

International Conference of Ombuds Institutions for the Armed Forces

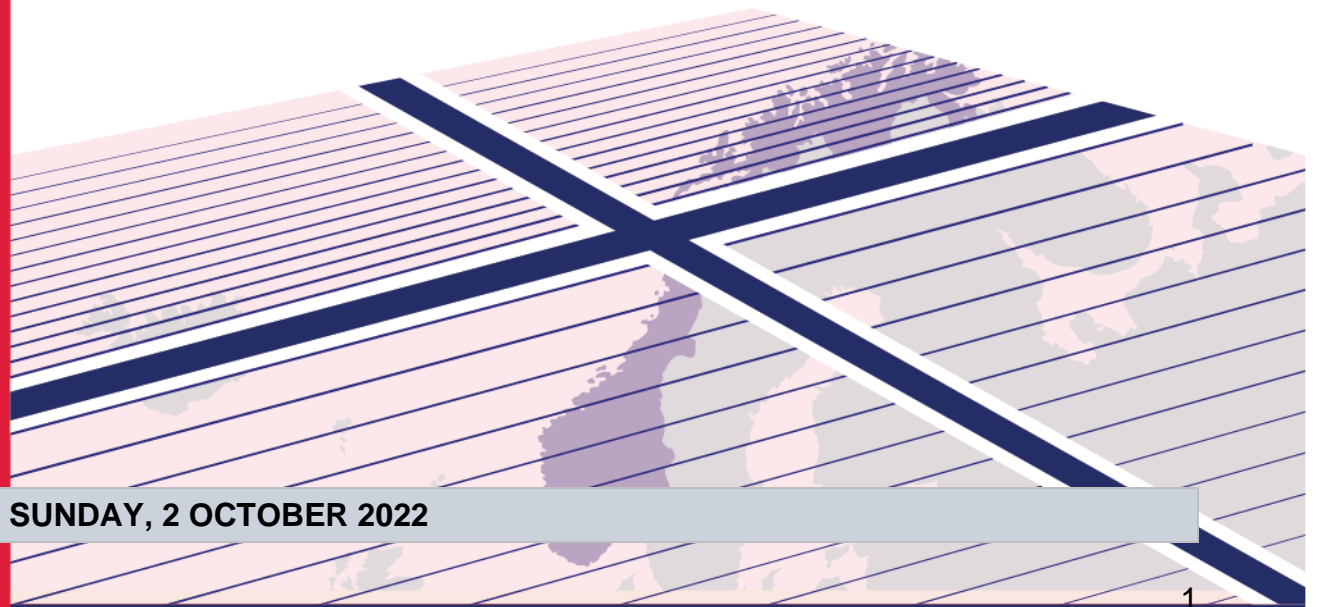


Rights and duties of armed forces
personnel in peacetime and wartime:
between policy and practice

Programme

2–4 October 2022

Oslo, Norway



SUNDAY, 2 OCTOBER 2022



All day	Arrival of participants
18:00	Delegates meet, Hotel Grand lobby
18:30 – 21:00	Aperitif and Welcome Dinner
MONDAY, 3 OCTOBER 2022	
09:00 – 09:45	Conference opening
09:45 – 10:15	Group photo
10:15 – 10:45	Coffee break and media opportunities
10:45 – 11:45	SESSION 1: Rights and duties of armed forces personnel in wartime – obeying orders
11:45 – 12:45	Special Session: International cooperation among ombuds institutions
12:45 – 13:45	Lunch
13:45 – 15:15	SESSION 2: Rights and duties of armed forces personnel in peacetime – the case of supporting law enforcement
15:15 – 15:45	Coffee Break
15:45 – 17:00	SESSION 3: Gender equality in the armed forces
17:00 – 17:45	Free time
17:45	Delegates meet, Hotel Grand lobby
18:15 – 20:00	Reception at the Oslo City Hall
TUESDAY, 4 OCTOBER 2022	
09.00 – 10.00	Special Session: The war in Ukraine and the role of the Parliamentary Commissioner for Human Rights
10:00 – 10:30	Coffee Break
10:30 – 12:00	SESSION 4: Post-deployment and the right to health of armed forces personnel
12:00 – 13:30	Lunch
13:30 – 15:00	SESSION 5: SDG16 (peaceful, inclusive and just societies) – the role of ombuds institutions
15:00 – 15:45	Adoption of the Conference Statement
15:45 – 16:00	Announcement of the 15th ICOAF in Vienna, Austria in 2023
16:00 – 16:15	Closing remarks

