabeth Rehn, Minister of State from Finland, who was the keynote speaker at the recent ombuds institution event here in Vienna, put this clearly. Referring to harassment of women in the armed forces she said [*and I quote*]: “*Don’t call these old traditions. These are just bad habits.*” Stemming from this there is no excuse for not addressing misconduct, harassment and mistreatment in the security sector. Here commanders and the military leadership need to take a firm stand.

Let me now say a few words about the work of our Office on national human rights institutions (NHRIs) including ombuds institutions. We have actively supported NHRIs, especially during the Lithuanian OSCE Chairmanship in 2011 when we organized a number of events on and for NHRIs. This work has helped raise the profile of NHRIs as important actors for the protection and promotion of human rights, and positioned ODIHR as a regional actor with an interest in and capability to provide support to NHRIs.

Since the development of the ODIHR-DCAF *Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel*, ombuds institutions have been a key focus in our work on human rights, gender and security. The handbook itself contains a chapter on ombuds institutions and copies of the handbook have been provided for each of the Delegations today. This year we have embarked on a larger project with DCAF on ombuds institutions for the armed forces. This involves a questionnaire to be filled out by ombuds institutions, which was sent through your respective Delegations. Let me express my gratitude to all the Delegations that have responded and facilitated this work. I would also encourage all those who haven't yet done so to respond to this questionnaire.

Finally, let me conclude my remarks by making three recommendations: Firstly, empower and equip your ombuds institutions to effectively protect **ALL citizens** of your respective countries. In those participating States without an ombuds office with jurisdiction over the armed forces, consider the value and benefits of such an institution, and seek advice

and lessons from others that have such institutions, as well as the advice and support that the OSCE and ODIHR.

Second, in view of the 20th anniversary of the Code of Conduct in 2014 and the strong commitments by the incoming Swiss Chairmanship of the OSCE to enhance the involvement of civil society – draw on and make use of civil society’s expertise in reporting on the Code of Conduct, the outreach work and the implementation of the Code. You can count on ODIHR’s full support in this regard as well.

Finally, we have been encouraged by the interest in and support to our human rights and gender event series we have arranged this year. We would welcome your continued support in the future, in terms of your ideas and suggestion for topics and we would also welcome financial support allowing us to continue this work. Our Office values its cooperation with the FSC, the FSC Chairmanship, the CPC and the OSCE Delegations here in Vienna.

Thank you for your attention.