Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1572 (2002)[1]

Right to association for members of the professional staff of the armed forces

Parliamentary Assembly

1. The Parliamentary Assembly recalls its Resolution 903 (1988) on the right to association for members of the professional staff of the armed forces, in which it called on all member states of the Council of Europe to grant professional members of the armed forces, under normal circumstances, the right to association, with an interdiction of the right to strike. It also recalls its Order No. 539 (1998) on monitoring of commitments as regards social rights, calling on the member states to implement the European Social Charter.

2. Freedom of association is guaranteed by Article 11 of the European Convention on Human Rights and the right to organise is a right foreseen in Article 5 of the revised European Social Charter. However, these articles are of limited scope in relation to violations of the recognition of the right of members of the armed forces to form trade unions.

3. The Assembly observes that, notwithstanding efforts to promote the civic right to association of certain professional groups, the right to organise of members of the professional staff of the armed forces is still not recognised in all member states of the Council of Europe. Furthermore, several member states who recognise the right to organise of this professional category put severe limitations on the conditions governing it.

4. In the past years, armies from certain member states converted from a conscription system to a purely professional system. As a consequence, military personnel are becoming increasingly "regular" employees, whose employer is the Ministry of Defence, and should be fully eligible for the employees' rights established in the European Convention on Human Rights and the European Social Charter.

5. Members of the armed forces, as "citizens in uniform", should enjoy the full right, when the army is not in action, to establish, join and actively participate in specific associations formed to protect their professional interests within the framework of democratic institutions, while performing their service duties.

6. Military personnel should be entitled to the exercise of the same rights, including the right to join legal political parties.

7. Therefore, the Assembly recommends that the Committee of Ministers call on the governments of the member states:

to allow members of the armed forces and military personnel to organise themselves in representative associations with the right to negotiate on matters concerning salaries and conditions of employment;

to lift the current unnecessary restrictions on the right to association for members of the armed forces;

to allow members of the armed forces and military personnel to be members of legal political parties;

to incorporate these rights in the military regulations and codes of member states;

to examine the possibility of setting up an office of an ombudsman to whom military personnel can apply in case of labour and other service-related disputes.

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1. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 3 September 2002 (see Doc. 9518, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Van Ardenne-Van der Hoeven; and Doc. 9532, opinion of the Social, Health and Family Affairs Committee, rapporteur: Mr Arnau).(24th Sitting).

8. The Assembly also calls on the Committee of Ministers to examine the possibility of revising the text of the revised European Social Charter by amending its Article 5 to read: “With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police and the members of the armed forces shall be determined by national laws or regulations.”