Note: all times shown in Central European Time (CET)



International Conference
of Ombuds Institutions
for the Armed Forces



ABOUT THE CO-HOSTS

DCAF – Geneva Centre for Security Sector Governance is dedicated to improving the security of states and their people within a framework of democratic governance, the rule of law, respect for human rights, and gender equality. Since its founding in 2000, the organization has contributed to making peace and development more sustainable by assisting partner states, and international actors supporting these states, to improve the governance of their security sector through inclusive and participatory reforms. DCAF creates innovative knowledge products, promotes norms and good practices, provides legal and policy advice, and supports capacity-building of both state and non-state security sector stakeholders.

The overarching aim of the DCAF ombuds programme is to promote the important role played by ombuds institutions vis-à-vis armed forces and international actors, and to work directly with and encourage cooperation between ombuds institutions to enhance their effectiveness and capacity.

The co-host of 14ICOAF is the **Parliamentary Ombud's Committee for the Norwegian Armed Forces**. The Parliamentary Ombud's Committee for the Norwegian Armed Forces was established in 1952 as the first of its kind in the world. The Ombud's Committee promotes and protects the rights and interests of persons who have a duty of national service under the Norwegian Defence Act, and persons who have served in international operations. It monitors and reports on the working conditions of armed forces personnel and is mandated to carry out independent investigations and address issues affecting the interests of personnel.

COOPERATION PARTNERS

This conference has been made possible thanks to the close cooperation and generous support of the Parliamentary Ombud's Committee for the Norwegian Armed Forces, which is the primary host and sponsor of the event, as well as the Konrad Adenauer Foundation. The organisers also acknowledge the financial contribution of the Austrian Parliamentary Commission for the Federal Armed Forces.



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Norwegian
Parliamentary
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Armed Forces



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Bundesheerkommission

Austrian Parliamentary
Commission for the
Federal Armed Forces

Rights and duties of armed forces personnel in peacetime and wartime: between policy and practice

INTRODUCTION

The world's first ever ombuds institution emerged in response to armed conflict. In 1709, after his defeat by Russian Emperor Peter the Great in the Battle of Poltava, Swedish King Charles XII took refuge near Bender, in present-day Moldova, at the invitation of Ottoman rulers who also viewed the Russian Emperor as an enemy. During the almost decade-long exile of Charles, Sweden was in crisis, suffering from poverty, plagues, depleted resources, the dangers of ongoing war, and widespread corruption. Charles was aware that Sweden was in dire straits and, guided by a coterie of advisors, initiated a series of policy and administrative reforms that, among other things, resulted in the creation of a new institution – the King's Ombudsman.

Though this first ombuds institution may never have emerged were it not for war, neither this proto-ombuds institution nor its contemporary offshoots were or are meant to be war actors. Conversely, ombuds institutions are built for peace. They serve to protect the individual rights of armed forces personnel and improve governance of the defence sector. Still, ombuds institutions can certainly contribute to the operational effectiveness of armed forces (as attested at 13ICOAF in 2021), and can also ensure that principles of legality and accountability, as well as ethics, are fully respected before, during, and after armed conflict.

Global developments since last year's 13ICOAF once again demand that the ombuds community continues unpacking their complex role in both peacetime and wartime.

At that conference, participants discussed the challenges facing ombuds inquiry teams in gathering evidence, and the methodology used to investigate allegations, of war crimes committed in Afghanistan. The armed conflict in Ukraine has re-actualized this topic, as early independent expert reports (such as [one commissioned by the OSCE](#)) have concluded that violations of both International Humanitarian Law (IHL) and International Human Rights Law (IHRL) have occurred in Ukraine. To that end, it is vital to examine how ombuds institutions can contribute to the respect of IHL and IHRL during armed conflict.

