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AVOCATUL POPORULUI
REGISTRATURĂ GENERALĂ
IEȘIRE Nr. 4529 5. MAI 2010

PARLAMENTUL ROMÂNIEI
CAMERA DEPUTAȚILOR
PREȘEDINȚ
Intrare Nr. 1/892/24
20 Luna 05 Ziua 11

Stimată doamnă președinte al Camerei Deputaților,

Sunt onorat să vă informez că, în perioada 25-28 aprilie 2010, la invitația Președintelui Comisiei Parlamentare pentru Forțele Armate Federale din Austria, domnul Anton Gaál, o delegație a instituției Avocatul Poporului, condusă de prof. univ. dr. Ioan Muraru, Avocatul Poporului, a participat la a doua Conferință internațională cu tema „Rolul instituțiilor ombudsman în protecția și promovarea drepturilor omului pentru personalul forțelor armate”, ce a avut loc la Viena.

La eveniment au participat delegații din Argentina, Austria, Belgia, Bosnia-Herțegovina, Canada, Estonia, Franța, Germania, Irlanda, Japonia, Lituania, Olanda, Norvegia, Polonia, România, Serbia, Slovenia, Statele Unite ale Americii, Ungaria.

Pe parcursul conferinței, delegația instituției Avocatul Poporului din România a apreciat conținutul practic și eficient al discuțiilor referitoare la rolul instituțiilor ombudsman în promovarea drepturilor personalului militar și veteranilor.

Intervenția Avocatului Poporului în cadrul programului conferinței s-a concretizat în realizarea unei prezentări cu tema „Veteranii de război în atenția instituției Avocatul Poporului” (Anexa nr. 1).

Lucrările conferinței s-au încheiat cu adoptarea declarației finale - „Memorandumul de la Viena”, care sintetizează intenția instituțiilor ombudsman participante de a continua cooperarea în domeniul protecției drepturilor omului în cadrul forțelor armate (Anexa nr. 2). De altfel, importanța cooperării internaționale în acest domeniu a fost subliniată și în sinteza lucrărilor primei Conferințe a instituțiilor Ombudsman pentru armată, ce a avut loc la Berlin, în anul 2009 (Anexa nr. 3).

Parlamentul României
Camera Deputaților

B.P. Nr. 602 din 14.05.2010

Fără îndoială, conferința a reprezentat un bun prilej pentru realizarea unui schimb de experiență între instituțiile ombudsman cu rol în protecția drepturilor personalului militar și cred că pe parcursul conferinței au fost realizate progrese importante în abordarea diverselor aspecte ale acestei teme.

Pentru o eventuală valorificare la nivelul comisiei de specialitate a Camerei Deputaților, a experienței rezultate din participarea la conferința menționată, am considerat util să vă informăm că în statele membre ale Uniunii Europene și în alte state există instituții Ombudsman pentru armată. De aceea, după cum cunoașteți, în Raportul de activitate al instituției Avocatul Poporului pe anul 2009, am supus atenției Parlamentului, propunerea de a analiza, ca perspectivă, posibilitatea organizării unei instituții Ombudsman pentru armată și în România. O asemenea instituție ar putea avea rolul de a apăra drepturile, libertățile și interesele legitime ale soldaților și familiilor acestora.

Folosesc acest prilej pentru a vă asigura, stimată doamnă președinte, de înalta mea considerație.

Avocatul Poporului

Prof. univ. dr. Ioan MURARU



București, 4 mai 2010

Doamnei Roberta Alma ANASTASE

Președintele Camerei Deputaților

Avocatul Poporului din România**Prof. univ. dr. Ioan Muraru**

Vă mulțumesc pentru invitația de a participa la cea de a doua Conferință Internațională a instituțiilor Ombudsman pentru Forțele Armate.

Am răspuns prompt invitației dintr-un interes profesional. În România, funcționează Instituția Avocatul Poporului cu patru domenii de activitate, iar unul din aceste domenii se preocupă de Armată, Justiție, Poliție, Penitenciare.

Anul trecut am participat la Berlin, la prima conferință în domeniu și cu acel prilej am învățat multe lucruri. Dar, și acest lucru este cel mai important, am înțeles ce rol aparte are ombudsmanul pentru armată.

Ca urmare, în Raportul de activitate pentru anul 2009 trimis Parlamentului, am sugerat, în perspectivă, organizarea acestui tip de ombudsman și în România.

Am considerat că Ombudsmanul pentru Armată va trebui să se ocupe de drepturile, libertățile și interesele legitime ale militarilor și familiilor lor. Pentru noi, desigur, este o problemă de viitor.

Referitor la problematica de pe ordinea de zi a actualei Conferințe, noi am redactat un document care privește veteranii de război din România. Documentul este difuzat în limbile franceză și engleză și va putea fi prezentat, dacă este cazul, de către doamna consilier Simina Gagu.

Câteva cuvinte însă se impun. Problemele veteranilor de război, în complexitatea lor (pensii, familii, urmași, etc.) sunt delicate iar soluțiile prezente sunt departe de a da satisfacție acestora. Nu aș putea lăuda nici măsurile care ar trebui să satisfacă meritele și orgoliile firești și justificate ale veteranilor de război.

Iată de ce acest schimb de experiență la care participăm va fi o sursă de inspirație pentru eforturile viitoare.

Vă mulțumesc

Viena, 2010

ROMÂNIA
AVOCATUL POPORULUI
Aprilie 2010

VETERANII DE RĂZBOI ÎN ATENȚIA INSTITUȚIEI AVOCATUL POPORULUI

1. Precizări introductive privind veteranii de război în România

Legislația românească stabilește **calitatea de veteran de război** pentru persoanele care au participat la primul sau al doilea război mondial în armata română și s-au aflat într-una din următoarele situații:

a) au luptat în unități militare - subunități, mari unități sau comandamente - la diferite eșaloane ori au făcut parte din formațiunile logistice, astfel cum sunt prevăzute în Nomenclatorul Marelui Stat Major;

b) au acționat în unitățile speciale din zona interioară la dezamorsarea proiectilelor, precum și la curățarea teritoriului de mine până la 31 decembrie 1946;

c) au fost comandanți militari sau comandanți ai gărzilor militare ori membri în comisiile militare de control și recepție în întreprinderi furnizoare de material de război, prevăzute în Nomenclatorul Marelui Stat Major;

d) au luptat pe teritoriul național vremelnic ocupat de inamic, împotriva acestuia, în unități ori formațiuni constituite, recunoscute ca atare de Marele Stat Major;

e) au făcut parte din justiția militară, poliția militară, jandarmerie, din unități de pompieri militari și companii de poliție din cadrul Ministerului de Interne, care au acționat în zona de operațiuni ori s-au aflat în unități sau formațiuni constituite și au acționat în timpul războiului, în perioadele arătate în Nomenclatorul Marelui Stat Major;

f) au devenit invalizi de război;

g) au fost prizonieri de război.

Sunt considerate, **de asemenea, veterani de război**, persoanele care au participat la primul sau al doilea război mondial, după cum urmează:

a) cetățenii români din orice teritoriu care s-au înrolat voluntar și au luptat în rândurile armatelor Națiunilor Unite;

b) locuitorii din provinciile românești, vremelnic ocupate în perioada 1940-1945, care au fost încorporați sau mobilizați în mod obligatoriu și au luptat în armatele altor state, în cazul în care și-au păstrat sau redobândit cetățenia română și domiciliul în România;

c) persoanele de naționalitate germană care au fost încadrate obligatoriu în unități ale armatei germane, în cazul în care și-au păstrat sau redobândit cetățenia română și domiciliul în România.

Invalid de război este veteranul de război care a suferit prin rănire sau accidentare în timpul sau din cauza războiului o invaliditate atestată printr-un act medical legal.

Prizonier de război este:

a) persoana capturată de inamic în cursul operațiunilor de război, indiferent dacă a fost combatant sau necombatant, precum și cea asimilată cu aceasta potrivit convențiilor internaționale la care România este parte;

b) persoana care, după încetarea ostilităților, la 23 august 1944, a fost dezarmată de trupele sovietice sau germane, sau, chiar nedezarmată, a fost internată în lagăre de prizonieri;

c) elevul școlilor militare de ofițeri, subofițeri și maiștri militari, trimis la studii în Germania, precum și soldatul și cadrul aflați în această țară la specializare, considerați prizonieri de război de către autoritățile germane la 23 august 1944.

Văduva de război este soția supraviețuitoare a celui decedat pe front, în prizonierat sau ca urmare a rănilor ori bolilor contractate pe front sau în prizonierat.

Calitatea de veteran de război se stabilește de către centrele militare.

Totodată, militarilor care au participat cel puțin 4 luni neîntrerupt sau cumulativ la acțiuni militare în afara teritoriului statului român, precum și la cele pentru contracararea și limitarea efectelor acțiunilor teroriste pe teritoriul statului național, inclusiv cele de poliție aeriană și de intervenție cu nave li se conferă prin ordin al ministrului apărării, **titlul onorific de "Militar Veteran"**, iar personalului civil, cel de "**Veteran**".

2. Reglementări legale privind veteranii de război

Principalele reglementări legale în vigoare, aplicabile veteranilor de război se regăsesc în:

- Legea nr. 49/1991 privind acordarea de indemnizații și sporuri invalizilor, veteranilor și văduvelor de război, cu modificările și completările ulterioare.
- Legea 44/1994 privind veteranii de război, precum și unele drepturi ale invalizilor și văduvelor de război, cu modificările și completările ulterioare.
- Legea nr. 49/1999 privind pensiile I.O.V.R. (invalizi, orfani, văduve de război), cu modificările și completările ulterioare.
- Ordonanța de urgență a Guvernului nr. 82/2006 pentru recunoașterea meritelor personalului armatei participant la acțiuni militare.
- Ordinul ministrului transporturilor, construcțiilor și turismului și al ministrului finanțelor publice nr. 266/312/2005 pentru aprobarea Instrucțiunilor privind tipărirea și decontarea biletelor speciale de călătorie gratuită, emise în baza prevederilor Legii nr. 44/1994, cu modificările și completările ulterioare.
- Ordinul Ministrului Apărării nr. M.127/2008 pentru aprobarea Normelor privind stabilirea calității de veteran de război de către Ministerul Apărării, cu modificările și completările ulterioare.

3. Drepturile veteranilor de război stabilite prin legislația din România

În vederea asigurării protecției sociale a veteranilor de război, legiuitorul a reglementat în mod diferențiat drepturi pentru veterani și văduve de război, prin Legea nr. 49/1991 privind acordarea de indemnizații și sporuri invalizilor, veteranilor și văduvelor de război, cu modificările și completările ulterioare, și Legea nr. 44/1994 privind veteranii de război, precum și unele drepturi ale invalizilor și văduvelor de război, republicată, cu modificările și completările ulterioare.

I. Principalele drepturi ale veteranilor de război sunt:

1. *luarea în considerare ca vechime în muncă sau în serviciu, la calcularea pensiei, a timpului participării în război, precum și a perioadelor de prizonierat, de spitalizare și de concedii medicale, ca urmare a rănilor suferite în război sau în prizonierat;*
2. *indemnizațiile și sporul lunar, proporțional cu timpul cât au luptat în război, potrivit legii;*
3. *renta lunară - pentru veteranii de război, cărora le-au fost acordate ordine și medalii pentru faptele de arme săvârșite pe câmpul de luptă;*
4. *constituirea unui drept de proprietate pentru veteranii de război, cărora le-au fost acordate ordine și medalii pentru faptele de arme săvârșite pe câmpul de luptă. Veteranii de război care, din cauza deficitului de teren în localitățile unde domiciliază sau în alte localități, nu au putut fi înproprietăriți conform legii, vor fi despăgubiți cu o sumă ce reprezintă contravaloarea terenului la care erau îndreptățiți conform legii;*
5. *călătorii gratuite dus-întors pe calea ferată, pe mijloacele de transport auto sau căile fluviale; gratuități pe mijloacele de transport în comun în mediul urban (metrou, tramvai, troleibuz, autobuz);*
6. *prioritate la repartizarea și închirierea locuințelor din fondul locativ de stat; dreptul de a cumpăra locuințele din fondul locativ de stat pe care le dețin cu contract de închiriere;*
7. *scutirea de plata impozitelor și taxelor locale, precum și de plata impozitului corespunzător pentru terenurile arabile în suprafață de până la 5 ha;*
8. *asistență medicală gratuită în toate instituțiile medicale civile de stat sau militare și asigurarea de medicamente gratuite atât în tratamentele ambulatorii, cât și pe timpul spitalizării;*
9. *bilete de tratament gratuite, în stațiunile balneoclimaterice.*

Invalizii de război, în plus, au dreptul la obținerea de *proteze* conform contractului-cadru adoptat în baza Legii nr. 95/2006 privind reforma în domeniul sănătății. Totodată, pe baza recomandărilor medicale, au dreptul la proteze gratuite și veteranii de război a căror stare de sănătate s-a înrăutățit din cauza împrejurărilor în care au participat pe front.

II. Principalele drepturi ale văduvelor de război:

1. *dreptul la pensia I.O.V.R, pe lângă pensia de asigurări sociale;*
2. *indemnizația de veteran de război, proporțional cu timpul cât soțul decedat a luptat în război;*
3. *călătorii gratuite;*
4. *prioritate la repartizarea și închirierea locuințelor din fondul locativ de stat; dreptul de a cumpăra locuințele din fondul locativ de stat pe care le dețin cu contract de închiriere;*
5. *scutirea de plata impozitelor și taxelor locale, precum și de plata impozitului corespunzător pentru terenurile arabile în suprafață de până la 5 ha;*
6. *asistență medicală gratuită în toate instituțiile medicale civile de stat sau militare și asigurarea de medicamente gratuite atât în tratamentele ambulatorii, cât și pe timpul spitalizării;*
7. *bilete de tratament gratuite, în stațiunile balneoclimaterice.*

4. Autorități publice implicate în protecția drepturilor veteranilor de război

Pentru punerea în aplicare a dispozițiilor legale privind drepturile veteranilor de război și văduvelor de război, Legea nr. 44/1994 stabilește atribuții în sarcina mai multor **autorități publice**: Ministerul Apărării Naționale, Ministerul Administrației și Internelor, Serviciul Român de Informații, Ministerul Muncii, Familiei și Protecției Sociale, Ministerul Transporturilor și Infrastructurii, Casa Națională de Pensii și Alte Drepturi de Asigurări Sociale și casele teritoriale de pensii, casele de asigurări de sănătate județene, consiliile locale, consiliile județene.

5. Probleme privind veteranii de război în rezolvarea cărora a fost implicată instituția Avocatul Poporului

În cursul anilor 2009 și 2010, veteranii de război s-au adresat instituției Avocatul Poporului și birourilor teritoriale prin petiții, semnalând în principal, probleme privind:

- refuzul autorităților publice locale de a acorda scutirea de la plata impozitului pentru terenurile arabile în suprafață de până la 5 ha;
- refuzul autorităților publice locale de a dispune în proprietate cu 500 m² pentru loc de casă în localitatea de domiciliu sau cu 1 ha/5 ha teren arabil în extravilan;
- neacordarea despăgubirilor cu o sumă ce reprezintă contravaloarea terenului la care erau îndreptățiți conform legii veteranii de război care, din cauza deficitului de teren în localitățile unde domiciliază sau în alte localități, nu au putut fi în proprietate conform legii;
- refuzul autorităților publice locale de a acorda scutirea de la plata impozitului pe terenul arabil în suprafață de până la 5 ha, în cazul tuturor terenurilor agricole;
- neacordarea билетelor de tratament gratuite în proporție de minimum 4 % din numărul total al veteranilor de război;
- nesoluționarea cererilor de cumpărare a locuințelor din fondul locativ de stat, pe care veteranii le dețin în calitate de chiriași;
- cuantumul foarte mare al chiriilor;
- refuzul unor unităților spitalicești de a acorda asistență medicală veteranilor de război, sub motivația lipsei locurilor.

