



**La commission des recours
des militaires**

Commission of appeal for the forces

THE LEGAL FRAMEWORK FOR THE PROTECTION OF THE RIGHTS OF ARMED FORCES PERSONNEL IN DEPLOYMENTS ABROAD

A general responsibility

“The armed forces personnel must obey the orders of their commanders and are responsible of the effective fulfilment of the missions that were entrusted to them. However, they must not be ordered to and must not commit acts contrary to the laws, customs of war and international agreements.

The responsibility of a subordinate does not absolve his superiors from any of their responsibilities.” (Article L 4122-1)

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A general legal protection

“The State is required to protect armed forces personnel against all threats and attacks they can endure in the course of their duty and to make up for, if necessary, the resulting loss or harm.

The State is also obliged to give its protection to an armed forces personnel if legal proceedings are engaged against him for events which are not personal misdeeds” (Article L 4123-10)

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Reference to due diligence for unintentional acts

“Excepts when referring to article 121-3 of the Penal code, armed forces personnel can be sentenced... for non deliberate acts done in the exercise of their functions only if it is stated that they have not done their due diligence...” (Article L 4123-11)

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Protection against abusive incriminations

“An armed forces personnel is not criminally responsible when, in respect of the rules of international right and in the framework of a military engagement abroad, he carries acts of coercion or he uses armed force or he orders to do it, when it is required for the mission accomplishment purposes.” (Article L 4123-12-2)

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Bonuses abroad

| | Ordinary pay and allowances in France | Afghanistan pay and allowances | Gap |
|---|---------------------------------------|--------------------------------|-----------------------|
| Captain married with 2 children | EUR 3 223 | EUR 7 087 | EUR 3 864 (+ 120%) |
| Senior enlisted married with 2 children | EUR 1 502 | EUR 3 631 | EUR 2 129 (+ 142%) |

Deployed armed forces personnel have also **free housing and feeding** and they frequently can use a **cheap access to telephone and Internet**.

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An immediate and important help for families in case of death at war

The amount of the “**Fonds de prévoyance militaire**” (Military reserve fund) payments can represent **up to four annual pays** (depending of the soldier’s pay index) in case of death in an act of war.

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Making up for loss and harm by the CRM

During a shooting exercise in Gabon, a NCO had been very severely wounded at his arm by one of the participants. His barrister asked for 700 000 euros and eventually, he was granted 460 000 euros.

It is not sure that a court would be more generous than Commission, because it will perhaps raise the point that the applicant had a part of responsibility in this damage.

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An association helps the wounded personnel and their family :

The **CABAT**, literally translated by “Army agency for the assistance of wounded personnel”, provides moral and financial support to soldiers wounded in the course of operations abroad. Created on 1st September 1993 by the Chief of Staff of the French Army, the CABAT is a specific organization under the command of the military governor of Paris.

It acts on a national level :

- to provides an **assistance and a better help to the wounded soldiers and their families ;**
- to **responds to material difficulties linked to the injury** and its consequences ;
- to makes **process of reinsertion in civilian life easier.**

THE ROLE OF THE COMMISSION OF APPEAL FOR THE FORCES IN PROTECTING THE HUMAN RIGHTS OF ARMED FORCES PERSONNEL IN DEPLOYMENTS ABROAD

The Commission can **invalidate the recovery of an overpayment.**

The Commission can **invalidate the recovery of MSA.**

The Commission can **confirm the refusal of legal protection.** In this case, the **CRM** has not protected the soldier but it **has defended Human rights.**