Thus, this year's conference, 14ICOAF, explores the role of ombuds institutions before and during armed conflict, by focusing on the duty to obey orders (as well as the duty to disobey illegal orders). Recognizing the comprehensive role of contemporary armed forces, which is captured by the three missions' model, 14ICOAF will move beyond discussing only the so-called first mission (defence of the state against external military threats) by also addressing the other two – peacekeeping and assisting civilian authorities to fight hybrid threats. These two missions are approached through a lens specific to the needs and priorities of ombuds institutions. Peacekeeping, for example, is considered from the perspective of female armed forces personnel, looking at their experience in peacekeeping and how it has impacted their career paths. And, while the third mission was analysed in the context of COVID-19 at last year's conference, the focus of 14ICOAF will be on the role of armed forces in supporting law

enforcement. Finally, as any deployment (external or internal), especially in a combat operation, can have significant consequences on the health of soldiers, special attention is dedicated to this issue at 14ICOAF as well. It is important for the ombuds community to understand the complex nature of the right to health and the diversity of comparative legislation regulating different aspects of compensation for injuries incurred during deployment.

OBJECTIVES AND METHODOLOGY

This conference hopes to draw upon lessons learned from previous ICOAFs and continue fostering a dynamic and participatory environment conducive to generating new ideas and insights.

After two years of operating in a virtual environment due to the COVID-19 pandemic, this year, ICAOF returns to its traditional in-person format.

The objective of 14ICOAF is for ombuds institutions to share and exchange knowledge with peer organizations regarding the ways they can contribute to protecting the rights of armed forces personnel during both wartime and peacetime. Participants will explore this broad topic through a carefully designed series of sessions, each meant to illuminate specific questions or rights – such as obeying orders during armed conflict, contemporary gender issues, or the right of armed forces personnel to health. Good practices shared during the conference will be compiled and endorsed by participants in a non-binding Conference Statement.

The conference starts with a keynote address in Session 1 that will highlight the rights and duties of armed forces personnel in wartime. Session 2 will feature a discussion of the role of armed forces in supporting law enforcement. Session 3 will guide participants in exploring current roles, legal frameworks, and practices relating to women in the armed forces and identifying key issues and challenges, especially related to the career paths of women and their roles in peacekeeping. Session 4 will concentrate on the role of ombuds institutions in protecting the right to (physical and mental) health of armed forces personnel after deployment. Finally, Session 5 will compare notes on the role of ombuds institutions in achieving the Sustainable Development Goals, with a focus on SDG-16, related to peaceful, inclusive and just societies.

Conference participants possess vast experience handling and responding to different types of complaints related to the armed forces. They are expected and encouraged to share these experiences – both in terms of positive practices and gaps in capacity – to draw out good practices and areas of need that may prove useful to their peers.

Participation is by invitation only. Registration is required. However, on Monday morning, the conference will be public and open to the press, including Session 1. Unless otherwise noted, the conference will apply Chatham House Rules.



**International Conference
of Ombuds Institutions
for the Armed Forces**



SUNDAY, 2 OCTOBER 2022

Welcoming Dinner

18:30 - 21:00

The traditional Welcoming Dinner of the International Conference of Ombuds institutions for the Armed Forces will be held at the at the Oslo Military Society, Myntgata 3 Oslo 0151. Please gather in the lobby of the hotel at 18:00.



MONDAY, 3 OCTOBER 2022

Conference opening

09:00 – 09:45

SPEAKERS: Mr. Roald Linaker, Armed Forces Ombud, The Parliamentary Ombud's Committee for the Norwegian Armed Forces, Norway
H.E. Bjørn Arild Gram, Minister of Defence, Norway
Dr. Hans Born, Assistant Director, Head of Policy and Research Department, DCAF - Geneva Centre for Security Sector Governance