Dintre petițiile veteranilor de război, văduvelor de război înregistrate la instituția Avocatul Poporului, cele mai multe au vizat **neacordarea unor scutiri fiscale de către autoritățile publice locale**. Astfel, veteranii de război au semnalat instituției Avocatul Poporului faptul că autoritățile administrației publice locale au refuzat acordarea scutirii de la plata impozitului pentru terenurile arabile în suprafață de până la 5 ha, pe motiv că, potrivit art.284 alin. (7) din Codul fiscal, scutirea de la plata impozitului se acorda numai pentru terenul aferent clădirii utilizate ca domiciliu.

Ca urmare a analizei dispozițiilor Codului fiscal, pe de o parte și ale Legii nr.44/1994 privind veteranii de război, pe de altă parte, instituția Avocatul Poporului a apreciat că solicitările veteranilor de război erau întemeiate, și pentru clarificarea problemelor semnalate, **a sesizat primăriile și consiliile locale în cauză**, solicitând luarea măsurilor legale pentru acordarea scutirii de la plata impozitului pe terenul arabil în suprafață de până la 5 ha, la care veteranii de război erau îndreptățiți potrivit Legii nr.44/1994. În cazul lipsei de reacție a

autorității publice sesizate, Avocatul Poporului s-a adresat autorității publice ierarhic superioare (prefectului). Unele autorități ale administrației publice locale și-au însușit opinia Avocatului Poporului și au acordat scutirile cuvenite, în timp ce altele nu au dat curs sesizărilor instituției Avocatul Poporului.

În toate cazurile, instituția Avocatul Poporului a adus la cunoștința petiționarilor rezultatul demersurilor întreprinse pentru soluționarea petițiilor și a comunicat informații privind căile de urmat pentru soluționarea problemelor.

Redăm în cele ce urmează câteva **exemple de cazuri soluționate** ca urmare a demersurilor întreprinse de instituția Avocatul Poporului.

➤ Petentul, veteran de război, a sesizat instituția Avocatul Poporului în legătură cu refuzul Primăriei orașului Sângeorgiu de Pădure, județul Mureș, de a-i acorda scutirea de la plata impozitului pentru terenul agricol în suprafață de 0,5824 ha.

Pentru clarificarea problemei sesizate, instituția Avocatul Poporului a solicitat informații din partea autorității administrației publice menționate. În urma demersurilor întreprinse de instituția Avocatul Poporului, Primăria orașului Sângeorgiu de Pădure, județul Mureș a comunicat că, începând cu 1 ianuarie 2008, petentul este scutit de la plata impozitului pe terenul agricol. De asemenea, ni s-a mai comunicat că, până la data mai sus menționată, petentul a avut obligația să achite impozitul aferent acestei suprafețe de teren agricol; astfel, din suma achitată de 146,59 lei, s-a reținut doar impozitul datorat până la data de 31 decembrie 2007, adică 100,09 lei, iar restul sumei de 46,50 lei urma să i se restituie ca plată nedatorată.

➤ Petenta, văduvă de război, a sesizat instituția Avocatul Poporului în legătură cu refuzul Consiliului local Deva - Serviciul public de taxe și impozite de a acorda scutirea de la plata impozitului pentru suprafața de teren de 0,47 ha teren agricol.

Ca rezultat demersurilor întreprinse de instituția Avocatul Poporului, autoritatea publică sesizată ne-a comunicat că a dispus scutirea de la plata impozitului pe terenul în suprafață de 0,47 ha aflat în proprietatea petentei.

Dincolo de implicarea instituției Avocatul Poporului pentru soluționarea concretă a petițiilor primite din partea veteranilor de război, remarcăm și o abordare cu caracter general a problemelor cu care se confruntă această categorie de persoane, concretizată în întocmirea unui raport special. Ne referim aici la **Raportul special privind respectarea drepturilor veteranilor de război, văduvelor de război și văduvelor nrecăsătorite ale veteranilor de război**, pe care Avocatul Poporului l-a înaintat Parlamentului României și altor autorități publice¹. Raportul conține recomandări și propuneri concrete pentru perfecționarea legislației și activității în domeniul respectării drepturilor veteranilor de război, având în vedere că este vorba de persoane care, din cauza vârstei (media depășește 87 de ani), au o capacitate redusă de a-și apăra interesele. În esență, aceste recomandări s-au referit la:

✓ Modificarea și completarea art. 284 alin. (1), alin. (3) și alin. (7) din Codul fiscal, în sensul introducerii prevederii referitoare la acordarea scutirii de la plata impozitului corespunzător pentru terenurile arabile în suprafață de până la 5 ha, pentru veteranii de război,

¹ Acest raport a fost transmis în anul 2009, către președinții celor două Camere ale Parlamentului, primul – ministru, ministrul muncii, familiei și protecției sociale, ministrul finanțelor, ministrul administrației și internelor, președintele Casei Naționale de Pensii și Alte Drepturi de Asigurări Sociale, președintele Asociației Veteranilor de Război din România.

în vederea realizării unei corelări cu prevederile legii speciale, și anume art. 16 lit. e) din Legea nr. 44/1994.

✓ Efectuarea unor verificări la nivel național în domeniul împrumutării veteranilor de război decorați pe front, precum și luarea unor măsuri pentru acordarea acestui drept solicitanților, de către o autoritate publică cu atribuții specifice de apărare a drepturilor veteranilor de război.

✓ Asigurarea unui cadru legal adecvat pentru acordarea medicamentelor și protezelor gratuite pentru persoanele îndreptățite.

✓ Respectarea dreptului veteranilor și văduvelor de război la asigurarea cu prioritate a unor locuințe din fondul locativ de stat, de către consiliile locale.

✓ Respectarea dreptului veteranilor și văduvelor de război de a cumpăra locuințele atribuite din fondul locativ de stat.

Sub acest aspect, observăm că Guvernul României a adoptat Hotărârea nr. 662/2009 privind organizarea și funcționarea secției asistență veterani de război din cadrul Ministerului Apărării Naționale. Astfel, în cadrul Ministerului Apărării Naționale s-a constituit **Secția asistență veterani de război**, ca autoritate investită cu responsabilitatea coordonării, la nivel național, a problematicei veteranilor, invalizilor și văduvelor de război.

Totodată, menționăm aici că propunerea Avocatului Poporului de modificare a legislației aplicabile veteranilor de război **a fost avută în vedere** de către Parlamentul României, care, recent a adoptat Legea nr.24/2010 pentru modificarea și completarea art. 284 din Legea nr.571/2003 privind Codul fiscal. Dispozițiile legale menționate stabilesc că *scutirea de la plata impozitelor și taxelor locale, precum și de la plata impozitului corespunzător pentru terenurile arabile, fânețe și păduri, în suprafață de până la 5 ha, se aplică pentru veteranii de război, vădulele de război și vădulele veteranilor de război care nu s-au recăsătorit.*

Modificările legislative intervenite înlătură astfel orice posibilitate de interpretare eronată a dreptului veteranilor și văduvelor de război la scutire de la plata impozitului pe terenul agricol.

Fără îndoială, există în continuare unele dificultăți în realizarea tuturor drepturilor veteranilor de război, și de aceea considerăm util ca autoritățile publice cu responsabilități în acest domeniu să aibă o atitudine receptivă, în vederea evitării cazurilor de administrație defectuoasă. Menționăm că în *Cuvântul introductiv* la Raportul de activitate pe anul 2009, Avocatul Poporului, prof. univ. dr. Ioan Muraru a subliniat că „Preocupării Avocatului Poporului pentru soluționarea problemelor concrete semnalate în petiții, i s-au adăugat unele acțiuni întreprinse pentru protejarea drepturilor unor segmente de populație, atunci când petițiile individuale în același domeniu, erau numeroase. Ne referim aici la rapoartele speciale ale Avocatului Poporului, pe care Parlamentul, cel puțin la nivelul comisiilor parlamentare, ar fi util să le reia în dezbatere. Avem în vedere cu precădere, Rapoartele speciale privind sistemul public de pensii, sistemul de ocrotire a sănătății, drepturile copiilor și tinerilor cu handicap, respectarea drepturilor veteranilor de război, văduvelor de război și văduvelor nerecăsătorite ale veteranilor de război, înaintate Parlamentului și care conțin propuneri de măsuri și soluții judicioase cu privire la probleme juridice dificile.”

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Rapoarte ale Avocatului Poporului

- Raportul special privind respectarea drepturilor veteranilor de război, văduvelor de război și văduvelor necăsătorite ale veteranilor de război, înaintat către președinții celor două Camere ale Parlamentului, primul – ministru, ministrul muncii, familiei și protecției sociale, ministrul finanțelor, ministrul administrației și internelor, președintele Casei Naționale de Pensii și Alte Drepturi de Asigurări Sociale, președintele Asociației Veteranilor de Război din România prin adresa Avocatului Poporului nr. 3521/6 aprilie 2009
- Raportul de activitate pe anul 2009 al instituției Avocatul Poporului, înaintat Parlamentului prin adresa Avocatului Poporului nr. 686/687/27 ianuarie 2010.

“Vienna Memorandum”



The Role of Ombuds Institutions in Promoting and Protecting the Human Rights of Soldiers and Veterans

Final Declaration of the 2nd International Conference of Ombuds Institutions for the Armed Forces

"Vienna Memorandum"

The 2nd International Conference of Ombuds Institutions for the Armed Forces, hosted in Vienna, Austria, from 25 to 28 April 2010 takes ahead the cooperation process of these independent institutions, as is expressed in the "Berlin Declaration", according to which the control of armed forces assumes an important role in countries with a democratic constitution, by providing transparency and reinforcing confidence in the armed forces.

The long-term goal is to strengthen the various legal and other framework conditions for these controlling bodies, as far as they have been installed, which currently exist in various shapes, ranging from parliamentary ombuds institutions to military bodies in charge of controlling the armed forces.

The Vienna Conference is focused on the role of ombuds institutions in promoting and protecting the human rights of soldiers in peacetime and during operations as well as their welfare after an operation.

Against this background, the "Vienna Memorandum" is to lay the basis for a successful international cooperation in the interest and for the benefit of all soldiers.

The conferees declare that

- (1) The promotion and protection of the human rights of soldiers and veterans in peacetime and during operations is a central concern,
- (2) Particular attention is paid to a respectful handling of the diversity in armed forces with regard to gender, sexual orientation, ethnicity and religion,
- (3) Increased attention is paid to the effects of a possible post-traumatic stress disorder of soldiers,
- (4) The support and the welfare of the families of members of armed forces are of great importance,

- (5) The various legal and other framework conditions for ombuds institutions for the armed forces are to be strengthened and a handbook and a website on the situation of the ombuds institutions in the respective countries is to be developed,
- (6) It should be considered to facilitate cooperation between ombudsman institutions in order to support and protect human rights, fundamental freedoms and welfare of soldiers in international military operations,
- (7) The periodic continuation of the cooperation process be kept up,
- (8) The conference will be continued in Serbia in 2011, and
- (9) Canada and Norway have been approached to host a conference in 2012 and 2013, respectively.

Vienna, 27 April 2010



**Oversight, protection and welfare:
The ombudsman institutions
as advocates for military personnel**

**Proceedings of the international conference
on the occasion of the 50th anniversary of
the German Parliamentary Commissioner for the Armed Forces**

Bundestag, Berlin, 10 - 12 May 2009

**co-hosted by
Reinhold Robbe, German Parliamentary Commissioner for the Armed Forces
and
Ambassador Theodor H. Winkler, Director of the Geneva Centre for the Democratic
Control of Armed Forces (DCAF)**



Reinhold Robbe
Der Wehrbeauftragte
des Deutschen Bundestages



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OPENING CEREMONY

Welcome remarks and opening of the conference by Reinhold Robbe, German Parliamentary Commissioner for the Armed Forces¹

Your Excellencies, honoured guests, ladies and gentlemen,

I should like to begin my address with a minute's silence in honour of all the service personnel who have lost their lives in international peacekeeping operations throughout the world since the end of the Second World War. May I therefore ask you to rise.

To represent all of these fallen servicemen and -women, let me mention Lance Corporal Sergej Motz, who was killed near Kunduz in Afghanistan several days ago at the age of only 21 and was buried last Friday in his home town of Bad Saulgau.

Over the last 60-odd years, thousands of young people like Lance Corporal Motz have died in the struggle for peace, democracy and freedom. They have given their lives in the service of their respective countries.

At the start of this conference, we wish to honour the memory of the many fallen servicemen and -women.

Dietrich Bonhoeffer, that great symbol of German resistance, wrote the following words shortly before being murdered by the Nazis:

"We know that sowing and fomenting mistrust is one of the most despicable things and that trust must be strengthened and nurtured wherever possible.

For us, trust will always be one of the greatest, rarest and most edifying gifts that flow from human interaction."

In this spirit, let us now commemorate the fallen service personnel by observing a minute's silence in their honour.

¹ Unless otherwise indicated, this report contains the texts as provided by the German Bundestag to the conference organizers.

[Minute's silence]

Thank you for that expression of your sympathy.

Almost exactly four years ago in the chamber of the German Bundestag, only a stone's throw away from this room, I was sworn in as Germany's tenth Parliamentary Commissioner for the Armed Forces. At that time I formulated a few principles for the exercise of my office. One such principle was always to be in close touch with the people I served, namely the members of the German armed forces. Another principle was that, once a year, I would visit all the main foreign theatres in which our forces were engaged.

I have managed to adhere to both of these principles over these past four years. And besides these principles, I cherished the hope that I might succeed in bringing around the table all the institutions, commissioners and ombudsmen who look after the members of our armed forces. My hope was that the participants in such large-scale round-table discussions would not only get to know each other but would also try to build solid foundations for friendly and constructive cooperation across all frontiers.

I am delighted to say that this hope is being fulfilled today.

Ladies and gentlemen, or may I say dear friends, I am very pleased to be able to welcome you all to Berlin today. I must say that I am most grateful for the great response to my invitation, because the fact that you have all come here to Berlin is a sign of your keen interest in international cooperation and the high priority you attach, as I do, to international cooperation.

In December 2007 I visited the Geneva Centre for the Democratic Control of Armed Forces – the DCAF – where I had a meeting with the Director of the Centre, Ambassador Theodor Winkler.

At that meeting I outlined my ideas for an international conference of all ombudsmen who deal with the armed forces. The main focal point of the conference, in other words, would be the institutions dedicated specifically to addressing the needs and concerns of servicemen and -women. This is why the subtitle of our conference is 'ombudsman institutions as advocates for military personnel'. The conference I envisaged in Geneva was intended to afford the first opportunity for an international exchange of information, opinions and ideas.

Ambassador Winkler and his team at the DCAF headquarters embraced my proposals enthusiastically from the outset, which meant that we were soon able to start turning the idea into reality.

Even at that time, however, we were well aware that such an undertaking demanded strenuous efforts in terms of preparation and research. Research meant identifying the countries in the world in which such specific institutions existed.

I am delighted to be able to welcome participants from a total of 18 countries to the conference in Berlin today.

I should like to begin by focusing on what we might call the traditional ombudsman institutions.

From Austria I welcome the presidium of the Military Complaints Commission of the National Council with its presiding chairman Mr Anton Gaál and chairmen Paul Kiss and Walter Seledec.

From Canada, I warmly welcome Mr Pierre Daigle, the Canadian Forces Ombudsman, and his predecessor, Ms Mary Sue McFadyen.

From Ireland, I welcome Ms Paulyne Marrinan Quinn, Ombudsman for the Defence Forces.

From Norway, we have the Parliamentary Ombudsman for the Armed Forces, (*Stortingets Ombudsmann for Forsvaret*), Mr Kjell Arne Bratli.

I extend a warm welcome to him and to Dr Susan Atkins, Service Complaints Commissioner for the Armed Forces of the United Kingdom.

