

**AUSTRIA****Section I – Impact assessment**

I.1 Has an authority been assigned as responsible for the implementation of the Recommendation? If so, which? Yes  No

Ministry of Defence

I.2 How would you assess the impact of the recommendation on the human rights of members of the armed forces in your country? Please explain your reply.

Fully satisfactory  Adequate  Insufficient  Absent

Nearly all of the recommendations did not need any implementation in Austria, as they are already part of Austrian Legal System in force for a long time.

I.3 Have specific measures for the promotion and protection of the human rights of members of armed forces been adopted after and pursuant to the adoption of the Recommendation? If so, please provide examples. Yes  No

See comment under 1.2. above

I.4 Which obstacles, if any, have been encountered in the implementation of the Recommendation?

None – see comment under 1.2 above.

**Section II – Dissemination of the Recommendation**

II.1 Has an authority been assigned as responsible for the dissemination of the Recommendation? If so, which? Yes  No

The Human Rights Coordinator of the Ministry of Defence

II.2 Have specific events been organised to ensure the dissemination of the Recommendation? If so, please provide examples. Yes  No

The Human Rights Coordinator of the Ministry of Defence informed the general staff and its subordinated commands about the Recommendation and distributed about 100 copies to the relevant players within the armed forces.

II.3 Which obstacles, if any, have been encountered in the dissemination of the Recommendation?

None.

II.4 To which authorities has the Recommendation been distributed?

Within the Ministry of Defence and the Armed Forces.

II.5 Has the Recommendation been distributed to members of the armed forces? Yes  No

Yes  No

- II.6 Has the Recommendation been translated ?
- II.7 If not, is this foreseen? Yes  No
- II.8 How would you assess the visibility of the Recommendation?  
Fully satisfactory  Adequate  Insufficient  Absent

### Section III – Implementation of specific provisions

#### A - Right to life

A.1 Are there measures in place to ensure an independent and effective investigation into suspicious deaths or alleged violations of the right to life of a member of the armed forces? Yes  No

A.2 Are there measures in place to encourage reporting of acts inconsistent with the right to life and to protect those reporting such acts against retaliation? Yes  No

A.3 Please provide information about the legal framework of such measures and examples of the measures in place. If the reply to one or more of the questions above is “NO”, please explain why such measures are not in place and whether any measure is in preparation.

Suspicious deaths or alleged violations of the right to life of a member of the armed forces are investigated by the (civil) prosecutors and the (civil) police  
Soldiers are obliged to report any incidents which potentially include a criminal charge.

#### B – Torture and other forms of ill-treatment

B.1 Are there measures in place to protect members of the armed forces from torture or other inhuman or degrading treatment or punishment? Yes  No

B.2 Are there specific measures in place for more vulnerable categories, such as conscripts? Yes  No

B.3 Are there measures in place to ensure an independent and effective investigation into alleged acts of torture or other ill-treatment, or when the authorities have reasonable grounds to suspect that such acts have occurred? Yes  No

B.4 Are there measures in place to encourage reporting of acts of torture or other ill-treatment and to protect those reporting such acts against retaliation? Yes  No

B.5 Please provide information about the legal framework of such measures and examples of the measures in place. If the reply to one or more of the questions above is “NO”, please explain why such measures are not in place and whether any measure is in preparation.

B.1 Orders and supervision of officers; possibility of (regular and irregular) complaints; parliamentary armed forces commission, which can investigate on its own will and independently; as well as all (civil) instruments and criminal prosecution.

B.2 Due to the comprehensive measures of protection there is no need for a special protection of conscripts.

B.3 and B.4 see replies for A.1 and A.2 above.

### C – Forced or compulsory labour

C.1 Is military service compulsory? If so, please indicate whether it is possible to exact an alternative service instead of compulsory military service, and which are the differences in nature and duration of such service? Yes  No

Alternative service is possible. The duration of the alternative service is 8 months (compared to 6 months military service) and the service must be rendered in organisations not belonging to the armed forces, such as red cross, hospitals, etc.

