

19 September 2024



## VII « Silent Leges Inter Arma? »

# ■ The Right to Freedom of Speech of a Soldier



## ■ Balancing rights & duties

Soldiers v. Civilians  
Private life v. Work life  
Peacetime v. Armed Conflict



**DEFENSIE**

# Art. 10 ECHR

1. “**Everyone** has the right to freedom of expression.”
2. “The exercise of these freedoms (...) may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, **in the interests of national security, territorial integrity or public safety, (...) for preventing the disclosure of information received in confidence**, or for maintaining the authority and impartiality of the judiciary.”

## ARTICLE 10

### Freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.





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Also: Art. 19 International Covenant on Civil and Political Rights; art. 19 Universal Declaration of Human Rights



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# ■ Right to freedom of speech of a soldier in Belgium

1

Art. 19 Belgian Constitution

2

Art. 182 Belgian Constitution

3

Belgian law from 14 January 1975 « houdende het tuchtreglement van de krijgsmacht » (Art. 13)

4

Internal Directive from 14 June 2024 concerning the right to freedom of speech of the personnel of Belgian Defence



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# Restrictions to the right to freedom of speech of a soldier in Belgium

1

National Security (sensitive information; operational details)

2

Political restrictions (*non-partisanship*)

3

Command Authority & Discipline

4

Public Communications & Social Media

5

Duty of loyalty & neutrality



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# ■ What's going on outside of Belgium?

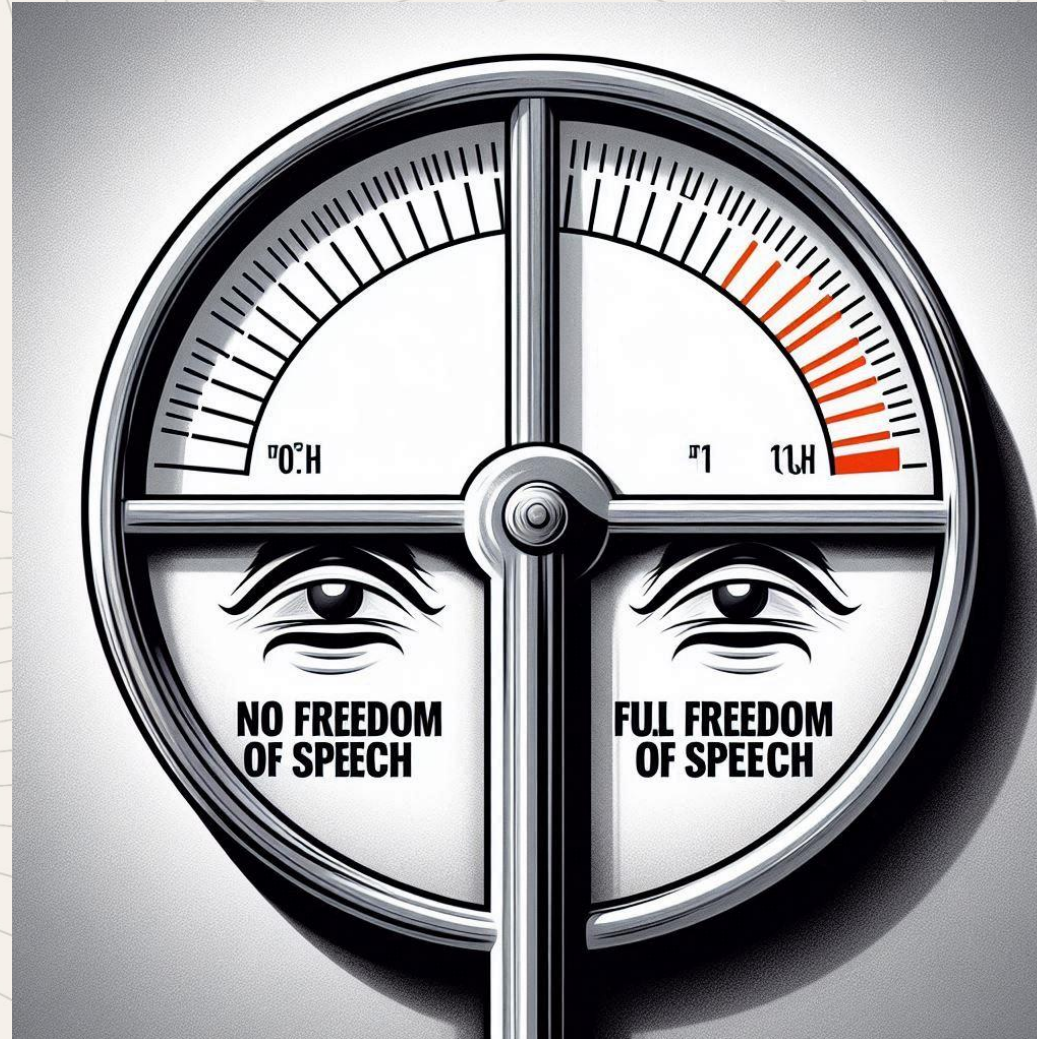
- EU/Council of Europe member states
- Democratic regimes
- Non-democratic regimes



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- EU/Council of Europe member states
- Democratic regimes
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# Some examples...

1

**Parker v. Levy case** (USA, 1974): officer convicted for publicly criticizing the military and encouraging others to disobey orders.

2

**Grigoriades v. Greece** (ECHR, 1997): The conviction contained a too severe restriction on free speech and violated the soldier's right of freedom of expression.

3

**Erdel v. Germany** (DEU, 2007): Soldier dismissed from service for participating in a public demonstration while in uniform.



■ A less restricted right to freedom of speech for a soldier in the future?

**...Or more?**



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Q&A