From the United States, I warmly welcome Colonel Kurt Miller, Inspector General of the US Forces in Europe.

From Belgium I welcome Mr Claude Moerman, Complaints Manager of the General Inspection Service.

From France, I warmly welcome General Philippe Nicolardot, Contrôleur Général des Armées.

From the Netherlands we have Admiral Michiel van Maanen, Inspector-General of the Krijgsmacht.

From Estonia, I also extend a warm welcome to Mr Raivo Sults, Adviser to the Chancellor of Justice.

From Finland, I welcome Mr Raino Marttunen, who is representing the Parliamentary Ombudsman.

From Poland, I welcome the Commissioner for Civil Rights, Professor Marek Zubik.

From Romania, I welcome the People's Advocate, Professor Ioan Muraru, and Ms Erzsebet Rucz.

Ms Cecilia Nordenfelt, the Riksdagen Ombudsmän, has travelled here from Sweden. I warmly welcome her too.

From Slovenia, I welcome Mr Jernej Rovšek, who is representing the Human Rights Ombudsman.

And, finally, I welcome the Serbian National Ombudsman, Mr Saša Janković.

From the countries intending to establish ombudsman institutions which signalled their interest in participating, I bid a very warm welcome to Dr Nilda Garré, Minister of Defence of the Argentine Republic. Let me say, Minister, that we regard your participation in this conference with your delegation as a particular honour.

Dr Garré is accompanied by His Excellency Guillermo Nielsen, Ambassador of the Argentine Republic. We are grateful that you are also able to take part in our conference.

From Bosnia and Herzegovina I welcome Mr Branko Zrno, Member of Parliament and Chairman of the Defence Committee. We were delighted to learn a few weeks ago that an Ombudsman Bill had been introduced in the Parliament of Bosnia and Herzegovina. On my visit to Sarajevo I received compelling first-hand evidence of the great interest generated by the proposal to establish an ombudsman.

My welcome also extends, of course, to the many members of staff of the various ombudsman institutions who have come here as part of their national delegations.

I also welcome Mr Robert-Jan Uhl, Human Rights Officer at the OSCE Office for Democratic Institutions and Human Rights (ODIHR) in Warsaw.

Unfortunately, urgent official engagements have prevented Mr Ulrich Galle, President of the European Ombudsman Institute, from being with us today. He warmly welcomes all participants to our conference and has sent us a personal message of greeting, which you will find in the documentation on your table.

Let us now turn to our guests of honour.

The guests of honour attending our conference are Professor Norbert Lammert, President of the German Bundestag, who will be with us this afternoon, and Dr Franz Josef Jung, Federal Minister of Defence, who will also be saying some words of welcome.

May I take this opportunity to say that many summit meetings are taking place in Berlin at the present time, as you may have learned through the media, and so all of the participating government ministers and dignitaries have various engagements. They all send their apologies for not being with us from the start of proceedings this morning. I am all the more pleased, then, to be able to welcome Mr Günter Gloser, Minister of State for Europe, who will shortly be addressing you.

I also welcome Ms Ulrike Merten, chair of the Defence Committee. She, too, will be saying a few words.

Let me also extend a welcome to the following members of the Defence Committee: Ms Hedi Wegener and Ms Petra Hess from the parliamentary group of the SPD, Ms Elke Hoff from the FDP group, Dr Hakki Keskin from the group of The Left Party and Mr Winfried Nachtwei of Alliance 90/The Greens.

I also welcome Ms Kersten Naumann, who chairs the Petitions Committee of the German Bundestag.

I also cordially welcome Lieutenant Colonel Ulrich Kirsch, federal chairman of the German Bundeswehr Association, and his deputy, Warrant Officer Wolfgang Schmelzer.

I warmly welcome the representatives of the military command of the Bundeswehr, Lieutenant General Johann-Georg Dora, Deputy Chief of Staff of the Bundeswehr, along with Rear Admiral Christian Büttner and Commodore Rolf Schmitz.

In addition, let me welcome Professor Rainer Pommerin, spokesman of the Advisory Council on Leadership Development and Civic Education, and Brigadier Alois Bach, Commander of the Centre for Leadership Development and Civic Education.

I also extend a cordial welcome to the representatives of the media and to all the guests in the auditorium and in the visitors' gallery.

Ladies and gentlemen, today's conference marks the 50th anniversary of the inauguration of the German Bundestag's first Parliamentary Commissioner for the Armed Forces and the publication of the 50th Commissioner's report in Germany. Let me therefore make a few remarks about the office I hold.

I often tell guests from other countries that the creation of this instrument of scrutiny of the German Parliament is a response to the bitter experiences of the darkest chapter of German history.

The establishment of entirely independent and robust parliamentary oversight of the armed forces was intended to ensure once and for all that the misuse of German military forces which occurred during the period of Hitlerian fascism could never be repeated.

The armed forces of the Federal Republic of Germany are subject to the primacy of politics. Parliament, together with the Federal Government, decides on any deployment of armed German troops abroad.

Next to the Defence Committee, the Parliamentary Commissioner for the Armed Forces, in his capacity as an auxiliary organ of Parliament, is the main supervisory authority. His core task is to ensure that the fundamental rights of service personnel are respected and that the principles of what we call *innere Führung* – that is to say leadership development and civic education – are upheld.

The establishment of the Bundeswehr in the Germany of the 1950s was based on the precept that service personnel were not there simply to take and execute orders like some kind of vassal. As 'citizens in uniform', servicemen had rights and duties, which are

enshrined in the German Constitution, and were required to use their brains in exercising and discharging them.

The entitlement of service personnel to protection of their human dignity and fundamental rights must be preserved at all costs, particularly in the special conditions in which armed forces operate.

The curtailment of human rights and fundamental freedoms is possible only in very precisely defined circumstances.

Besides protecting the fundamental rights of service personnel, it is also the task of the Commissioner for the Armed Forces to ensure that the principles of leadership development and civic education are being upheld. These principles have now become a veritable trade mark of the Bundeswehr.

The aim of leadership development and civic education, to put it as comprehensibly as possible, is decent human interaction.

The purpose of training in leadership and civic responsibility is to ensure:

- that service personnel are familiar with the values underlying the system of government so that they can promote and defend them,
- that they form their own intellectual standpoint, and
- that they know what they are supposed to be fighting for.

Besides, a member of the armed forces who feels valued and socially secure will be more motivated to do his or her duty.

The core principles of this *innere Führung* are established, but they are not set in stone. On the contrary, they are constantly developing, in the same way as the society to which the Bundeswehr belongs is subject to a dynamic process of constant renewal.

As an example I can cite the increasing number of Bundeswehr deployments abroad and the accompanying need to attune to geographical, cultural and ethnic conditions in the various countries of engagement.

The principles of a military command structure and military discipline are not incompatible with the concepts of citizens in uniform and personal responsibility of servicemen and -women.

The idea of directive control, what we call *Auftragstaktik*, that characterises the Bundeswehr system of command and control encourages service personnel to think for themselves. They are not led and controlled like puppets but are able to act on their own initiative and responsibility.

Leadership development and civic education, finally, are also an essential means of embedding the armed forces in our liberal democratic state based on the rule of law and in our society.

This also means that the Bundeswehr must always face up to public criticism and questions. Subject to the dictates of military sensitivity, armed forces must be transparent, and their role and actions must be legitimised and controllable.

In order to make the institution of the German Parliamentary Commissioner for the Armed Forces comprehensible, I need to look back briefly at the history of the Federal Republic of Germany.

After the end of the Second World War, everything with military connections was initially disowned. The war that Germany had begun had brought untold suffering to the world and had ultimately led to self-destruction and misery in Germany too. People were war-weary in the truest sense of the term.

In the first half of the 1950s the Western Allies called on the Federal Republic of Germany to make its contribution to the defence of the free world.

The idea of establishing armed forces provoked an impassioned and sometimes very acrimonious debate, which focused not only on the military contribution as such. There was also a deep-seated fear of the 'armed force' as a power factor in domestic politics, a fear that derived chiefly from people's experience of Nazi tyranny.

There was broad agreement at that time among the Members of the Bundestag that the armed forces, as a new instrument of executive power, must be subject to tighter parliamentary scrutiny.

In addition, demands were made for service personnel, as citizens of a democratic state based on the rule of law, to be granted extensive rights and the widest possible recourse to legal remedies.

The amendment of the Basic Law required for the establishment of the Bundeswehr was finally achieved after heated parliamentary discussion.

Consent to rearming, however, was attainable only in exchange for the satisfaction of a demand for the creation of a commissioner to exercise parliamentary oversight of the armed forces. The basis of this demand was a proposal for the appointment of a commissioner for the armed forces modelled on the Swedish *militie-ombudsman* as a distinct instrument of scrutiny, and so Sweden became the trailblazer for the newly created ombudsman institution in Germany.

The institution of the Commissioner for the Armed Forces as an auxiliary organ of the German Bundestag is enshrined in the Basic Law, and the performance of his duties is a constitutional obligation. The work of the Commissioner for the Armed Forces is non-partisan – and all holders of the office have set great store by this principle.

There is no comparable institution in Germany with such firm legal foundations as the office of Commissioner for the Armed Forces. The Commissioner derives his legitimacy directly from the Constitution.

This constitutional provision is what is known as an institutional guarantee of the office of Commissioner for the Armed Forces. This means that it cannot be abolished by secondary legislation, including statute law.

Under the Parliamentary Commissioner for the Armed Forces Act, every member of the armed forces has the right to make a direct individual submission to the Commissioner without going through official channels.

The Act protects the petitioner from any disadvantages that might arise from his or her having made a submission to the Parliamentary Commissioner for the Armed Forces.

Service personnel may speak or write openly about their problems, and the statements contained in a submission may be personal and emotional.

It is not unusual for the examination of a strongly emotional representation to reveal that conditions within a unit or formation are in urgent need of improvement.

Submissions from members of the armed forces also help to bring to make their superiors aware of problems concerning conduct or morale in the ranks to which they had previously been oblivious.

Each submission is communicated to the Bundeswehr as a matter of principle for information and examination, because it is always essential to hear the other side of the story.

While the Parliamentary Commissioner for the Armed Forces Act provides for the possibility of investigation by the Commissioner himself, as a general rule – if only because of the large number of submissions, amounting to between 5,000 and 6,000 a year – information is obtained from the petitioner's superiors and the relevant units.

A second reason for this institutional approach is that the way in which the submission is processed can often shed light on the specific characteristics of the unit in question and even on problems that exist within it.

What the members of our armed forces write covers a wide range of subjects, from the exercise of command to matters concerning deployments abroad, from issues connected with training and operational practices to medical care, catering and welfare.

While the Commissioner for the Armed Forces is the addressee of petitions, it is not his task to fulfil all the wishes conveyed to him by service personnel. The mission of the military forces and service requirements place limits on him too.

The Commissioner is allowed to make unannounced visits to all formations, commands, units and administrative authorities of the Bundeswehr and their facilities. I make ample use of that right.

In this way I see the unvarnished reality of everyday life in a military base and have the opportunity to converse informally with the troops. The purpose of these visits is to obtain first-hand impressions of the actual environment in which service personnel live and work and to identify any problems of which political and military leaders or

Members of Parliament might be unaware or whose significance might be underestimated.

Particular importance attaches to the annual activity report of the Parliamentary Commissioner for the Armed Forces. He is required by law to present a report to the German Bundestag once a year on his observations, assessments and activities. The annual report is dealt with by the Defence Committee and is then considered by the Bundestag at a plenary sitting.

The Commissioner for the Armed Forces has such a firmly rooted political and legal position, which scarcely any other national institution can match, that it goes without saying that he has the right to be heard and heeded.

In conclusion, ladies and gentlemen, let me say that the mission of the Commissioner for the Armed Forces is underpinned by the will to ensure that our liberal democratic ideals of human dignity and fundamental rights are also reflected in the practices of the armed forces.

They must even apply in situations where the task in hand makes unquestioning obedience imperative and in which the discharge of military duty restricts individual freedoms.

Life in a strict chain of command, characterised by tight discipline, is open to abuse. Experience in all countries' armed forces has shown that the exercise of command can quickly degenerate into arbitrary, humiliating and disrespectful treatment of individuals. It follows that any power, particularly power over people, must be controllable and that checks must actually be carried out.

Times have changed with the fall of the Berlin Wall and the end of the East-West confrontation. Common international and European foreign, security and defence policies have increasingly become a reality.

But are we now living in more peaceful times? I rather think not. While the old threats have evaporated, new dangers have surfaced. I need only refer to international terrorism.

The problems we face today can no longer be solved by any single nation but require international cooperation.

The wars in the Balkans showed that even a community of states like the European Union was unable to prevent the outbreak of conflicts and could not resolve them through its own efforts.

If we look at the trouble spots in the world of today, such as Afghanistan, we see multinational forces assembled under a joint military command. ISAF alone currently comprises troops from 42 nations. It is a matter of adopting a common approach to enforce the common political will.

There is great military potential in international commands and large formations, but they also pose evident problems.

The rights of service personnel differ between participating nations, as do the conditions of service, the social and political conditions and the terms of employment under which they operate. In some countries' armed forces, for example, servicemen and -women enjoy rights that are not granted by numerous other allies. In my view, there is a permanent risk of these standards being lowered or sacrificed in the multinational context.

It is a fact, however, that the formation of large multinational forces results in ever fewer decisions being taken nationally.

International bodies have become increasingly involved in determining the political and social conditions in which the armed forces operate and their terms of service. For this reason, I believe we must arrive in the long term at a standard for all troops operating in international formations.

When I meet German troops who are serving in multinational commands and formations, I hear a great many good things.

It is apparent how cooperation takes place as a matter of course at every level today. There are, needless to say, differences in culture and mentality. That is only natural and not something we would want to change. but it is in no way incompatible with a common international approach.

We must also recognise, of course, that differences do exist between the national statutory and constitutional provisions or service regulations that apply to troops in large multinational formations. Every nation also has its own culture and philosophy of military leadership.

These underlying differences are certainly potential sources of conflict too. If a common international security policy is to succeed in the long term, however, I firmly believe that we have no alternative but to overcome these differences that still create division.

The aim should be to coordinate national leadership principles and philosophies, to develop standards for the working conditions of service personnel and to enshrine their human and civil rights.

This conference should help us, of course, to pursue this goal by enabling us to get to know each other, to establish personal contacts and to exchange information and share our experience.

In addition, we should make concerted efforts to develop initiatives for joint projects and the identification and pursuit of common objectives and, above all, to create the basis for sustained close cooperation in the interests of our service personnel.

Lastly, may I take this early opportunity to express my deep gratitude to my fantastic staff team, which has been working all-out for weeks to prepare this conference. I refer especially to Afia Asafu-Adjei, Katharina Knabe and the head of the team, Ministerial Counsellor Hans-Ulrich Gerland. I also extend my thanks to the staff of the DCAF, and particularly Dr Hans Born, for their excellent support and their marvellous cooperation, without which this conference would have been inconceivable.

And now I wish us all an absorbing and fruitful series of discussions and hereby open the First International Conference of Military Ombudsman Institutions.

Welcome remarks and opening of the Conference by
Ambassador Theodor H. Winkler, Director of the Geneva
Centre for the Democratic Control of Armed Forces (DCAF)

Your excellencies, ladies and gentlemen, I would like to join Reinhold Robbe – the Parliamentary Commissioner for the Armed Forces– in wishing you a very warm welcome to this conference.

I am delighted that you have come in such numbers to the Bundestag to attend the first international conference of ombudsinstitutions for the armed forces. In great numbers participants have registered for the conference, which represents a great success.

In particular, I would like to extend my greetings to the representatives of the ombudsinstitutions for the military of the 18 states from Latin America, North America and Europe.

