

Human Rights of Armed Forces Personnel:

COMPENDIUM OF STANDARDS, GOOD PRACTICES AND RECOMMENDATIONS

This is an overview of rights covered in Chapter 12 of HUMAN RIGHTS OF ARMED FORCES PERSONNEL: COMPENDIUM OF STANDARDS, GOOD PRACTICES AND RECOMMENDATIONS developed by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) together with the Geneva Centre for Security Sector Governance (DCAF) to safeguard and strengthen the rights of people working in the armed forces. For more information, see: osce.org/odihr/ArmedForcesRights

Civil and political rights

Equal opportunities and non-discrimination

Rights related to military life (e.g., working and living conditions)

Procedural rights (e.g., military justice and oversight mechanisms)

LGBTI Members of the Armed Forces

Across the OSCE region, a growing recognition of widespread discrimination against LGBTI service members is resulting in greater efforts to protect their rights.

LGBTI people have historically been banned from serving in the armed forces of many OSCE participating States.

Such exclusions violate the right to private life as well as the principle of equality both in terms of citizenship and employment opportunities. Those states that have removed bans on LGBTI service personnel have found that an environment of tolerance and mutual respect, free from harassment, is also conducive to operational effectiveness.

Examples of LGBTI inclusion in the military:

Inclusion goes beyond allowing LGBTI personnel to enlist, to actively reduce the barriers to their equal and open participation in the armed forces.

Inclusive armed forces offer support through personnel policies and benefits, LGBTI associations and high-level commitment to inclusion and non-discrimination. Armed forces in the OSCE region following these practices are ranked among the most inclusive in the world, and include the Netherlands, the United Kingdom and Sweden.

The Law on the Armed Forces of Montenegro prescribes that persons applying to enlist are guaranteed transparency, fairness and equal rights, without discrimination on any grounds, including sexual orientation, among others.

Codes of conduct: Codes of conduct regulating the behaviour of armed forces personnel are vital for ensuring unit cohesion. When such codes are explicitly applied to all service personnel regardless of their sexual orientation or gender identity, they help to reduce anti-LGBTI discrimination and abuse in the military.

Training and awareness raising:

Training contributes to eradicating prejudice towards LGBTI service members, and also reinforces the role of the chain of command in preventing and punishing cases of discrimination and harassment. Training on sexual orientation and gender identity must be conducted at all levels to be effective.

Partners of LGBTI personnel:

In line with the principle of non-discrimination, it is good practice to afford the same benefits to partners of gay and lesbian service personnel as is provided to the partners of heterosexual personnel. This may include access to health insurance, housing and survivor allowances.

Recognition of gender identity: It is recommended that public authorities – including the armed forces – recognize people according to their gender identity. If a transgender service member wishes to transition, government agencies can help the process of changing documentation to reflect the person’s gender identity. Through education initiatives and codes of conduct, the armed forces can help to ensure an environment that is respectful and where LGBTI personnel are addressed appropriately, recognizing their shared capabilities and commitments as members of the armed forces.

Complaints procedures and counselling: Anti-LGBTI harassment and discrimination persist even in states with policies of inclusion, and LGBTI service personnel continue to face verbal and physical abuse, intrusive investigations and violations of their privacy. Complaints procedures help to provide redress for all victims of harassment and discrimination, including LGBTI personnel. Complaints mechanisms should include witness protection, confidentiality provisions and the possibility of a temporary transfer for the alleged victim or perpetrator while the investigation is ongoing. Specialized counselling services can help inform LGBTI personnel about their rights and available procedures in harassment cases.

Support networks: By providing tailored information and assistance, support networks and groups can provide essential frameworks for protecting the rights of LGBTI service personnel. Such groups exist in a number of OSCE participating States, and in the Netherlands, the United Kingdom and the United States they receive financial and other resources from the state.

Good Practices related to LGBTI armed forces personnel include:

- » Aligning policies on the participation of LGBTI people in the armed forces with international human rights obligations on anti-discrimination and the right to privacy;
- » Ensuring that anti-discrimination and equal-opportunities legislation is applicable to the military;
- » Adopting standards of social conduct that aim to safeguard operational effectiveness while reducing discrimination and abuse;
- » Undertaking special measures to ensure that policies of LGBTI acceptance and non-discrimination are implemented in practice, including information campaigns, education and training, and complaints and sanctions procedures; and
- » Providing funding for oversight and support groups to ensure accountability and protection of LGBTI service members.

Example: In the Netherlands, all new recruits receive training on LGBTI acceptance and protection against discrimination on the grounds of sexual orientation, while specialized training courses are provided for the officer corps and specialists.

In the United Kingdom, civil partners or same-sex spouses enjoy the same allowances and housing benefits as heterosexual couples, including equal pension rights.

Key terms: Transgender and gender identity

Gender identity is a person’s personal, internal experience of their own gender. A transgender person is someone whose gender identity differs from their sex at birth.

The QueerOfficers, established in 2005, is an association in Switzerland committed to fair and equal treatment in military service. It represents the interests of its members and supports the army in diversity management. The members meet regularly with the army leadership, make statements in the media and support the training of new recruits to promote a culture of diversity, openness and acceptance.