### D – Military Discipline

D.1 Is there a clear legal framework in place governing military discipline in accordance with paragraphs 19-21 of the Appendix to the Recommendation? If so, please indicate a reference to the relevant legal framework. If not, please explain why and whether any measure is in preparation. Yes  No

Heeresdisziplinargesetz 2002 (HDG 2002), BGBl. I, nr. 167

### E- Right to liberty and security

E.1 Is there a procedure prescribed by law dealing with the deprivation of liberty of members of the armed forces? Yes  No

E.2 Is it lawful to detain members of armed forces under the age of 18? Yes  No

E.2.1 If so, do detention conditions comply with the conditions set out in Paragraph 23 of the Appendix to the Recommendation? Yes  No

E.2.2 If the reply to question E.2.1 is "NO", please explain why and whether any measure is in preparation.

E.3 Are there any limitations or exceptions to the guarantees set out in Paragraphs 24 to 27 of the Appendix to the Recommendation possible? If so, please specify. Yes  No

### F- Right to a fair trial

F.1 In matters that qualify as criminal under the European Convention on Human Rights, do members of the armed forces enjoy procedural rights and safeguards to the same extent as in criminal proceedings against civilians, in accordance with Paragraphs 28, 30 and 31 of the Yes  No

Appendix to the Recommendation? If not, please explain why and whether any measure is in preparation in this area.

F.2 Is there a clear legal framework setting out limitations or exclusions to the right to have access to a tribunal for the determination of members of the armed forces' civil rights and obligations? If any, please provide examples of such limitations or exclusions. Yes  No

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F.3 Does your country have military courts? Yes  No

F.3.1 If so, are they separate from the chain of command? Yes  No

F.3.2 If the reply to question F.3 is "yes", are there differences in the organisation and operation of military courts, in comparison with civil courts, in particular as regards the procedural safeguards set out in Paragraphs 33 and 34 of the Appendix to the Recommendation? Yes  No

G – Right to respect for private and family life, home and correspondence

G.1 Are there measures in place to ensure that conscripts are posted near their family and home, Yes  No

and that posting of professional members far from their family and home is not used as a disciplinary punishment? Yes  No

G.2 Are there measures in place to ensure that members of the armed forces posted abroad are able to maintain private contacts? Yes  No

G.3 Are there assistance programmes in place for those accompanying the members of the armed forces posted abroad? Yes  No

G.4 Can members of the armed forces enjoy parental leave, childcare benefits, access to nursery schools and adequate children's health and educational systems? If not, please explain why and whether any measure is in preparation. Yes  No

G.5 Where appropriate, please provide examples of good practices regarding the right of members of armed forces to respect for their private and family life, home and correspondence, in accordance with section "G" of the Appendix to the Recommendation.

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H – Freedom of thought, conscience and religion

H.1 Are there measures in place to allow all members of armed forces to comply, as much as possible, with their religious obligations? If so, please provide examples. If not, please explain why and whether any measure is in preparation. Yes  No

Possibility to hold praying times; possibility to receive food according to their religion
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H.2 Do conscripts have the rights to be granted conscientious objector status? Yes  No

H.2.1 If so, is an alternative service of a civilian nature available? Yes  No

H.2.2 If not, please explain why and whether any measure is in preparation.

H.3 Are conscientious objectors exposed to sanctions, disciplinary measures or judicial prosecutions? Yes  No

H.4 Can professional members of the armed forces leave the armed forces for reasons of conscience? If so, please explain the conditions and the procedure, and in particular whether the requests can be reviewed by an independent and impartial authority. If not, please explain why and whether any measure is in preparation. Yes  No

Not foreseen within the Austrian system. Professional members of the armed forces can leave the armed forces by notice of termination of their contract. There are no measures in preparation to change this system.

H.5 Are there measures in place to ensure that conscripts and members of the armed forces are informed, respectively, of the right to be granted conscientious objector status and to leave the armed forces for reasons of conscience and of the procedures available to exercise these rights? Yes  No

H.6 Where appropriate, please provide examples of good practices regarding the right of members of armed forces to freedom of thought, conscience and religion, in accordance with section "H" of the Appendix to the Recommendation.