DCAF is very honoured to have the opportunity to co-host this conference. It has been a great pleasure to work together with my good friend Reinhold Robbe and his colleagues over the past year to organize this event – I would like to express my special thanks to all of you for your hard work in ensuring that this has become a reality.

Above all, I would like to use the opportunity to congratulate Mr. Reinhold Robbe on the 50th anniversary of the office of the German Parliamentary Commissioner for the Armed Forces. As we all can see, he is still going very strong.

Before going into the objectives and specifics of this conference, let me first outline what DCAF is and why we are engaged in this very important event.

DCAF is not a sign for the upcoming coffee break neither should you be afraid that we will de-cafeinate the military of your country, but the acronym stands for the Geneva Centre for the Democratic Control of Armed Forces. DCAF is an international foundation, made up of 51 member states covering most of the Euro-Atlantic area as well as member states from Africa, Middle East and Southeast Asia. The member states are represented in the Foundation Council of DCAF, our highest decision-making body to whom I report and who approves our strategy, activities and yearly budget.

We have more than 100 members of staff from some 40 countries; Besides from our headquarters in Geneva, we have offices in Brussels, Copenhagen, Ljubljana, Ramallah and Beirut.

Our mandate is to provide in-country advisory support and practical assistance programmes, to develop and promote democratic norms at the international and national levels, to advocate good practices and to conduct policy-related research in order to ensure effective democratic governance of the security sector. We do this in the best of all Swiss traditions (in addition to producing chocolate, watches and cheese), that is in an impartial and neutral way of operating.

This is not our first activity in the field of ombuds-institutions for the military. Let me mention a few of our other projects in this area:

- Together with the United Nations Development Programme, DCAF has formulated recommendations and organised training events on strengthening ombudsman institutions dealing with the security sector in post-Soviet states;
- In cooperation with the Office of Democratic Institutions and Human Rights of the OSCE, DCAF has set up a programme on human rights of armed forces personnel, leading to handbook (in EN, FR and RU) and various in-country capacity-building events.

The concept of Security Sector Governance provides us with the context for our role in supporting ombudsinstitutions for the military. According to the United Nations, security sector governance is the management and oversight of the security sector according to principles of accountability, transparency and civilian control. This is an important tool for engaging with transition states and post-conflict countries, where a dysfunctional security sector impedes the effective delivery of security to the state and its people, and therefore it hinders the further development of statebuilding.

Indeed, any state can benefit from applying principles of democratic security sector governance, which entails a comprehensive approach to security and the security sector, including not only the military but also the police, intelligence services, border guards and even non-state security actors.

Ombudsinstitutions play an important role in providing for good governance of the security sector. Their exact added value depends on their specific mandate, powers and level of independence. I am very pleased to see that a wide variety of ombudsinstitutions are represented at this conference, ranging from parliamentary commissioners as in Germany and Austria, to inspector-generals in France and the United States, and more general civilian ombudsinstitutions, for example, from Sweden and Serbia.

All of these institutions share a common purpose, that is to oversee, protect and promote the welfare and the rights of armed forces personnel. By addressing complaints about improper and abusive behaviour in the military, examining shortcomings in military procedures, and formulating recommendations for remedial action – ombudsinstitutions can make a valuable contribution to security sector governance.

We see the following possible important contributions of an ombudsinstitution to the good governance of the armed forces:

- They promote transparency and accountability within the armed forces;
- They ensure respect for the rule of law in the armed forces;
- They focus attention on problems in military practice requiring corrective action;
- They enhance efficiency and effectiveness of the armed forces;
- They strengthen public confidence and the reputation of the armed forces.

The objective of this conference is to exchange experiences and identify principles of best practice regarding the mandates, powers and functioning of ombuds-institutions for the armed forces.

We hope that this conference can play an important role in cross-national learning. The starting point for our discussions is that there is NO best model or correct way of organising an ombudsinstitution, but that we can identify principles and best practices which can and must be tailored to the requirements of a specific contexts and national experiences.

We are particularly pleased that a number states that do not yet have an ombudsinstitution for the armed forces, have accepted our invitation to attend the

conference. These states can count on DCAF's support for establishing this important tool of good governance of the security sector.

We hope very much that this conference will contribute to international cooperation between ombudsinstitutions and that it will not remain a oneoff event. Indeed, as indicated in the draft declaration of this conference, we hope that the event will lead to regular contacts at the international level and perhaps, in the future, to an international association of ombudsinstitutions for the armed forces.

This is very important as the militaries that you are overseeing, are also becoming increasingly globalised and international. Many if not all states currently present at this conference, either contribute or have contributed to international peacekeeping operations; or have pooled resources with their neighbouring states while some other states have even established integrated headquarters and military units.

We must acknowledge that national ombudsinstitutions have to come to terms with an increasingly globalised world. It is hoped that this conference will contribute to this unfolding international reality.

With these words I will end by wishing you all a very interesting and hopefully constructive two days of discussions here in Berlin.

Welcoming address by Günter Gloser, MdB, Minister of State for Europe at
the Federal Foreign Office

Your Excellencies, honoured guests, ladies and gentlemen,

"2008 was a year of crises". Those are the opening words of the report presented only a few weeks ago by the German Parliamentary Commissioner for the Armed Forces. The same will probably be no less true of 2009. When we hear any talk of a crisis at the present time, we all know what is being referred to.

The fact is that we must manoeuvre ourselves out of this crisis, and we need to summon up the political will to act. To this extent, 2009 is a year in which politicians must show their mettle.

There can be no mistaking the fact that this crisis has security implications too. This is documented, for example, in the latest report presented to the United States Senate by the US intelligence services in February 2009, which states that "the primary near-term security concern of the United States is the global economic crisis and its geopolitical implications".

The financial crisis and its security implications only corroborate what we are also experiencing in the narrower domain of foreign and security policy. The hopes of conflict-free development that were entertained after the end of the Cold War have given way to disillusionment. The anticipated peace dividends did not materialise. The idea of the incontrovertible 'unipolar moment' also proved to be a concept with a short shelf life.

Instead, we are now confronted with hotspots like Afghanistan and Pakistan along with troubled areas such as those in Africa and crises in the wider Middle East. These conflicts have implications for our own security, partly because the collapse of governmental structures has provided areas in which terrorist organisations can operate and take refuge, as in Afghanistan, Pakistan and Somalia, and partly because they have resurrected phenomena which we had long believed to be consigned to history, such as piracy off the Horn of Africa. Moreover, the conflict in Georgia reminded us once again how quickly frozen conflicts can flare up again.

All of this shows that the prevention and management of conflicts with effects on our security remains a political task. The players in this field might soon find themselves facing the challenge of doing even more with resources that are more difficult to muster.

One thing must be clear, namely that the burden of these increased efforts must not be placed on those who are sent by the state to risk their lives in dangerous situations. The protection of troops, humanitarian forces, aid workers and diplomats takes priority. This must always be an immutable imperative in the planning and implementation of crisis-management missions – even if resources are becoming scarcer.

The way in which foreign policy responds to these challenges is through effective prevention of conflicts, ideally resolving disputes before they boil over. In addition, military peace missions require close interlocking of security structures so that the best possible use can be made of available resources.

Accordingly, the German approach has long been based primarily and very resolutely on the use of civil resources – on dialogue, on foresighted diplomacy and on bolstering the forces of moderation and the rule of law. This is why we are pursuing a two-track approach in Afghanistan – no security without reconstruction, and no reconstruction without security. It is for this same reason that we are such staunch advocates of the development of the EU neighbourhood policy in areas such as the Caucasus.

It is important to take a firm stance against violations of international law and against terrorism and extremism. At the same time, it is essential that we remain true to our values and be consistent in our interpretation of cooperative security. In short, we must build bridges and develop communication channels. We need dialogue, not isolation.

As regards the peace missions involving Bundeswehr contingents, we have made a quantum leap over the past decade. We have gone from no involvement to providing the third-largest force contingent in Afghanistan. For several years up to 2006, Germany had even been assigning more forces to NATO than any other country. Germany has come a long way under the watchful eye of domestic critics.

Our involvement in Afghanistan is now entering its eighth year. It is based on the fundamental principle that the Afghans themselves should be progressively enabled to shoulder full responsibility for governing their country. They should take over

the reconstruction of their country and provide for its security. That is the reason for our deployment. That is why we have further increased our efforts this year to promote the rebuilding and training of Afghanistan's armed forces and its police force. In this respect too, the Bundeswehr has been a key factor, providing massive support for the development of the Afghan army in the north of the country, while its military police have been training the Afghan police force together with instructors from the German police.

We shall not succeed in Afghanistan, however, unless we continue to blend all civil and military measures effectively into a comprehensive approach. To this end the Federal Foreign Office is cooperating closely in a spirit of trust with the Federal Chancellery and the competent government departments, particularly the Federal Ministry of Defence.

We have also been maintaining close and frequent contacts with the Bundestag. We have amassed extensive experience through Bundeswehr missions in the Balkans, in Afghanistan and off the Horn of Africa. This practical experience has spawned a culture of close cooperation between the executive and the legislature, creating a network of a kind which had never existed before and which has proved invaluable.

In the field too, in Afghanistan, our government departments have developed a system of cooperation that works well. A cooperative approach is practised in the Provincial Reconstructions Teams, or PRTs, in Afghanistan. This applies especially to the German-led PRTs in Kunduz and Feyzabad, which are headed by joint leaders from the military and diplomatic spheres. The teams also include staff from the Interior Ministry, who are helping to build up the police force, and experts from the department responsible for development cooperation, the Federal Ministry of Economic Cooperation and Development. It seems to have been difficult initially for team members to think beyond the confines of their own departmental purviews and philosophies. A body comprising representatives of these four German government departments and an equal number of Afghans is now taking decisions on PRT projects. In-depth discussions are taking place in many national and international security organisations about improving the coordination of all the instruments of crisis management. Such deliberations are taking place in the United Nations, the European Union and NATO but also in countries such as Norway, the

United States and Japan. All of them are currently developing strategies for comprehensive crisis-management missions. This follows the realisation that the impact of today's crisis-management instruments depends on the extent to which they are interlinked. Certainly, it is already clear that the established network structures have brought improvements as well as bolstering confidence among players in the field. The resulting complexity of our crisis management has made considerably higher demands of our armed forces, police and civilian personnel who are deployed in international operations. We have experienced a sharp and sometimes painful learning curve in this respect. For this reason I find it extremely gratifying that, by participating in this conference, the ombudsman institutions responsible for the armed forces are also taking an important step towards closer, structured cooperation. This conference is the fruit of a far-sighted initiative.

The fact is that service personnel face very similar challenges, whatever country they come from. All of the ISAF troops have one commander-in-chief and one chain of command. They all work to the same NATO rules. All of them are serving far from their own countries in a culturally alien environment. All of them are operating in very difficult conditions. The social implications and the consequences of deployment for the troops and their partners and families are largely comparable. This also applies to the status of service personnel in the democratic society and media of their home countries. In this situation, the ombudsman institutions responsible for the armed forces form an important link between society and parliaments on the one hand and the armed forces on the other. An increase in the volume of information that is exchanged across borders between ombudsmen is therefore extremely desirable.

Securing the partnership of the Geneva Centre for the Democratic Control of Armed Forces was a winning move. The Centre is a partner with excellent specialised knowledge – a distinguished advisory body that is providing assistance in the development of a network that reflects the comprehensive approach to operations.

The tasks will not become any easier in the coming years – on the contrary. We know what is expected of our troops in the field. We know that one of the factors which influence their motivation is a sense of assurance that the service they are rendering is understood and valued by society and the media back home. We know they expect – and rightly so – that

their interests will be taken into account. In this respect ombudsman institutions are a vital safety net.

Former Federal Chancellor Helmut Schmidt put it succinctly at the administration of the ceremonial oath of allegiance to new recruits in front of the Reichstag building on 20 July 2008. "This state", he said, "will not misuse you". That is precisely why ombudsmen for the armed forces have such a prominent role to play. Theirs is an eminently important task – in essence, it is the basis of our desire and our capacity to defend the values of our democratic constitutional states.

Thank you for your attention.

Welcoming address by Dr Franz-Josef Jung, MdB, Federal
Minister of Defence

Your Excellencies, honoured guests, ladies and gentlemen,

I am very pleased to have this opportunity to welcome you here today to the first International Conference of Military Ombudsman Institutions.

I should like to thank our Commissioner for the Armed Forces for having taken the occasion offered by the 50th anniversary of the inauguration of Germany's first Parliamentary Commissioner for the Armed Forces to invite you to this conference here in Berlin.

I believe that international coordination in this domain is particularly important. As armed forces, we face more and more challenges to engage in international cooperation in the context of our peace missions. We can no longer deal unilaterally with the threats that confront us today, whether from international terrorism, weapons of mass destruction or failing states. We need multinational cooperation in the face of these threats, and we need the international cooperation that takes place both within and beyond the institutional framework. And this is why I believe it is so important that appropriate coordination efforts be made among the ombudsman institutions and that a systematic sharing of experience be initiated in order to enable them to perform their common tasks.

The Bundeswehr evolved from a pure defence force into the force of unification and has now become a force that is deployed worldwide in the cause of peace. At the present time we have 7,300 troops deployed abroad. We are the third-largest contingent in Afghanistan and part of the largest contingent in Kosovo. German forces are operating in Bosnia and Herzegovina. They also have responsibilities in the fight against terrorism off the Horn of Africa. We are involved in Operation Active Endeavour in the Mediterranean. We have responsibilities in the framework of the United Nations' UNIFIL Maritime Task Force for the establishment of security at sea and were instrumental in ending the Israeli naval blockade off the Lebanese coast. We have observers in the Darfur region of Sudan and in Georgia. We now have an additional challenge in the shape of an EU mandate to fight piracy off the coast of Somalia and in the Gulf of Aden in the framework of Operation Atalanta.

Since the start of German participation in out-of-area missions, some 260 000 service personnel have already been deployed abroad, which demonstrates the nature of the challenge facing the Bundeswehr. That is why widespread public support is so important to us. We enjoy the support of 89% of the German population. I believe, however, that a higher level of commitment and more public support would be desirable. Against this backdrop, every discussion on security policy, such as our deliberations here, assumes special importance.

Let me also add, however, that public confidence in the Bundeswehr has grown in the course of its 50-year history, particularly through the idea of the citizen in uniform and the emphasis on leadership and civic education. I shall return to that point in a moment. Public awareness of the role of the Commissioner for the Armed Forces and support for his role have helped to nurture that confidence.

As you know, for historical reasons it was no simple matter to rebuild armed forces in Germany after the Second World War. It was a great challenge and a hotly disputed issue. That is why it was also important to forge a link with society and the democratic process but also with the exercise of service personnel's rights. One of the steps taken to guarantee these links was the creation of the office of Parliamentary Commissioner for the Armed Forces.

You will be aware that we opted for a military structure with a conscripted element in order to reflect the role of the armed forces as an integral part of our democracy. That was the basis of our principle of the citizen in uniform. It also gave rise to the emphasis on leadership and civic education which, I believe, has become a hallmark of the Bundeswehr. The Commissioner for the Armed Forces makes a particular contribution to the application of these principles by fostering parliamentary scrutiny and monitoring respect for the fundamental rights of service personnel and adherence to the principles of leadership development and civic education. We have just revised the Service Regulations, partly with a view to covering new challenges such as the reconciliation of military service and family life. We now have 16,000 women serving in the armed forces, but this is not merely an issue for these women; a stronger focus on this is also of importance for developments in society as a whole.

If I may re-emphasise this point, we are not only an armed force engaged in the pursuit of peace but are also in the midst of a transformation process – and, of course, we have accomplished the integration of two diversely trained and equipped forces into the Bundeswehr.

We are meeting here today at a location for which the National People's Army, a component of the Warsaw Pact forces, was once responsible. Across the Wall were NATO and the Bundeswehr. We were mustered, trained and equipped in a completely different way. For that reason, we should be thankful that we managed, as I believe we did, to achieve internal unity – to integrate the National People's Army into the Bundeswehr – so smoothly while maintaining the emphasis on leadership development and civic education.