Group photo

09:45 – 10:15

Coffee break and media opportunities

10:15 – 10:45

SESSION 1

Rights and duties of armed forces personnel in wartime – obeying orders

10:45 – 11:15

KEYNOTE ADDRESS: Mr. Arne Willy Dahl, Judge Advocate General (retired)
Introduced by Dr. Luka Glušac, Assistant Director and Research Fellow, Institute for Philosophy and Social Theory, University of Belgrade and DCAF Expert

In war, the primary duty of armed forces is to accomplish the mission, including by obeying given orders. However, service members also have a duty to abide with international laws and the customs of war, i.e., the Law of Armed Conflict (also known as International Humanitarian Law, or IHL). If given orders are at odds with the Law of Armed Conflict, service members are caught in a dilemma: to follow orders and risk prosecution before a national court or international tribunal, or to disobey orders and risk prosecution before a military court (or equivalent authority).

This session explores the nexus between courts and ombuds institutions in the context of armed conflict. The starting argument is that courts have the primary role to play after armed conflict in determining the legality of actions taken during that conflict. Yet, ombuds institutions have a vital role to play both before and during armed conflict, depending on their individual mandates and functions. Here, the mandate of ombuds institutions to investigate is particularly important. In-depth training on IHL therefore contributes to better protection for armed forces personnel during armed conflict, but



also of civilians. Ideally, such trainings discuss (international) human rights law and its connection with IHL, facilitating a comprehensive understanding of applicable law, as well as proper grievance and reporting procedures in both wartime and peacetime.

Guiding questions

- Does national law in your country permit the defence that an order was not lawful, thus the service member was not obliged to obey? What is reflected in national case-law regarding the defence that superior orders were obeyed?
- Does your office share or have overlapping jurisdiction with any court (military or civilian)? Is your office authorized to handle cases that are simultaneously being considered by the courts?
- If an enemy soldier is taken prisoner and accused of a war crime, will s/he be treated as a soldier of the same nationality would be treated in court, in a similar situation? What is the applicable law on foreign fighters who participate in armed conflict, both in terms of their country of origin and the country where the conflict takes place? Does the status of a foreign fighter (e.g., military volunteer vs. mercenary) affect their legal classification?
- What is the role of ombuds institutions in ensuring that armed forces personnel are fully aware of applicable law and their rights and duties before and during armed conflict?

Q&A DISCUSSION

11:15 – 11:45

SPECIAL SESSION

International cooperation among ombuds institutions – implementing the 2021 Resolution on the intensified international partnership of ombuds institutions for the armed forces

11:45 – 12:45

MODERATOR: Mr. Roald Linaker, Armed Forces Ombud, The Parliamentary Ombud's Committee for the Norwegian Armed Forces

SPEAKERS: Mr. Reinier van Zutphen, National Ombudsman, The Netherlands

Dr. Eva Hoegl, Parliamentary Commissioner for the Armed Forces, Germany

Lt Gen (Ret) Vusumuzi Masondo, Military Ombud, South Africa

The ICOAF participants have recognized the need to enhance cooperation among ombuds institutions in international missions. This aim was imbued with strong impetus in 2021 through a [Resolution](#) on the intensified international partnership of ombuds

institutions for the armed forces and the [2022 Action Plan](#) on implementation of that Resolution. The Resolution is open to any ombuds institutions wishing to join their peers in making grievance mechanisms for international missions more structured, transparent, and accessible.

This session presents practical examples of such intensified cooperation among ombuds institutions and discusses the potential of future joint endeavours.

Lunch

12:45 – 13:45

SESSION 2

Rights and duties of armed forces personnel in peacetime – supporting civilian authorities

Panel format

13 :45 – 15:15

MODERATOR : Mr. Mamadou Chérif Thiam, Directeur, Médiature de la République du Sénégal, Sénégal

SPEAKERS: Mr. James Gaynor, Inspector-General of the Australian Defence Force, Australia

Hon. Florence Kajuju, Chairperson, Commission on administrative Justice, Kenya

Mr. Friedrich Ofenauer, MP, Executive Chairman of the Austrian Parliamentary Commission for the Federal Armed Forces, Austria

Since the emergence of COVID-19, armed forces have been deployed worldwide to assist civilian authorities in fighting the pandemic. Beyond this deployment in response to an extraordinary global health crisis, armed forces in many countries are also used to support civilian authorities for other purposes, such as assisting traditional law enforcement agencies in suppressing unconventional security threats, fighting natural disasters (such as extreme weather conditions) or supporting democratic processes (such as elections). This session discusses various approaches to the use of armed forces domestically. Here, the critical question is whether and under what circumstances armed forces personnel should be deployed.

