



Kurzinformation

Entrepreneurial activities of members of the Bundeswehr

This brief information addresses the question whether resp. to what extent members of the German armed forces (Bundeswehr) are allowed to conduct entrepreneurial or other gainful activities.

1. According to the German *Legal Status of Military Personnel Act*¹, soldiers of the German armed forces (Bundeswehr) are **in principle allowed** to conduct entrepreneurial or other gainful activities.
2. Restrictions and limitations regarding entrepreneurial or other gainful activities that apply for soldiers of the Bundeswehr are laid down in § 20 “Sidejob Activity” of the Legal Status of Military Personnel Act. The relevant parts of this paragraph read as follows:²

“(1) Regular soldiers and temporary career volunteers require prior permission for undertaking a sidejob, except for those listed in § 20, section 6, and as long as they are not obliged to execute the job under the Federal Civil Service Act § 98, section 7. [...]”

“(2) No permission shall be granted, if the sidejob is likely to interfere with official duties and interests. Such reasons for refusal are at hand, if the sidejob

1. *preoccupies the soldier to such an extent that the adequate performance of his/her official duties might be impaired,*
2. *imposes a conflict with the military duties of the soldier, might damage the reputation of the Bundeswehr, or is carried out within an area of responsibility in which the entity or unit, to which the soldier belongs, is active or may step into action,*
3. *may impede the impartiality or objectiveness of the soldier,*
4. *may lead to a significant reduction of the future military professional versatility of the soldier.*

¹ Legal Status of Military Personnel Act („Gesetz über die Rechtsstellung der Soldaten [Soldatengesetz – SG])“ in the version of the notification dated 30 May 2005 (Federal Law Journal I p. 1482), as amended by Article 6 of the Act dated 19 October 2016 (Federal Law Journal I p. 2362). Retrievable in German language under: <http://www.gesetze-im-internet.de/sg/ 20.html> (lastly retrieved on 11 November 2016).

² Inofficial translation.

*Such a reason for refusal is also at hand, should the sidejob turn out to be an actual second fulltime profession because of professional work or services rendered, or else because of the nature, duration, extent or frequency of the sidejob. The prerequisite described in § 20, section 2, subsection 1 is generally deemed fulfilled as soon as the time that the sidejob or the sidejobs demand **exceeds 8 hours a week**. Such a reason for refusal is also at hand as soon as the total amount of pay of one or more sidejobs **exceeds 40 percent of the yearly net basic pay of the rank of this soldier**. Exceptions can be made by the disciplinary superior on the basis of certain fact-based specifications, should the soldier provide information that the duty does not exceed 8 hours a week. The same holds should the refusal not be appropriate considering the circumstances of the case or military interests justify the permission of a sidejob. Sidejobs that require prior permission shall be considered in combination with those that require reporting if § 20, section 4 to 6 are applied. The permission shall only be granted for a maximum period of 5 years; it may be subject to certain obligations and conditions. Should an interference with official duties occur after the permission has been granted, the permission shall be revoked.*

- (3) The soldier may carry out his/her sidejob activities only off duty, unless he/she carries them out upon suggestion or request of his/her disciplinary superior or unless the disciplinary superior has found that the sidejob-activity serves an official purpose. The official purpose shall be recorded. Exceptions from this rule may only be made in certain, justified cases, especially when it serves public interests and they might be permitted upon written request, when there is no conflict with official duty. In this case, the missed duty hours shall be performed subsequently.*
- (4) The soldier may use Bundeswehr installations, personnel or materiel for the purpose of his/her sidejob activities only if it is in the public or scientific interest, and only with permission of the Bundeswehr and in return for a reasonable payment. The amount of the payment shall be estimated according to the expenses incurred for the Bundeswehr and take into account the advantage the soldier has gained from the usage.*
- (5) Permissions are issued by the Federal Ministry for Defence. It may authorize different units within its authority to issue such a permission. Requests for granting such a permission and decisions on such requests as well as the wish to carry out a certain sidejob must be made in writing. The soldier shall supply information demanded by his/her disciplinary superior with regard to nature and extent of the sidejob as well as the remuneration and the monetary benefits deriving from the sidejob. Any change of status quo shall be reported at once and in writing.*
- (6) Not subject to permission shall be*
 - 1. administration of ones own assets or usufruct of an estate,*
 - 2. a literary, scientific, artistic activity or a lectureship,*
 - 3. soldier activities related to teaching or research in the course of self-employed work as an expert and a teacher at public universities and at Bundeswehr universities as well as at academic institutes and institutions,*

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4. *activities for the safeguarding of professional interests in unions, professional associations or in self-help associations of the soldiers.*

Should the activity result in payment or a monetary benefit, the soldier has to report any single activity in the meaning of § 20, section 1, subsection 2 and 3 as well as an activity in self-help associations of the soldiers in the meaning of § 20, section 1, subsection 4 to his/her disciplinary superior in writing before taking up the activity. The soldier has to inform the disciplinary superior particularly about nature and extent of the sidejob as well as the expected remuneration and monetary benefits deriving from it. The soldier must report every change of the status quo immediately and in writing. If there should be a reason, the disciplinary superior can furthermore demand from the soldier to be informed in writing about a sidejob usually not subject to permission and, in particular, about its nature and extent. A sidejob usually not subject to permission shall be prohibited, either partly or completely, should the soldier violate military duties by carrying out his/her sidejob.

- (7) *The provisions of § 97 section 1 to 3, §§ 98 and §§ 102 to 104 of the Federal Civil Service Act shall apply accordingly.*
- (8) *A conscript who does his national service voluntarily or on the basis of the Compulsory Military Service Act may only be prohibited from carrying out his/her sidejob, if it endangers his/her fitness for duty or is contrary to the official duties that his/her service requires. [...]"*

- Ende der Bearbeitung -