Today, it goes without saying that we are a Bundeswehr which jointly exercises and discharges its responsibility for security in the world and for the preservation of peace and stability. In this context, however, may I re-emphasise that leadership development and civic education are particularly important factors in the combat-readiness and efficiency of our Bundeswehr, because service personnel who know that they can exercise their own rights, even in relation to institutions, are particularly well equipped to enforce these rights in the cause of peace and freedom in the wider world. For this reason too, I believe that the Commissioner for the Armed Forces plays a particularly significant part in the combat-readiness of modern armed forces.

I am therefore delighted that this understanding should serve as the basis for cooperation extending to other continents. Only a few weeks ago I had the opportunity to converse with my counterpart in Argentina, and I am very pleased that she is here today to underline the importance of this cooperation. I have said before, and I say to you now, that we intend to preserve the structure of a partly conscripted force, because we believe it creates a particular bond with society and democracy. I know that other countries represented here have decided differently, but I believe it is especially important for us to adhere to this principle, partly in the light of the main theme of today's conference, the theme on which your discussions will focus.

Accordingly, I wish your conference good and constructive deliberations and common objectives, for I believe we need modern, efficient armed forces that can rise to the

challenges of the 21st century. We need to develop scope for action here for the sake of stability, peace and freedom in the world. To this end, I wish the first International Conference of Military Ombudsman Institutions every success – fruitful discussions, a lively exchange of ideas and close cooperation in the interests of peace, justice and freedom. Thank you.

Welcoming address by Ulrike Merten, MdB, Chair of the
Defence Committee of the German Bundestag

Your Excellencies, honoured guests, ladies and gentlemen,

As Chair of the Defence Committee, I am particularly pleased to be able to say some words of welcome at today's first international conference of ombudsman institutions with responsibility for the armed forces. As we have already heard, this conference marks the 50th anniversary of the inauguration of Germany's first Parliamentary Commissioner for the Armed Forces.

When Helmuth Otto von Grolman took office on 3 April 1959, the young republic had just been through a truly turbulent time in the realm of security policy. The establishment of German armed forces, less than ten years after the total collapse of Germany's military power and public morale, could certainly not be achieved without heated and often stormy debates. I was still a child at that time, and I remember the debates in my parental home. It is my first conscious memory of a political debate. The battle lines cut across my family. A broad parliamentary majority in favour of German rearmament was achieved, but only because of the accompanying decision to provide for parliamentary scrutiny of the new armed forces, a decision that was unprecedented in German history. Likewise, the political will of a majority of the Bundestag favoured the innovative approach to military command embodied in the concept of *innere Führung* – the development of personal leadership qualities and civic education – which was designed to prevent any repeat of past aberrations and excesses. This new concept, of course, did not abolish the principle of obedience to orders, for how can an army function if orders are not instantly obeyed? But it was reined in, so to speak, by virtue of the fact that service personnel were granted extensive rights and comprehensive recourse to the law as citizens of a democratic state. Service personnel should be able to rely on their judgement, on their own moral compass; that was to be their guide. And they should be heartened by the words of Helmut Schmidt from the eloquent speech he delivered on 20 July 2008: "You should be confident that this state will not misuse you".

But how was parliamentary oversight achieved? What was done to ensure that the precept of leadership development and civic education in the armed forces was more than just a paper tiger and was actually put into practice? In Germany the answer to

these questions was the creation of a Defence Committee and of the office of a Commissioner for the Armed Forces modelled on the Swedish Military Ombudsman.

Both institutions owe their existence to amendments to the Basic Law, which the Bundestag adopted as part of the process of 'inserting' the armed forces into the Constitution. These amendments give the Defence Committee a special status in three respects. Firstly, it is one of the few parliamentary committees whose existence is prescribed by the Constitution itself; secondly, it is the only committee with the right to constitute itself as a committee of inquiry, without having to obtain the consent of the whole Bundestag, in order to clarify certain matters relating to defence. It only takes a motion tabled by a quarter of the members of the Defence Committee to activate this mechanism, which has often been described as the 'sharpest sword' in the armoury of Parliament for its dealings with the Government. Finally, the third special feature was the establishment of the institution of the Parliamentary Commissioner for the Armed Forces, who has a statutory mandate to act on becoming aware of circumstances that seem to indicate an infringement of the fundamental rights of military personnel or a violation of the principles of leadership development and civic education in the armed forces. In addition, the Commissioner for the Armed Forces presents the Bundestag with an annual report, which it refers to the Defence Committee for consideration.

To return to what I mentioned a moment ago, what is actually done to guarantee that this principle of leadership development and civic education does not merely exist on paper, and how, in particular, does Parliament deal with the matter? It does that, of course, through the Commissioner for the Armed Forces, through what he reports to our committee. In past years, however, the committee has shown that this is not a static process. A subcommittee on the continuing development of leadership and civic education was set up, in which Parliament naturally had to address, among other things, the new context in which the armed forces were operating. It was a good and intensive debate, and the Commissioner for Armed Forces at that time, Dr Willfried Penner, gave us his emphatic support.

As you can see from this, the Defence Committee and the Commissioner for the Armed Forces are closely linked. One important way in which this is reflected, incidentally, is by the exemplary regularity with which the Commissioner attends meetings of the Defence

Committee. The Commissioner and the Defence Committee are also united by their common role as key instruments of parliamentary scrutiny of the armed forces.

Not least for the benefit of our guests from other parts of the world, may I grasp this opportunity to take up the cudgels for our system of parliamentary oversight. I am well aware that the powerful position of the German Bundestag in matters concerning the armed forces is sometimes regarded with scepticism. And is it not indeed the case that this restricts the Federal Government's capacity to act? And does not the requirement to obtain parliamentary approval for any deployment of armed forces abroad actually result in delays? The answer is a straight and simple 'no'. All the experience we have gathered to date with our system – and the Commissioner for the Armed Forces will surely agree with me on this point – shows that close parliamentary scrutiny of the armed forces is far from pointless in a world that is increasingly dependent on international cooperation and coordination. For example, you will not find a single case in which our parliamentary right of approval made it impossible for German troops to be sent on their mission in good time.

At the time when we were discussing the Parliamentary Participation Bill, we certainly had prior experience of deployments abroad and parliamentary involvement, and we took care to ensure that the Parliamentary Participation Act was based on practice, on the essentials. We therefore firmly believe that comprehensive scrutiny and efficiency are not mutually exclusive.

I said before that both the Defence Committee and the Commissioner for the Armed Forces are key elements of this parliamentary scrutiny. In this respect the two institutions are, to some extent, sister bodies and came into being for similar purposes. I am sure the Commissioner for the Armed Forces will not take it amiss if, as chairwoman of the Defence Committee, I hasten to stress that the Defence Committee is, of course, the elder sister and that, as is always the case with siblings, the elder sister bears greater responsibility but also enjoys more extensive rights.

A quotation from the first Commissioner for the Armed Forces, Helmuth Otto von Grolman, puts this very succinctly:

"Compared with the Swedish Military Ombudsman, the German Commissioner for the Armed Forces is not an organ of the Constitution in his own right but an auxiliary organ of the Bundestag for the parliamentary scrutiny of the Bundeswehr".

Since the Commissioner has this auxiliary role, the Bundestag – or, indeed, the Defence Committee, may instruct him to investigate a particular case. Conversely, the Commissioner may not act if the Defence Committee has undertaken to examine the case in question itself.

The fact that the Bundestag and its Defence Committee have this power over the Commissioner for the Armed Forces, however, has probably never prevented any Commissioner from going about his or her business with a healthy degree of self-assurance. The fact that virtually all of the Commissioners have been strong characters who have not only held the office but set their own seal on it is surely due in part at least to the high standards set for prospective candidates. At the same time, however, it is surely a historical truth that neither the Federal Ministry of Defence nor all sections of Parliament have always responded with unconfined joy to the Commissioner's activity and reports.

Entirely pleasing the Ministry and Parliament, however, is not – and never has been – one of the tasks of an institution that has rightly been described as an 'early-warning system' for problems within the armed forces. Since the Commissioner is supposed to "see, smell, hear and taste everything relating to the Bundeswehr", as SPD Bundestag Member Fritz Erler once put it, the availability of such a qualified auxiliary organ makes life a great deal easier for the members of the Defence Committee. Without the Commissioner for the Armed Forces as their eyes and ears within the Bundeswehr, neither Parliament nor its Defence Committee would be able to exercise their powers in relation to the Government in matters concerning the armed forces as they do now; and please do not underestimate the right vested in the Commissioner for the Armed Forces, a right that Members of the Bundestag do not have, to make unannounced visits to the troops. That is a crucial point. When Members of Parliament pay a visit, it is announced far in advance, and the barracks square is swept clean in every sense of the term.

Addressing the Commissioner, may I say, Reinhold, that you and your staff have provided the customary outstanding support to the Defence Committee. The personal

commitment and assiduity with which you in particular discharge your duties, along with an impressive list of visits to Bundeswehr bases at home and abroad and, not least, this conference – the first of its kind – testify to this support. The roles of advocate of the Bundeswehr in Parliament and of intermediary between the armed forces, the political world and society, which have emerged over the course of time in addition to the Commissioner's statutory function, render a particularly notable contribution to better parliamentary understanding of service personnel and their problems. That is part of the job you do. It goes without saying that the Commissioner for the Armed Forces is exceedingly well aware of the need, together with the Members of Parliament, to carry the debate into society and to ensure that the benign indifference of the German public to the armed forces – the Bundeswehr – becomes benign interest. In saying this, I do not seek to conceal the fact that you were my immediate predecessor in the Defence Committee chair and that it has therefore been a real stroke of luck for us to have a Commissioner who is especially sensitive to the particular needs of the Defence Committee.

Let me therefore express, on behalf of all my fellow members of your 'old committee', my sincere thanks to you and your staff. I am sure that we shall be able to go on pursuing our close and fruitful cooperation for the benefit of our service personnel.

I am pleased to have been here today, and I wish us all an interesting and informative conference.

Thank you for your attention.

Speech delivered by Dr Nilda Garré, Minister of Defence of the Argentine Republic

Your Excellencies, ladies and gentlemen,

I shall be very brief, because I shall be speaking this afternoon about the particular situation in Argentina.

I should like to take these few minutes you have kindly given me to express my warmest thanks to the Commissioner for the Armed Forces, Mr Reinhold Robbe, for the kind invitation he extended to us and for the cordial hospitality we have received.

May I congratulate you on this successful initiative that you took to mark the 50th anniversary of this very important institution.

I also wish to congratulate you on the courage you showed by taking up the challenge and convening this International Conference.

You have gathered a host of guests here from many nations who will be describing their specific experiences to us. I know that this was not an easy task, but the very composition of the conference is proof enough of your success.

It will be very useful for all of us to share our experience and our visions. We shall undoubtedly return to our own countries with many new and practical ideas that can enable us to work more efficiently and to improve our ombudsman models. At the end of the day, they will enable us to guarantee protection of the rights of service personnel.

I should like to take this opportunity to say a special word of personal thanks to Mr Robbe for his ongoing discussions with us. Mr Robbe visited Argentina in 2007, when we were able to engage in very stimulating talks and he gave a highly comprehensive presentation on the office of Commissioner for the Armed Forces. This was highly motivating for us at the time. It encouraged us to develop this institution, which we lacked in our country, and to press ahead with our work in that field. In 2008 I visited Germany in turn, which enabled us to continue and expand our discussions.

Last year a seminar was held in our Senate, and Mr Robbe was one of the participants, and so we were able to make further progress with our efforts in this domain.

I should like to express my satisfaction at being able to visit Germany again. This is the second time I have been here in my capacity as Defence Minister of Argentina.

We Argentinians admire Germany and see it as something of a model for the modernisation and reform of our country's armed forces. The principle of leadership development and civic education and the concept of the citizen in uniform are key ideas on which we should like to build.

Our relations with Germany go back many years; after all, our troops use corvettes and tanks from this country. We enjoy fruitful cooperation in the realm of security. More than 80 of our officers have been trained in Germany in recent years, and there are eight such exchange officers at the present time.

We should like these relations to be intensified in the domain of defence tasks and at the ministerial level.

Thank you once again, Mr Robbe, for this invitation, and warmest congratulations on the large international gathering of participants in this conference.

Thank you.

Ombudsman Institutions for the Armed Forces: A Comparative Perspective by Hans Born, Senior Fellow, DCAF

Introduction²

Ombudsman institutions, in their many guises, have now been around for two centuries. However, it is only since the Second World War that these institutions have been more widely embraced as an important component of democratic governance. This trend has been reflected in the gradual proliferation of ombudsman institutions over the past fifty years. At the same time, there is growing awareness that ombudsman institutions can play a valuable role in helping to ensure that the armed forces are governed in accordance with the rule of law, and with respect for the human rights of both armed forces personnel and the civilians with which they engage. As there is almost no comparative knowledge on this subject, this paper aims to make an initial contribution to filling this gap by presenting the results of a questionnaire sent to ombudsman institutions which deal with the armed forces. This comparative study is a mapping study: to give a comparative overview of the structure, mandate, functions, challenges and ways to strengthen ombudsman institutions. It should be noted that this presentation is based upon primary data and opinions supplied by ombudsman institutions; the authors have not yet had the opportunity to verify this information.

Mapping the different models of ombudsman institutions for the armed forces

There is a rich variety of ombudsman institutions which are mandated to address issues arising from, and within the work of armed forces. This diversity is well reflected among the ombudsman institutions which responded to our questionnaire, and not least in the titles of these bodies which range from 'Commissioner' to 'Inspector General,' 'Ombudsman,' 'People's Advocate,' and 'Chancellor of Justice.' In spite of this diversity, the fifteen ombudsman institutions examined in this research can be grouped according

² This presentation is based on the conference paper: 'Ombudsman institutions for the armed forces: A comparative perspective' by Hans Born and Aidan Wills (to be published as a DCAF policy paper).

to the following criteria: (a) the scope of issues and the range of institutions they oversee, and (b) their status vis-à-vis parliament and the executive.

(A) Almost half of the institutions are what we shall term 'general ombudsman institutions;' they have jurisdiction over the entire spectrum of activities performed by the public administration or public bodies, including the armed forces. The remaining eight ombudsman institutions are mandated to deal exclusively with the armed forces. These armed forces-specific institutions include those of Austria, Belgium, Canada, Germany, Ireland, the Netherlands, Norway, and the United Kingdom.

(B) The ombudsman institutions examined in this paper can also be grouped according to their status in relation to the executive and parliament. The first group includes ombudsman institutions that fall within the remit of the executive (generally the minister of defence or cabinet): Belgium, the Netherlands, the UK, Canada and Ireland.

The second group encompasses ombudsman institutions which fall under the remit of parliament. The majority of the institutions addressed in this study fall into this category, including the Austrian, Estonian, Finnish, German, Norwegian Polish, Romanian Serbian, Slovenian, and Swedish ombudsman institutions.

Triggers

What triggered the establishment of an ombudsman institution?

1e Re-calibration of civil-military relations after WWII

A number of the ombudsman institutions examined in this research were established as part of efforts to recalibrate civil-military relations after World War II. This occurred in Germany (1959), and was also the rationale underlying the establishment of ombudsman institutions for the armed forces in Norway (1952), and the Netherlands (1945). In the cases of Germany and Norway it was considered necessary to establish an independent institute to promote democratic control of the armed forces, whereas in the Netherlands policy-makers saw the need to establish a 'quality control' mechanism within the armed forces.

2e Transition to Democracy

A similar process took place in post-communist states in Central and Eastern Europe, where the new democracies saw the need establish independent institutions to protect the rights of citizens. This was the case in Romania (1997), Poland (1987), Slovenia (1995) and Serbia (2007) as part of the consolidation of democracy.