If assistance to civilian authorities is permitted, some issues must be clarified. For instance, under whose command are such operations performed – a civilian (elected) authority, the chief of police, or a military commander? In the case of supporting law enforcement, what are the rules of engagement – law enforcement doctrine (minimum use of force and deadly force in self-defence only) or ordinary battle doctrine (on which soldiers have been trained)?



Such engagement by armed forces within state borders raises a number of questions relevant to ombuds institutions. Hence, this session focuses on the use of armed forces domestically from a comparative perspective, with the aim to better understand the role of ombuds institutions in such contexts.

Guiding questions

- Have the armed forces recently been deployed within the country to assist civilian authorities (beyond COVID-19)? If yes, how is such a deployment regulated and overseen?
- Have the armed forces been well trained and equipped for such tasks?
- Has your office received any complaints related to cases in which armed forces have been deployed within state borders?
- What effect has this engagement had on the public image of the armed forces?

Coffee Break

15:15 – 15:45

SESSION 3

Gender equality in the armed forces

Panel format

15:45 – 16:30

MODERATOR: Mr. Robert Laimer, MP, Chairman of the Parliamentary Commission for the Federal Armed Forces, Austria

SPEAKER: Lena Kvarving, LtCol/PhD, Nordic Center for Gender in Military Operations, Stockholm, Sweden

Daniël Prins, Director, Security Sector Reform Unit, Office of Rule of Law and Security Institutions, Department of Peace Operations, United Nations

This session explores current roles, legal frameworks, and practices relating to women in the armed forces and seeks to identify key issues and challenges. It approaches these topics through two lenses: (1) women's career paths in armed forces; and (2) women in peacekeeping. Firstly, it looks at what is and what should be the role of ombuds institutions in protecting and promoting the human rights of women serving in armed forces? Ombuds institutions are invited to share their national experiences, as well as their own practice in dealing with complaints from female soldiers. Secondly, it notes that the growing participation of women has positively impacted peacekeeping environments, making operations more effective overall, supporting the role of women in building peace, and better protecting women's rights. The session focuses on the role of ombuds institutions in supporting gender equality in peacekeeping and ensuring that women soldiers have the same opportunities as men to contribute to peacekeeping.



Guiding questions

- What are the main challenges for women in reaching higher officer ranks? Is there a discrepancy between the law and practice?
- To what extent do women avoid coming forward to submit a complaint, even when clear grounds for a complaint exist? If underreporting is a fact, what are the reasons behind it and how could ombuds institutions address the issue?
- What role do you see for ombuds institutions in promoting gender equality within the armed forces?
- Through the lens of ombuds institutions, what is the current situation for women in military operations abroad, as far as their experiences and the roles they play, including in frontline and combat operations? What is your national experience? Has your office received any complaints from women deployed abroad?

Q&A DISCUSSION

16:30 – 17:00

Free time

17:00 – 17:45

Departure from the hotel lobby for the Oslo City Hall

17:45

Reception at the Oslo City Hall

18:15 – 20:00

The City of Oslo will host a reception at the Oslo City Hall (Rådhusplassen 1, 0037 Oslo, Norway). Drinks and finger foods will be served.

