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**EUROMIL Contribution to the UPR**  
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**About EUROMIL**

The European Organisation of Military Associations and Trade Unions (EUROMIL) is an umbrella organisation composed of 33 military associations and trade unions from 22 countries. It is the main Europe-wide forum for cooperation among professional military associations on issues of common concern. EUROMIL strives to secure and advance the human rights, fundamental freedoms and socio-professional interests of military personnel of all ranks in Europe and promotes the concept of "Citizen in Uniform". As such, a soldier is entitled to the same rights and obligations as any other citizen. The organisation is an ECOSOC-accredited NGO.

**Human rights of armed forces personnel in Spain**

**a) Context**

Human rights of Spanish armed forces personnel moderately improved in the last 15 years. In 2005, military associations were officially registered for the first time, drawing the attention of the media, citizens and politicians on the poor situation of human rights of the Spanish military personnel. Then, after long years of fight, the Constitutional Law 9/2011, of 27 July, on the rights and obligations of members of the Armed Forces was finally enacted, recognizing some fundamental rights for military personnel, including the right to freedom of association, in accordance with the Spanish Constitution and international standards. However, this law did not solve all issues concerning the human rights of military personnel. In this period, other laws had also been enacted and implemented, and new bodies were founded, thanks to the hard work of professional military associations. Nowadays, the Armed Forces Personnel Council plays an important role in enabling dialogue between the Ministry of Defence and military associations, and the Military Life Watchdog contributes to safeguarding good working and living conditions for armed forces personnel. The National Ombudsperson has also been supportive of members of the armed forces in the last years. But more still needs to be done before military personnel could fully enjoy their human rights and fundamental freedoms.



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## **b) Human rights issues**

While reviewing the fulfillment of the human rights obligations and commitments of Spain, EUROMIL would like to draw the attention of the UPR Working Group on the following issues affecting personnel of the Spanish armed forces:

### **1. The right to freedom of peaceful assembly and association**

The right to freedom of peaceful assembly has not been completely recognized for military personnel. They only enjoy it outside of the barracks. Consequently, professional associations, as human right defenders, do not have offices close to the workers they represent, in their working environment. Professional associations can also not request informative or training meetings in the barracks to discuss the working or living conditions of military personnel. Moreover, the right to establish and join trade unions, which would allow personnel to negotiate with the Minister of Defence on equal footing, is forbidden. The associations understand that certain rights, such as the rights to strike, might be restricted for military personnel. However, this should not be a motivation to impose a blanket ban on trade union rights for military personnel.

### **2. The right to effective judicial protection**

The Right to effective judicial protection is not fully recognized for military personnel. This means that members of the armed forces suffer from the existence of a military juridical power, inherited from the dictatorial regime. In the 21<sup>st</sup> Century, in peacetime, military personnel in Spain are judged by a military court and not by a civil court. A military court which is formed by judges with ranks and career dependency to the chiefs of staff on the armed forces and therefore not independent and not able to guarantee fair procedures. Consequently, military personnel can be deprived of their liberty, without the intervention of a judge, or a judgment. In certain cases, the deprivation can reach up to 3 months, with detention in a separate building, independent from the military base, in similar conditions as a jail. For example, the first Secretary General of the association AUME<sup>1</sup>, namely Jorge Bravo Alvarez, was deprived three times of his liberty for a total of 140 days. This was decided following a simple administrative procedure, just under the signature of the chief of the military unit, and no judge intervened.

### **3. The right to freedom of opinion and expression**

Military personnel, and particularly the representatives of professional military associations, are suffering from restrictions to their right to freedom of opinion.

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<sup>1</sup> *The Asociación Unificada de Militares Españoles* – “United Association of Spanish Military” (AUME) is a professional military association recognized by the Ministry of Defence. It is a member of EUROMIL since 2006.



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This is especially true when associations, as human rights defenders, try to share concerns of the "Citizens in Uniform" in the media. As a result, they are permanently monitored, persecuted and punished under the Military Disciplinary code, and again without the intervention of a judge. That is why AUME's last Secretary General, Jorge Bravo Alvarez, was three times punished as described above, for "misunderstanding" his right to freedom of expression. Another example of a case that could be highlighted in this regard is the one of AUME Secretary of Woman & Gender, Maria Teresa Franco, who was persecuted by the chief of her company following a disciplinary administrative procedure. Then lately, AUME got the information and evidences that she had been investigated for her political and social opinions published on social media. This case of intrusion into personal privacy is currently under a civilian court procedure. Finally, another recent case involved a vocal Board Member of AUME, Fidel Gomez Rosa, who was punished by the General he depends on, which had a negative impact on his career development. Despite the administrative punishment, the procedure was archived.

#### **4. Protection from discrimination**

Military personnel are not adequately protected against discrimination, particularly based on gender and age. It is known that Spain is one of the European countries with the highest percentage of women serving in the armed forces (currently around 15%). However, the current number of women in the armed forces has been stable since 2005, mainly because of the specific barriers and challenges servicewomen face in the defence sector. Female soldiers do not manage to follow the same career path as their male colleagues, among others because the armed forces lack measures to facilitate the reconciliation of work and family life, and because women are usually put aside once they have children. Their career will be truncated, with difficulties to get training and education. They are then subjectively evaluated by their officers, while this evaluation is crucial for the renewal of their contracts or their promotion. Age discrimination is also a major issue in relation to the specific steps to be promoted in the military career and because people are stopped because of their age instead of their accomplishments.

These are the most common violations of human rights in the Spanish military and impediments for military personnel to be recognized as "Citizens in Uniform".

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