3e Scandals

In another group of countries, the establishment of the ombudsman institutions for the military has been driven by scandals arising from the work of the armed forces. In the United Kingdom, the Service Complaints Commissioner was created upon the recommendation of an independent inquiry into the deaths of young recruits at an army base. The Canadian Ombudsman for the Department of National Defence and the Canadian Forces (1998) was created in similar circumstances, following allegations of serious misconduct of Canadian soldiers deployed to the United Nations peacekeeping operation in Somalia (1992-1993).

4e Dissatisfaction with existing complaints-handling mechanisms

The third 'trigger' for the creation of ombudsman institutions for the armed forces is dissatisfaction with existing complaints-handling mechanisms. In Belgium and Ireland, the ombudsman institutions that deal with armed forces were set up in response to ongoing concerns about the adequacy of existing systems for addressing grievances.

Mandate: functions and scope

What functions do ombudsman institutions fulfil in relation to the armed forces?

Complaints-handling

Complaints-handling is widely agreed to be one of the core functions of an ombudsman institution. These complaints can be lodged by members of the armed forces or by the families of service personnel. Two thirds of the institutions questioned for this research are also able to deal with complaints addressed to them by members of the public.

Overseeing armed forces' complaints-handling processes

The UK's Service Complaints Commissioner is unique among the ombudsman institutions examined in this study because it is mandated to oversee the armed forces' internal complaints-handling system, but does not cannot investigate complaints, it only oversees the internal complaints mechanisms within the MoD.

Making policy recommendations

The second most commonly identified function is the provision of policy recommendations to the armed forces, executive and parliament. The practice of providing policy recommendations represents serves a "preventative" function, as recommendations are designed to encourage reforms to practices to prevent the reoccurrence of these wrongdoings.

Mediation

Mediation in disputes between citizens and public authorities is widely proclaimed to be one of the primary functions of an ombudsman institution. (the Netherlands, Canada, and Belgium).

What issues are ombudsman institutions for the armed forces mandated to address?

Across almost all of the ombudsman institutions examined, the two most significant categories of complaints received are: (a) complaints pertaining to alleged mistreatment or poor working conditions; and (b) complaints relating to contractual issues, leave and pensions. The third category of complaints which many of these institutions receive, is complaints about health related issues arising from service with armed forces. Half of the ombudsman institutions studied are also mandated to deal with complaints about the armed forces' treatment of civilians.

The majority of the complaints addressed by the ombudsman institutions examined in this study arise from the domestic functions of the armed forces. However, in Slovenia, Austria and Norway 10% of complaints arise from deployments of the armed forces overseas, and in Germany, this figure is as high as 30%.

Which parts of the armed forces can ombudsman institutions examine?

While almost all of the institutions studied are mandated to oversee the army, air force, navy and military police, many do not have jurisdiction over the coastguard or civilians working for the armed forces. Interestingly, with the exception of Serbia, none of the surveyed ombudsman institutions are mandated to oversee private contractors working for the armed forces.

Independence

Two types of independence can be distinguished:

- (1) Institutional independence: which institutions or actors is a given ombudsman institution independent from?
- (2) Operational independence: which functions or operations is the ombudsman institution independent to undertake?

Institutional Independence

There was wide agreement amongst respondents that institutional independence is important in order for an ombudsman institution to be effective. A number of ombudsman institutions added that independence must be guaranteed by law, and where applicable, the constitution. These statutory provisions typically dictate that there can be no interference from the executive, and in states such as Sweden and Finland, not even parliament may issue instructions to the ombudsman.

Budgetary independence means that an ombudsman institution obtains and manages its funds independently from any of the institutions over which it has jurisdiction. The majority of ombudsman institutions examined in this research have their own budget, allocated to them by parliament. However, a number of the military ombudsman

institutions, including the UK, Belgium, Netherlands, Ireland and Belgium, receive their budget from their Ministries of Defence. Some of these institutions pointed out that this reliance upon the executive for resources has negative consequences for their independence and the performance of their functions.

An additional dimension of institutional independence is the security of of the ombudsman's position and tenure in office: . a legally established tenure of office, clear procedures for the potential removal of an ombudsperson from office, and formal criteria stipulating the circumstances under which this can happen. With regards to the removal of the ombudsperson from office: in the majority of states included in this research this institution is parliament, however, in the UK, the Netherlands, Belgium and Ireland, the ombudsman institution for the armed forces may be removed by the minister of defence.

In many states, the ombudsman is also obliged to take steps to ensure their own independence. Legal obligations which require the ombudsman to abstain from activities which may give rise to a conflict of interest, thus compromising their independence. These provisions include the following prohibitions: engaging in any other professional activities (Serbia), membership of political parties (Serbia and Estonia), the holding of a state or local government position (Estonia).

Operational independence

In most cases, the mechanism which guarantees operational independence is the capacity to launch so-called 'own-motion investigations,' meaning that no request or complaint is required in order for an ombudsman to address an issue. This is an important measure of independence because if an ombudsman institution can undertake own-motion investigations, their investigative activities are not contingent upon the decisions of other actors. The vast majority of institutions examined in this research do have the capacity to initiate their own investigations, with Belgium, Ireland and the UK being the only exceptions.

An important corollary of the freedom to address issues deemed to merit investigation, is the legally-guaranteed right to pursue investigations to their conclusion, free from the

interference of other institutions. More than half of the ombudsman institutions examined in this research stated that their investigations cannot be terminated or suspended by any other body. However, in several other cases the ombudsman institutions' investigations may be suspended or terminated, e.g. by parliamentary defence committee (Germany) or the minister of defence (NL and CA) or the court (Belgium). While, in theory, these institutions may halt the work of the military ombudsman institutions in the states mentioned, in practice this has never happened.

Access to relevant information is closely tied to the issue of independence because restrictions on the information available to an ombudsman institution imply that it is not at liberty to acquire the information deemed necessary to conduct an investigation. In many of institutions examined in this research, the armed forces and political authorities are legally bound to supply the ombudsman institution with all requested information and there are no grounds for refusal. However, information may be withheld from the ombudsman institution on grounds of national security in Belgium, Canada, Norway, Germany and Ireland. This happens rarely.

The final aspect of operational independence to be discussed here is independence in reporting. With the exception of the UK, all ombudsman institutions included in this study are empowered to issue reports which cannot be censored or redacted, and thus, have the final say on the content of their reports.

Implementation of ombudsman institutions' recommendations

There is significant variation in percentage of the ombudsman institutions' recommendations implemented by the relevant stakeholders. The implementation rate varies from nearly 100% in Germany, Serbia, Sweden, Norway, Slovenia, Finland and Estonia, to 71% in Canada, 70% in the Netherlands and 60% in Poland. It is not possible to give conclusive explanations for these differences on the basis of the available data. However, explanations may be found in both the effectiveness of the strategies adopted to persuade or compel the implementation of recommendations, and the capacity of ombudsman institutions to monitor the implementation of their recommendations.

Strategies for the implementation of ombudsman institution's recommendations

None of the ombudsman institutions included in this study have the power to enforce the recommendations in the traditional, legalistic meaning of the word. Thus, they rely on 'the power of persuasion' to increase the chances that their recommendations will be implemented. If this fails, there are a number of other options at their disposal to ensure compliance. The first may be termed 'escalation' which refers to taking a matter to a hierarchically superior individual or body (such as a minister); Romania, the Netherlands, Canada, Ireland and Poland). Another strategy may be to report non-implementation to parliament, which the Slovenian and Romanian ombudsman institutions may do.

A second, and closely related option is 'going public.' The Irish, German, Estonian, British and Slovenian ombudsman institutions all cited their capacity to go public in the event of non-compliance or non-implementation.

A third, and final option available to a select group of ombudsman institutions to compel compliance with their recommendations or findings is applying to the judiciary. Austria, Romania and Slovenia)

Monitoring implementation

The majority of ombudsman institutions monitor the implementation of the recommendations. Almost all of the respondents indicated that they conduct field or site visits; hold follow-up discussions with members of the armed forces (complainants, commanders); and arrange follow-up meetings with their defence minister to pose questions on the implementation of their recommendations.

Challenges and strengthening ombudsman institutions

Challenges

The biggest challenge to the work of ombudsman institutions is a lack of sufficient resources to handle the volume of complaints received; conduct thorough

investigations; and effectively monitor the implementation of recommendations made. A number of other challenges were also highlighted, these include: inadequate or incomplete cooperation from the armed forces and the government, insufficient powers to investigate complaints effectively, and the lack of powers to ensure the implementation of recommendations made by the ombudsman institution. Several ombudsman institutions also referred to the wider problem of a lack of understanding among both civilian employees at ministries of defence and members of the armed forces about what an ombudsman institution is and what they are mandated they do.

Strengthening ombudsman institutions

The ombudsman institutions examined in this study were asked to put forward several concrete recommendations for strengthening their role. The proposed measures can be grouped into the following categories:

- Resources: to increase the available financial and human resources;
- Organisational reforms: to introduce better case-handling and monitoring systems; to introduce a continuous staff training programme to develop expertise; more task specialisation within the office of the ombudsman institution;
- Awareness-raising: introduce programmes that would generate greater awareness among the public, civil servants and armed forces personnel about the role and the powers of the ombudsman institution
- International cooperation: to strengthen cooperation and the exchange of knowledge and experiences with counterparts abroad.

Conclusion

The ombudsman institution contributes to public accountability of the armed forces and as such is a valuable element of the good governance of the security sector. In spite of the rich variety of ombudsman institutions, there is broad consensus that independence is the key criterion for an effective ombudsman institution. The conference and this

paper forms a first step in acquiring a better understanding of the role and functioning of ombudsman institutions with jurisdiction over the armed forces, and represents the first comparative study on this. We hope very much that this conference marks the start of cross-national learning among ombudsinstitutions. As Winkler mentioned, DCAF will support where-ever possible.

DISCUSSION FORUMS

Part 1

Overview of ombudsman institutions for the military: challenges and opportunities

Panel 1: Independent ombudsman institutions for the armed forces

Panellists: Austria, Germany and Ireland

Points for discussion:

- Mandate and powers: Does your institution have sufficient mandate and powers? Is independence guaranteed?
- Credibility: Is your institution perceived as credible by armed forces personnel?
- Way ahead: How can the functioning of your ombudsman institution be improved?

Anton Gaál (Austria) explained to the participants the structure and the main components of the Military Complaints Commission. In particular, he described how the Commission was elected, its composition and its term of office. The Military Complaints Commission, he said, regarded itself as a service institution that dealt with reported defects and infringements of rights.

The right of complaint expired one year after the reason for the complaint was made known. The Military Complaints Commission could also act of its own motion. As in Germany, annual reports were drawn up. One example of a major success for the Commission was its highlighting of a logjam in repairs to military properties, which resulted in the sum of €73m. being made available for that purpose.

Paulyn Marrinan Quinn (Ireland) reported that no one had voted against the Ombudsman (Defence Forces) Bill in Parliament. Her activity was therefore based on broad parliamentary and social approval.

As Ombudsman for the Defence Forces, she had full access to all essential information. She also had extensive power to investigate complaints. With regard to the complaints procedure, she explained that, when a complaint was made, the defence forces initially had 28 days to examine the adoption of a remedy. This process went through official channels. During this period, therefore, when official channels took precedence, the Ombudsman was merely notified of the complaint. If the defence forces were unable to

decide on a remedy, the complaint was referred to the Ombudsman for her consideration.

Former members of the military forces were entitled to file complaints for only one year after leaving the service.

The Ombudsman was elected for a three-year period and could be re-elected.

The essential features of the office were therefore access to information, independence, a high level of confidence in the institution and the presentation of annual reports, which were publicly discussed and transmitted to both chambers of Parliament, and, where appropriate, of special reports.

Friedhelm Dreyling (Germany) spoke by way of introduction about the mandate and the powers of the Parliamentary Commissioner for the Armed Forces. The Commissioner, he said, was an auxiliary organ of the German Bundestag, his office was enshrined in the Basic Law itself, and he was elected by an absolute majority of the Bundestag. If he was a Member of Parliament, his parliamentary mandate was suspended during his term of office. The Parliamentary Commissioner for the Armed Forces Act laid down details of his broad remit and diverse areas of activity. By dealing with petitions and undertaking announced and unannounced visits to the troops, the Commissioner oversaw the armed forces on behalf of the Bundestag.

The Commissioner for the Armed Forces was not part of the military command structure and was accountable only to the Bundestag, and in particular to its Defence Committee. This, Mr Dreyling said, re-emphasised the special status of that office.

The consistently high number of submissions was indicative of the high level of confidence placed in the office of Commissioner for the Armed Forces and its great credibility. Media reporting on the work and achievements of the Commissioner also enhanced the credibility of his role. One particular example was the discussion on the condition of army barracks in the older federal states, which was brought into the public domain on the initiative of the Commissioner for the Armed Forces, and the attention of the media prompted the Federal Ministry of Defence to take action in the form of a barracks-refurbishment programme.

On his visits to the troops too, the Commissioner for the Armed Forces met with a very positive response from service personnel.

With regard to prospects for the future, consideration could be given to ways of making the Commissioner's work even more transparent, effective and targeted. For example, initiatives for the commissioning of scientific reports on specific issues were an option, as was an increase in the human and financial resources available to the Commissioner. Finally, however, Mr Dreyling stressed once again that a very high standard was already being achieved.

These presentations were followed by the discussion outlined below.

Dr Susan Atkins (United Kingdom) welcomed the conference and explained that she had no power to act on complaints of her own motion. There was no requirement to adhere to a chain of command or official channels. She did not have unrestricted access to military files.

Like other ombudsmen, she could draw up special reports, which were debated in Parliament. The annual report for 2008 had actually been her first annual report.

Summing up, she said that, although not elected by Parliament, she believed that her legal status differed only slightly from the other ombudsmen.

Reinhold Robbe (Germany) closed the discussion by suggesting that annual reports could be exchanged, in the form of summaries in English if possible.

Panel 2: Integrated military ombudsman institutions

Panellists: Belgium, France, Netherlands

Points for discussion:

- Mandate and powers: Does your institution have sufficient mandate and powers? Is independence guaranteed?
- Credibility: Is your institution perceived as credible by armed forces personnel?
- Way ahead: How can the functioning of your ombudsman institution be improved?

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Claude Moerman (Belgium) explained that the institution of the *Klachtenmanager*, or Complaints Manager, in Belgium was governed by a royal decree dating from 2001, although it was currently undergoing revision. The Belgian Inspector reported directly to the Minister of Defence, who was commander-in-chief of the armed forces. At the present time, he still performed the function of an arbitral tribunal, but it was being discussed in Belgium whether the Inspector there ought to play a mediating role too in future.

Phillippe Nicolardot (France) then introduced his institution. The aim of the French Inspector, he said, was to improve the working conditions of military personnel. This was done in various ways.

One of these ways was local consultation. In principle, members of the forces could address appropriate questions to their superiors, questions on matters such as the quality of the infrastructure in military bases. This right went all the way up to the level of the Ministry of Defence. In addition, 85 service personnel elected by the armed forces could put a case directly to the Minister of Defence.

There was also the option of recourse to the Complaints Commission, which was under the direct authority of the Minister of Defence. Every member of the armed forces could challenge a decision by means of an administrative procedure. This challenge had to be made within two months following the adoption of the disputed decision. An appointed examining officer would then investigate the matter. The procedure ended with a proposal made by the chair of the Commission to the Minister of Defence. Some 1,800 plaintiffs exercised this right every year, and 30% of the complaints were upheld.

Michel van Manen (Netherlands) stated that the office of the Dutch Inspector was established by Prince Bernhard, Commander-in-Chief of the armed forces, back in 1945. The Inspector had a purely consultative role. As far as the selection procedure was concerned, the Minister of Defence proposed a prospective Inspector-General to the cabinet, which then confirmed the appointment for a period of three to five years. The Inspector-General in the Netherlands was under the authority of the Minister of Defence and was an adviser on all matters relating to the armed forces. He was also responsible for providing advice and mediation within the armed forces.