Departure to Grand Hotel

20:00



TUESDAY, 4 OCTOBER 2022

SPECIAL SESSION

The war in Ukraine and the role of the Parliamentary Commissioner for Human Rights

09:00 – 09:30

SPEAKER

Mr. Oleksandr Kononenko, Representative of the Commissioner for the Observance of Human Rights in the System of Bodies of the Security, Defense Sector and Procedural Rights, Parliamentary Commissioner for Human Rights, Ukraine

Introduced by Mr. Roald Linaker, Armed Forces Ombud, The Parliamentary Ombud's Committee for the Norwegian Armed Forces

Q&A DISCUSSION

09:30 – 10:00

Coffee Break

10:00 – 10:30

SESSION 4

Post-deployment and the right to health of armed forces personnel

Panel format

10:30 – 11:00

CHAIR:

Ms. Mariette Hughes, Service Complaints Ombudsman for the Armed Forces, United Kingdom

SPEAKERS:

Mr. Emmanuel Jacob, President, EUROMIL

Mr. Gregory Lick, National Defence and Canadian Armed Forces Ombudsman, Canada

This session highlights the role of ombuds institutions in protecting the right to health of armed forces personnel following their deployment and addresses this issue from two perspectives: (1) physical health, including combat-related disability; and (2) mental health, including depression and post-traumatic stress disorder. Ombuds institutions have demonstrated a recurring interest in supporting armed forces personnel by working to ensure that a safety net is in place for injured soldiers and is efficient. To that end, this session will focus on the potential for ombuds institutions to contribute more actively to the efforts of armed forces to provide optimal support to soldiers with post-deployment physical and mental health challenges.



Guiding questions

- Would you assess that your country has a well-designed regulatory framework to support soldiers returning from deployment with physical or mental health issues? Are the systems in place to follow their long-term recovery, particularly if they remain active service members?
- What types of complaints has your office received related to injuries incurred during deployment, and what was their nature?
- Has your office been involved in any public campaign or other type of widespread initiative designed to enhance support to injured service members or mental health support to armed forces personnel?

Q&A DISCUSSION

11:00 – 12:00

Lunch

12:00 – 13:30

SESSION 5

SDG16 (peaceful, inclusive and just societies) – the role of ombuds institutions

Panel format

13:30 – 15:00

MODERATOR: Mr. Richard Steyne, Programme Manager, Policy and Research Division, DCAF

SPEAKERS: Dr. Luka Glušac, Assistant Director and Research Fellow, Institute for Philosophy and Social Theory, University of Belgrade and DCAF expert

Ms. Nino Lomjaria, Public Defender, Georgia

Ms. Catalina Crespo, Defensora de los Habitantes, Costa Rica

The 2030 Agenda for Sustainable Development, complemented by 17 Sustainable Development Goals (SDGs), provides a systematic blueprint to harmonize global policy around economic growth, social inclusion, and environmental protection. The 2030 Agenda recognizes security as an enabler of and precondition for development, particularly with SDG16 – meant to promote peaceful, just, and inclusive societies. Among others, an aim of SDG16 is to “develop effective, accountable and transparent institutions at all levels” and “ensure responsive, inclusive, participatory and representative decision-making.”

By stressing the need for strong, transparent, and accountable institutions that are built on respect for human rights, effective rule of law, and good governance, SDG16



invariably overlaps with the mandates of ombuds institutions. This session reflects on the role of ombuds institutions in achieving the SDGs, especially SDG16.

Guiding questions

- Why is it important for ombuds institutions to link their work with the 2030 Agenda on Sustainable Development and SDG16?
- What does your office currently do to contribute to realizing SDG16?
- What are some challenges you face in contributing to or aligning your work with SDG16?
- What does your office hope to achieve in the future related to the 2030 Agenda and SDG16?

CONFERENCE CLOSING

Adoption of Conference Statement

15:00 – 15:45

Before closing the conference, participants will discuss and adopt a Conference Statement.

CHAIR: Dr. Hans Born, Assistant Director and Head of the Policy and Research Department, DCAF

Announcement of the 15th ICOAF, Vienna, 18-20 June 2023

15:45 – 16:00

SPEAKERS:

Mr. Friedrich Ofenauer, MP, Executive Chairman of the Parliamentary Commission for the Federal Armed Forces, Austria

Closing remarks

16:00 – 16:15

SPEAKERS:

Mr. Roald Linaker, Armed Forces Ombud, The Parliamentary Ombud's Committee for the Norwegian Armed Forces, Norway

Dr. Hans Born, Assistant Director and Head of the Policy and Research Department, DCAF

Departure of participants

16:15