Members of the armed forces had to exhaust the official complaints channel before approaching the Inspector-General. At that juncture, two courses of action were open to them – recourse to the courts or an application to the Inspector-General. The number of military personnel and civilian employees of the armed forces amounted to some 64,000, and about 435 complaints were submitted in an average year. In 2008, 400 cases had been resolved, and 70% of the recommended solutions had satisfied the plaintiffs. In the Netherlands, military personnel and civilian employees as well as their family members and reservists could all seek the help of the Inspector-General. In addition, the latter was also responsible for veterans in the Netherlands, of whom there were 135,000. Veterans were defined in the Netherlands as Dutch nationals who were former members of the armed forces and who had served in war-like conditions. The Inspector-General of the armed forces drew up a quarterly report, which was presented to the Minister of Defence. In addition, an annual report was published in May and was also debated in Parliament.

Reinhold Robbe (Germany) mentioned his visit to The Hague, where he had been interested to learn that the Inspector's work also covered veterans. He suggested that the subject of veterans should be included in the discussion on the activities of ombudsman institutions.

Replying to a question from Paul Kiss (Austria), Michiel van Maanen (Netherlands) said that the problem of veterans had initially been neglected in the Netherlands, particularly during the period of overseas deployments in the 1950s, such as the Korean War and the wars of independence in the Dutch colonies, but that it had become the subject of public debate in the 1980s. The Dutch had ultimately opted for a broad definition of war-like operations, which encompassed not only engagements in the traditional sense that

followed an official declaration of war but also every type of armed operation, including those in more recent times.

In answer to another question from the Austrian representative, Claude Moerman (Belgium) stated that there were no language problems in the Belgian forces, because the language rules, which laid down, for example, the language in which subordinates were to address superiors and *vice versa*, were strictly applied.

Philippe Nicolardot (France) considered that ombudsman institutions could usefully focus on the fact that many statutory benefits for servicemen and -women were linked to the classical concept of an official war, whereas other forms of armed conflict now predominated. This necessitated an adjustment of the legal position in order to ensure that service personnel received the appropriate benefits for such engagements too.

Reinhold Robbe (Germany) emphasised that, on his visits to troops in the countries where they were deployed, he was confronted time and again with differences between the benefits granted by the various allied countries. Since these benefits were difficult to compare on an objective basis, he thought it desirable that a synopsis should be produced specifically for the member countries of NATO, possibly with the aim of harmonising benefits and the rules governing them.

Replying to a question from Saša Janković (Serbia) on existing ombudsman organisations in France, Ireland and the Netherlands, Michiel van Maanen (Netherlands) stated that, in addition to the Inspector-General, the Netherlands also had a general national ombudsman.

Paulyne Marrinan Quinn (Ireland) pointed out that, besides a general national ombudsman institution, Ireland also had special institutions for the defence forces, children and pay as well as clear rules defining the sphere of responsibility of each institution.

Philippe Nicolardot (France) explained that, in France, the *Médiateur de la République*, an independent administrative authority, looked after the general concerns of people who had issues with the state bureaucracy, while the *Contrôleur Général des Armées* was the special instrument for the military sphere. Mr Nicolardot expressed the view that importance attached to the question whether such a military instrument existed inside

or outside the framework of a country's defence ministry and whether its independence were guaranteed.

Anton Gaál (Austria), replying to a question from Winfried Nachtwei, MdB (Alliance 90/The Greens, Germany), on the relationship between ombudsman institutions and military commands, said that, while relations between the Ministry of Defence and the Military Complaints Commission could not be described as a love affair, the Commission nevertheless enjoyed a high level of support, particularly for its work on behalf of troops deployed abroad, among senior military officers and senior civil servants at the Ministry. The only exceptions to widespread strong support for the Commission were to be found among the middle ranks in the armed forces. This situation was reflected in the fact that a high proportion - 83% - of submissions were found to be warranted.

In answer to a question from Dr Hans Born (DCAF), Michiel van Maanen (Netherlands) explained that, while the Inspector attached importance to the concept of consultation, he could also exert political pressure if problems were aired in public.

Philippe Nicolardot (France) noted in this context that the primary mediating task of the *Contrôleur Général* did not rule out inspection duties and that the two were entirely compatible.

Claude Moerman (Belgium) explained that the mediatory function of the *Klachtenmanager* involved the identification of areas in which the efficient functioning of the armed forces was not guaranteed. It was a matter for the Ministry of Defence, however, to take the appropriate action to restore their efficiency.

William Kurt Miller (United States) explained that, in the United States, there were various inspectors general, both at various military levels and at the level of the Defense Department, with separate inspectors general for each branch of the armed forces. He himself belonged to the army. Somewhere between 70% and 90% of the approaches made to him were requests for assistance rather than complaints, and those requests regularly led to mediation proceedings. Inspection tasks arose more frequently from commanders' reports of concerns about combat-readiness, but some also stemmed from submissions from the troops, although the Inspector General had no power to impose sanctions.

Reinhold Robbe (Germany) closed the discussion by raising the question of the quality of complaint channels and the relationship or conflict between submissions to ombudsman institutions and complaints made through official channels.

Panel 3: General ombudsman institutions with jurisdiction over the military

Panellists: Estonia, Finland, Serbia, Slovenia, Sweden

Points for discussion:

- Mandate and powers: Does your institution have sufficient mandate and powers? Is independence guaranteed?
- Credibility: Is your institution perceived as credible by armed forces personnel?
- Way ahead: How can the functioning of your ombudsman institution be improved?

Raivo Suls (Estonia) explained the Estonian system of the Chancellor of Justice, one of whose functions was that of an ombudsman, in which capacity he also monitored the armed forces. The Chancellor of Justice was an independent authority whose budget was provided by the Estonian Parliament. Anyone could have recourse to the Chancellor of Justice.

Raino Marttunen (Finland) introduced the Finnish ombudsman model. It had existed since 1920 and was based on the Swedish model. The ombudsmen scrutinised the actions of the government, the administration and the courts. This meant that they were also required to oversee the armed forces. The two ombudsmen were appointed by Parliament. They had an extensive right to information, which specifically included access to all the information systems of state authorities. Anyone was entitled to seek assistance from the ombudsmen, even if he or she were not personally affected. The observations and recommendations of the ombudsman were taken very seriously by the relevant state authorities and in particular by the armed forces. Mr Marttunen bemoaned the fact that the ombudsmen were heavily overburdened with petitions, which meant that they were unable to take action of their own accord in some cases. In order to solve this problem, consideration was being given to granting the ombudsmen the right to decide whether particular petitions should or should not be followed up.

Cecilia Nordenfelt (Sweden) emphasised that a military ombudsman had existed in Sweden from 1915 until 1967. Now, however, responsibility for the armed forces had passed to the general ombudsmen. These were elected by Parliament for four years and were not bound by orders. The armed forces comprised only a small part of the ombudmen's field of responsibility. In general, the ombudsman system met with a high level of acceptance. Ombudsmen's recommendations were generally followed.

Saša Janković (Serbia) explained that the office of the Ombudsman, which had now been in existence for a year and a half, was based on the Swedish model. The Ombudsman was elected by Parliament for a four-year term. The Ombudsman and his four deputies acted independently of any authority. The holders of these offices also enjoyed immunity. The office of the Ombudsman was enshrined in the Constitution and was further regulated by statute. The Ombudsman had a mandate to assist the internal supervisory institutions that already existed within the military forces. If a petition were considered not to have particularly serious implications, it would be referred to these military supervisory bodies. Out of 5,000 petitions which the Ombudsman had received to date, 35 had come from the armed forces. These largely related to accommodation, administrative malpractice and the payment of pensions.

Jernej Rovšek (Slovenia) reported that the Slovenian ombudsman system had existed since the mid-1990s. The office of Ombudsman was enshrined in the Constitution and was also based on Scandinavian models. The Slovenian Ombudsman had general responsibility for reviewing the actions of the state authorities. A proposal for the creation of a special ombudsman for the armed forces had not been adopted by the legislature. The Ombudsman had the right to obtain information and make visits that were required for the performance of his duties. Parliament could appoint up to four deputies at the proposal of the Ombudsman. Out of some 3,000 submissions, 40 had come from the armed forces. The subjects ranged from general matters concerning conditions of service to discrimination and cases of sexual harassment.

In the debate that followed, participants discussed the extent to which the various ombudsmen were involved in legislative processes, whether people refrained from making submissions to ombudsmen for fear of reprisals and whether it was necessary to have special ombudsmen for the armed forces. The participants also discussed whether more staff were needed to assist ombudsmen in handling their workload.

Panel 4: States without ombudsman institutions for the military

Panellists: Argentina and Bosnia and Herzegovina

Points for discussion:

- *Reasons: Why does your state not have an ombudsman institution for armed forces personnel?*
- *Alternative mechanisms: What are the strengths and weaknesses of your alternative complaint mechanisms for armed forces personnel?*
- *Way ahead: Do you think it is necessary to initiate an ombudsman institution for armed forces personnel in your country?*

Dr Nilda Garré (Minister of Defence, Argentina) began by referring to the serious democratic deficits in the Argentinian armed forces after the overthrow of the military junta that had ruled from 1976 to 1983 and the end of its reign of terror. The military forces had not been part of society, there had been a lack of knowledge about fundamental democratic rights, and there had been a complete absence of democratic institutions. For that reason, radical constitutional reforms had been imperative to integrate the armed forces into society. The Argentinian Parliament had initially met that need by fundamentally reforming military jurisdiction in accordance with the principle of the rule of law. Other steps had also been taken to strengthen the democratic rights of members of the armed forces.

A major component of this process had been the constitutional reform of 1994, which had created the constitutional basis for the establishment of an ombudsman with responsibility for all citizens without exception. However, the law on the implementation of the relevant constitutional provision, Article 86, excluded the armed forces from its scope. This inconsistency between the constitutional provision and the implementing statute had been accepted for years without further discussion. As a result, members of the armed forces had been denied the rights guaranteed by the Constitution. At the present time, however, legislative measures were being prepared to bridge the gap between the constitutional requirement and its statutory implementation. Parliament was examining a legislative proposal which was designed to bring military personnel under the protective umbrella of the Ombudsman.

Another bill tabled in Parliament provided for the additional establishment of a special 'auxiliary ombudsman' for the armed forces, who would assist the Ombudsman. Apart

from possessing the qualifications required by an ombudsman, the auxiliary would have particular knowledge of military affairs and would be vested with extensive investigative powers in order to deal with abuses in the armed forces. The planned legislative measures, together with the reform of the system of military justice that had already been effected, would contribute significantly to civil oversight of the armed forces and the full integration of their members into society as citizens.

Branko Zrno (Bosnia and Herzegovina) reported that Bosnia and Herzegovina did not yet have a separate ombudsman institution for the country's armed forces, which comprised 10,000 regular troops. Responsibility for receiving submissions and complaints from servicemen and -women had hitherto lain with the Inspectorate-General of the Armed Forces, which was an organisational unit of the Ministry of Defence. The Inspectorate-General transmitted its activity reports to the Minister of Defence, who communicated their content to the relevant parliamentary bodies, primarily the Joint Committee on Defence and Security and the Parliamentary Assembly.

Bosnia and Herzegovina's defence system had been comprehensively reformed in the period from 2003 to 2006 and placed under parliamentary supervision. The foundations had been laid for these reforms with the adoption of the Defence Act and the Act relating to Service in the Armed Forces as well as the appointment of the Joint Committee on Defence and Security to serve as a standing supervisory authority. Since 2005, Bosnia and Herzegovina had been cooperating very closely with NATO on this very matter of parliamentary scrutiny of the armed forces. The establishment of a form of parliamentary oversight of the armed forces that accorded with the principles of constitutional law also fulfilled a fundamental condition for Bosnia and Herzegovina's participation in the NATO Partnership for Peace programme.

Mr Zrno also referred to the intensive exchange of views between members of his country's Parliament and the German Parliamentary Commissioner for the Armed Forces in the run-up to a decision on the appointment of a Commissioner for the Armed Forces for Bosnia and Herzegovina. Preparations for the corresponding legislation had been greatly influenced by meetings between the Joint Committee on Defence and Security and the German Commissioner that had taken place in 2006, 2007 and 2008. The appropriate legislative initiative had now been introduced into the parliamentary

process, and on 28 April 2009 the bill had been discussed at first reading by the House of Representatives of the Parliamentary Assembly.

The purpose of introducing a parliamentary commissioner for the armed forces was to further tighten parliamentary supervision of the defence sector and to ensure continued respect for the human rights of members of the armed forces of Bosnia and Herzegovina. At the same time, close cooperation was to be established between the parliamentary commissioner and the other relevant institutions, particularly the Ombudsman for Human Rights and the Ministry of Defence, with its Inspectorate-General, without impairing these other institutions' performance of their own tasks. Cooperation was essential in order to protect the human rights of military personnel as effectively as possible and to make the most efficient use of scarce human and material resources.

So as to ensure that tasks were performed efficiently and economically, provision had been made for complaints submitted to the Commissioner for the Armed Forces to be referred to the Inspectorate-General at the Ministry of Defence, which would conduct the necessary investigations and inform the Commissioner of its findings and of any action it deemed necessary. In order to be able to discharge his or her statutory duties efficiently, however, the Commissioner would also have the right to initiate additional independent enquiries. An office would be established for the specific purpose of providing the Commissioner with administrative support. The planned legislation was based to a great extent on the favourable experience of the German Bundestag with its Commissioners for the Armed Forces.

Ambassador Winkler (DCAF) stated that, in view of present-day security challenges, great importance attached to the ombudsman institutions for the armed forces. The DCAF was willing to provide individual states with a wide range of support with regard to the democratic scrutiny of their armed forces and invited them to make use of its services.

Part 2

Multilateral military deployments and the resulting special challenges and opportunities for the work of the ombudsman institutions

Panel 1: Petitions from deployment areas – subject matter and processing

Panellists: Canada, Poland, the United Kingdom and the United States

Points for discussion:

- *Role: What is and what should be the role of your ombudsman institution in dealing with complaints relating to military deployment abroad?*
- *Issues: What are the type and patterns of complaints related to deployment abroad? Do they differ from 'peacetime' complaints?*
- *Process: Are you satisfied with the way complaints related to military deployments are handled? How can it be improved?*

Dr Susan Atkins (United Kingdom) reported that there was no identifiable priority issue for troops involved in multilateral operations. With regard to her own role, she explained that, on the one hand, as the ombudsman for all service personnel, her job was to make the chain of command accessible to all servicemen and -women. She also performed a supporting role in many other areas. Support was offered, for example, in the event of fatalities but also in cases where problems arose because of the absence of family members on active service. Her staff cooperated very closely with national welfare organisations. She had received few submissions from deployment areas so far. She did not see any difference in their subject matter from that of submissions from troops based at home. The subjects she listed were difficulties with the receipt of pay, occasional sexual harassment, bullying and religious discrimination.

Pierre Daigle (Canada) explained that the office of Canadian Forces Ombudsman had existed for about ten years. Before its establishment, several models had been examined, including that of the German Parliamentary Commissioner for the Armed Forces. The National Defence and Canadian Forces Ombudsman was responsible for all serving and former military personnel, staff of the Ministry of National Defence and recruits on initial training courses. Family members, in fact, could also petition the Ombudsman. Since the creation of the office, some 16,000 petitions had been received. In terms of subject matter, petitions from deployment areas differed very little from the others. The issues cited by Mr Daigle were unfair treatment by superiors, unfair disciplinary action,

complaints about having been overlooked for overseas deployments and criticism of local medical treatment from troops returning from tours of duty abroad. In the Canadian forces, too, there were numerous indications of military personnel suffering from post-traumatic stress disorder. A large percentage of the petitions that dealt with issues relating to overseas missions were not submitted until the petitioners had returned home. The probable reasons for this were pressure of work during these deployments and the fact that petitions could not be submitted to the Ombudsman until the official complaints channel had been exhausted.

The German Parliamentary Commissioner for the Armed Forces indicated that Professor Marek Zubik (Poland) had already had to leave the conference to fulfil his official engagements.

William Kurt Miller (United States) began his contribution by indicating that the US system diverged very sharply from the systems that had previously been described. In the United States, each military unit had a General Inspector, whose role was similar to that of an ombudsman. With regard to the problem of post-traumatic stress disorder, he stated that the General Inspectors offered their assistance to the superiors of personnel with symptoms of post-traumatic stress. Discussions were held with medical specialists, and the Department of Defense was ultimately notified. This problem area was kept under very close surveillance, and help was offered. With regard to deployments in general, Colonel Miller stated that a General Inspector was present, in principle, in every unit. The number of GIs depended on the numerical strength of the unit. The General Inspectors went with their units on their various deployments, which he considered advantageous. However, they were not represented at every encampment during operations. All troops, including troops from other units, as well as private individuals and, in particular, family members could seek help from the General Inspector. GIs provided support on the spot or by telephone or e-mail. If they were informed of occurrences in their sphere of responsibility by third parties, they took up the case but did not report back to these third parties on the progress of their enquiries. These enquiries comprised investigations and interviews *in situ*. General Miller cited difficulties with the administration, professional misconduct on the part of superiors and unfair treatment as frequently aired grievances.

During the subsequent debate, the participants focused on the ranks from which the bulk of petitions were submitted and, with regard to the US system, on the problem of the lack of independence of the General Inspectors, who were part of the military hierarchy.

William Kurt Miller (United States) responded to this point by saying that, although the General Inspectors were part of the military hierarchy, they reported direct to the unit commander. In this respect the General Inspectors were outside the main chain of command. In addition, they had the status of a neutral party.

Panel 2: Investigatory powers and deployments abroad

Panellists: France, Germany, Norway and Romania

Points for discussion:

- Challenges: *What challenges are faced when addressing complaints arising from deployments abroad?*
- Restrictions: *To what extent are investigatory powers restricted when addressing these issues?*
- Capacity: *What is the capacity of your institution for dealing with complaints and how can the capacity be strengthened?*

Philippe Nicolardot (France) explained that overseas deployments were nothing new for French troops. Something of a deployment culture had developed. Although there had been no observable increase in the volume of complaints as a result of multinational missions, France did need to draw more comparisons between its own forces and those of other countries, particularly as regards matters such as accommodation, means of communication and pay.

Mr Nicolardot stated that the troops received frequent visits. Members of the Defence Committee in particular were often present in deployment areas.

It was also observable that young regular personnel in particular were liable to find themselves in fragile family situations. There was a need for more coordination, particularly with regard to welfare.

Kjell Arne Bratli (Norway) reported that the Norwegian ombudsman institution had been created in 1952. There were no particular problems with complaints from military personnel. Members of the armed forces generally drew up their petitions at home, before or after deployments. During deployments they often had no time to spend on petitions. When Mr Bratli visited troops on deployment, he did so with an ombudsman committee comprising seven or eight members.

Petitions normally related to matters such as equipment, accommodation, food and armoured vehicles. These complaints posed problems in so far as they had to be referred to Parliament, because they could not be resolved without an increase in financial expenditure.

Another problem was that very many old cases arising, for example, from the Second World War, the Korean War and the operations of the sixties and seventies in Lebanon were still pending. Fact-finding was extremely difficult in these cases, but the veterans never gave up hope of an answer. The lesson for the Ombudsman was that cases should be resolved sooner rather than later.

In principle, the visits Mr Bratli made in his capacity as Ombudsman were not subject to any restrictions. Any limitations tended to be of a practical nature, relating to matters such as travel arrangements. For that reason, unannounced visits to deployment areas were scarcely possible.

Mr Bratli made about a hundred visits a year. These visits also gave rise to numerous petitions.

He explained that it was often difficult to persuade politicians of military necessities, such as the need for more helicopters for a particular operation. Media reports on these matters often had greater impact. The same applied to the argument that troop safety was being seriously compromised.

The Ombudsman stated that an annual report and eight special reports had been produced in 2008. Each of these had been forwarded to the Norwegian Ministry of Defence and other institutions for action to resolve the problems in question.

Ioan Muraru (Romania) pointed out that his institution was still relatively new. In 1997 a law was passed establishing an independent and impartial 'People's Advocate', a general ombudsman dedicated to the enforcement of rights and freedoms. The institution comprised four departments, one of which dealt with matters relating to the police, the administration of justice, the ordinary judiciary and the armed forces. The institution could receive petitions, conduct its own enquiries, draw up reports on human rights and provide suggestions and advice.

With regard to the members of the armed forces, he explained that they could appeal to the Ombudsman on all matters concerning their rights and freedoms. The only requirements were that the complaint should be presented in written form and should specify the infringed rights and freedoms and indicate the date on which it was drawn

up. A total of 8,000 complaints had been received since the start of 2009. Five of these were from members of the armed forces, but none of them came from deployment areas.

In Professor Muraru's view, the role of the People's Advocate in Romania required further strengthening. To this end, he was pressing for adequate financial and human resources. There was also a need to increase awareness among other authorities of the existence of the People's Advocate. For this reason, he welcomed the opportunity to share experience in an international forum.

Friedhelm Dreyling (Germany) said that there were two problems with submissions from deployment areas. First of all, the geographical distance was quite vast. Unannounced visits to trouble spots were impossible. When visiting such areas, the Commissioner for the Armed Forces was dependent on the logistical assistance of the Bundeswehr. Secondly, the Commissioner's office was not so easily accessible for troops on deployment as it was for German-based troops. Telephone connections were often difficult to establish, and mail deliveries took longer. Things were even more difficult for sailors than for soldiers and air-force personnel who were in land bases in deployment areas.

In operational situations, problems had a far greater impact and often built up. A relatively minor incident was then sufficient for pent-up frustrations to be released in an e-mailed submission. In some cases, these petitions were couched in emotionally charged language, and they occasionally contained libellous or insulting comments. Some petitioners soon regretted their choice of words or asked the Commissioner to disregard their submission and refrain from examining their allegations.

Military personnel, moreover, spent only a short time in deployment areas. In some cases it was impossible to investigate a matter while the petitioner was still in the deployment area.

In the context of multinational deployments, problems could arise in an international chain of command if, for example, there were a conflict between diverse leadership cultures. Since the investigative powers of the Commissioner did not extend beyond the Bundeswehr, it was not possible to press to the same extent for appropriate disciplinary action for professional misconduct if the petitioner's superior was a foreign national as could be done in the case of misconduct within the Bundeswehr.

In principle there were no limits on the Commissioner's legal rights and powers in operational situations. In practice, however, restrictions were possible. It might happen, for example, that the Federal Ministry of Defence would advise against a visit to the troops on account of the security situation or that no visits of any kind were possible for a certain period of time in particular areas if, for example, all available means of transport, such as helicopters, were needed for major military operations.

Likewise, when he visited the troops in Afghanistan, for instance, the Commissioner for the Armed Forces depended on the consent of other allies if he intended to visit German troops based in an area for which Germany was not responsible and where the forces were not under German command. In such cases, however, the allies had never withheld their consent.

Paul Kiss (Austria) reported that the Austrian Armed Forces had 1,400 troops on active duty abroad. It was not possible, he said, to make the desirable number of visits. Austria faced the same problem of visits always having to be notified in advance. Sometimes it seemed as though 'Potemkin villages' had been erected for these visits. Following each visit to the troops, the nine members of the Commission drew up a final report based on their collective experiences. The aim was to devise solutions to problems together with the Minister of Defence and the General Staff.

Dr Hans Born (DCAF) asked the Norwegian representative whether the investigation of the deaths of serving personnel were part of his remit. Kjell Arne Bratli (Norway) explained that his parliamentary powers were identical to those of the German Commissioner for the Armed Forces. Fatalities, however, were not investigated by his institution. A separate commission was regularly appointed for that purpose.

Saša Janković (Serbia) asked whether, on multilateral missions, there were restrictions on the information received from NATO.

Kjell Arne Bratli (Norway) replied that he was exclusively responsible for Norwegian troops and that he received all essential information, including secret information, in Norway.

William Kurt Miller (United States) replied that national authorities could, in principle, request any information on multilateral missions. The answer, he said, ultimately

depended in part on the country whose interests would be affected by the disclosure of the requested information.

Reinhold Robbe (Germany) asked about the right to move freely in deployment areas. He suggested that security considerations might be used as a pretext for preventing an ombudsman from visiting certain operational locations. In some cases he had to make a specific request to the administration before receiving information. This applied, for example, to the deployment of special forces. In his view, the onus was actually on the provider rather than the recipient in such cases, but this was not always easy to administer.

Pierre Joseph Daigle (Canada) stated that military personnel sometimes filed complaints because they did not understand that particular NATO or UN rules applied in the field. Since it was up to each country to follow these rules, problems could be avoided by simply not applying the rules in cases where they were impracticable.

Dr Susan Atkins (United Kingdom) agreed with the Norwegian representative that ombudsmen had to arrange for solutions without undue delay. She was thinking here of the recurring topic of the effects of overseas deployments, particularly the problem of post-traumatic stress disorder. Efforts should be made to ensure that the individual service personnel suffering from this condition reported it now. She stated that PTSD was set to become a major issue.

Kjell Arne Bratli (Norway) referred to a comment by Michiel van Maanen (Netherlands), who had said that efforts on behalf of veterans must not be neglected. For this reason he was trying to support the formation of a veterans' network in Norway. This, he said, was a point that could possibly be discussed at the next ombudsmen's meeting. Norway could cite many relevant cases, because it had deployed a total of 130,000 troops on past and present missions. Mr Bratli believed that this would emerge as a future issue and that preparations should be made now to address it.

Reinhold Robbe (Germany) welcomed this proposal.

Saša Janković (Serbia) proposed that the point about the right of ombudsmen to receive all information, including confidential information, which they required for the performance of their duties should be a subject of discussion at the next conference.

Kjell Arne Bratli (Norway) agreed, stating that a security classification could be applied to information in order to withhold it from the ombudsman institutions.

Minister of Defence Dr Nilda Garré (Argentina) emphasised that PTSD was a very important issue. It was also important to protect the human rights and fundamental freedoms of military personnel. The conference had been a good start. She hoped that the exchanges would continue at subsequent conferences.

ADOPTION OF A JOINT RESOLUTION

After a brief discussion, the participants adopted the following resolution:

Final Declaration of the International Conference of Ombuds Institutions for the Armed Forces³

"Berlin Declaration"

Berlin, 12 May 2009

In almost all of the participating states, service personnel have the same civic rights as any other citizen. Given the requirements specific to service in the armed forces, these rights may be restricted by the law in certain circumstances. However, in all of the participating states the principle of obedience to orders is in turn constrained by the limits of the law.

The participating states have taken diverse legislative, regulatory and institutional measures to protect the rights of service personnel. Some have established independent parliamentary ombuds institutions to carry out the various tasks involved, equipped with their own staff to process petitions from service personnel. Other states have created the post of a commissioner for the concerns of service personnel, attached to the defence ministry. There are also states with general ombuds institutions which are responsible for processing submissions from service personnel as well as civilians. In states without an ombuds institution, parliamentary oversight of the armed forces is generally a matter for the parliamentary defence committee. Each participating state thus has its own system for the protection of the rights of service personnel, and ultimately for oversight of the armed forces.

³ The First International Conference of Ombuds Institutions for the Armed Forces took place from 10 to 12 May 2009 at the German Bundestag in Berlin. It was initiated by the Parliamentary Commissioner in cooperation with the Geneva Centre for The Democratic Control of Armed Forces (DCAF).

The increase in international and multinational operations by the armed forces has led to an expansion in the responsibilities of the ombuds institutions and other institutions involved in exercising oversight of the armed forces. During operations abroad, the duties and service conditions faced by service personnel differ significantly from those in their home country. Professional or personal problems have a much greater impact in these situations.

With the aim of sharing information and experiences regarding democratic oversight of the armed forces, the first international conference of ombuds institutions, commissioners and other institutions involved in exercising oversight of the armed forces was held in Berlin from 10 to 12 May 2009. The conference brought together the institutions responsible for oversight of the armed forces for the first time at international level.

The conferees declare

- (1) that the exercise of oversight of the armed forces in democratic states has an important function, creating transparency and fostering trust in the armed forces;
- (2) that the principle of obedience to orders must be guided by internationally recognised human rights;
- (3) that we intend to foster a common perspective which views service personnel not solely in terms of their obligation to obey orders;
- (4) that we intend to continue in future to invite states which wish to establish democratic oversight of their armed forces to participate in the dialogue and, if desired, to give them advice and assistance regarding implementation;
- (5) that we intend to continue this exchange of information and experience periodically in order to intensify future cooperation;
- (6) that we intend to hold the next conference in 2010 in Vienna.

Berlin, 12th May 2009

WORDS OF WELCOME BY PROFESSOR HORST KÖHLER,
PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY
at the reception for conference participants in Schloss Bellevue

Your Excellencies, ladies and gentlemen,

I bid you a warm welcome to Schloss Bellevue. When Mr Robbe suggested a reception, I was delighted to invite you here. Why? Because I consider his work as Parliamentary Commissioner for the Armed Forces and your work as ombudsmen to be vitally important in ensuring the well-being of military personnel and maintaining good conditions within the armed forces of our liberal democracies.

Our countries stand for peace and freedom through the rule of law. These values sometimes have to be safeguarded by force. Only armed forces which are rooted in freedom and the rule of law themselves are up to that task. The difference between the troops of democratic countries and all others is that the former consist of citizens with rights. These rights may be curtailed only in so far as the special circumstances of armed service dictate. This requirement of minimal limits on civil rights does not weaken our armed forces but strengthens them. Our troops are also citizens with a sense of commitment to freedom and human rights – citizens who are ready and able to risk their lives in defence of those values if need be. Their understanding goes beyond mere obedience to orders; they are led by reason, and they know the value of mutual respect and camaraderie.

These values determine the spirit of our armed forces, but good practice also depends on infringements coming to light, on abuses not being hushed up but being penalised and rooted out. That is what makes the good work of ommissioners for the armed forces and ombudsmen so important. They provide service personnel with support and give them a voice which reverberates beyond the individual case into the corridors of

political power. They are suggestion boxes and advocates for the men and women who render what is often extremely difficult service for our democratic societies.

Even the possibility of recourse to the commissioner or ombudsman can change the atmosphere within a military unit for the better. And, of course, that aim is achieved all the more effectively by your visits to the troops and your conversations with servicemen and -women, your reports on their experiences and concerns and the public impact of your work.

Our Bundeswehr troops, for example, make good use of their right. The number of submissions last year, far exceeding 5,000, underlines the importance of the Parliamentary Commissioner for the Armed Forces.

That is why it's also a great pleasure, Mr Robbe, as well as being of great personal importance to me, to congratulate you and your staff here today on the 50th report presented by a Commissioner for the Armed Forces. Fifty years ago, the first Commissioner for the Armed Forces was inaugurated in the Federal Republic of Germany – an inauguration which was unprecedented in German constitutional history and which also embodied one of the lessons we learned from our country's history. Today we look back with pride on the work of our Commissioners for the Armed Forces. I wish you continued success, Mr Robbe, in your efforts to improve everyday life in the Bundeswehr, and I should like to encourage you to go on campaigning with great vigour in the parliamentary bodies and in the public domain for a Bundeswehr that is firmly anchored in our democracy and our civil society. I thank you and your team for your dedicated and expert work for the benefit of our service personnel.

Ladies and gentlemen, I wish all of you continued success and recognition for your work. It is now time for us to talk, and I look forward to that.

Thank you very much.