#### I – Freedom of expression

I.1 Is there a clear legal framework setting out formalities, conditions and restrictions to the right to freedom of expression for the members of armed forces? Yes  No

I.2 If so, please briefly present it, by providing in particular examples of restrictions to the right to freedom of expression.

Soldiers are "citizens in uniform" and are granted the same civil rights as all civilians. The only restrictions exempt from their obligation of discretion (as for all civil servants) and their obligation not to damage the reputation of the armed forces as a whole.

#### J – Right to access to relevant information

J.1 Are there measures in place to ensure that full and detailed information about recruitment in the armed forces and commitments resulting therefrom are provided to potential recruits? Yes  No

J.2 Can former and current members of armed forces have access to their own personal data, including medical records and information regarding exposure to situations potentially hazardous to their health? Yes  No

J.3 If so, are there restrictions to this right of access? Please provide examples, if any. Yes  No

K – Freedom of peaceful assembly and association

K.1 Can members of the armed forces join lawfully established military associations or trade unions? If so, please indicate the conditions and eventual restrictions to this right. If not, please explain why and whether any measure to review or lift the existing restrictions or prohibitions is in preparation. Yes  No

No restrictions – see above soldiers are “citizens in uniform” and are granted the same civil rights as all civilians.

K.2 Can members of the armed forces join political parties? If so, please indicate the conditions and eventual restrictions to this right. If not, please explain why and whether any measure to review or lift the existing restrictions or prohibitions is in preparation. Yes  No

No restrictions – see above soldiers are “citizens in uniform” and are granted the same civil rights as all civilians.

L – Right to vote and to stand for election

L.1 Are there any restrictions on the electoral rights of members of the armed forces and on membership in the armed forces during a member’s candidacy or term of office? If so, please provide examples. Yes  No

M- Right to marry

M.1 Do members of the armed forces enjoy the right to marry and to form civil partnership in the same terms as civilians? If not, please explain why and whether any measure is in preparation. Yes  No

N – Right to protection of property

N.1 Are there measures in place to ensure that the property of members of armed forces, including conscripts, if retained upon joining the armed forces, is returned at the end of military service? Yes  No

O – Accommodation

O.1 Are there measures in place to ensure adequate accommodation for members of armed forces and their families, both on the national territory and abroad? Yes  No

O.2 Where accommodation is provided in barracks, are there separate dormitories for women and men? Yes  No

P – Remuneration and pension

P.1 Do professional members of the armed forces receive remuneration giving them a decent standard of living and an adequate retirement pension? Yes  No

P.2 Are there measures in place to ensure that men and women in the armed forces are entitled to equal pay for equal work or work of equal value? If not, please explain why and whether any measure is in preparation. Yes  No

Q – Right to dignity, health protection and security at work

Q.1 Are there specific measures in place to protect the dignity at work of members of armed forces, in particular as regards the prevention of sexual harassment? If so, please indicate the relevant legal framework and provide examples. If not, please explain why and whether any measure is in preparation. Yes  No

Sexual harassment is not only prosecuted by criminal law, but also by disciplinary proceedings.

Q.2 Is medical care provided during and as a result of military operations free of charge for the servicepersons? Yes  No

Q.3 Are there allowances or compensation schemes available for members of the armed forces obliged to leave the armed forces because of an injury resulting from the exercise of military duties, or in case of death in service? Yes  No

Q.4 Where appropriate, please provide examples of good practices regarding the right of members of armed forces to dignity, health protection and security at work, in accordance with section “Q” of the Appendix to the Recommendation.

R – Nutrition

R.1 Are there measures in place to ensure that members of the armed forces enjoy the right to decent and sufficient nutrition in accordance with section “R” of the Appendix to the Recommendation? Where appropriate, please provide examples of good practices. Yes  No

S – Non-discrimination

S.1 Are there measures in place to ensure that members of armed forces enjoy their rights and freedoms without any discrimination, in accordance with section “S” of the Appendix to the Recommendation? Where appropriate, please provide examples of good practices. Yes  No

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S.2 Are there any limitations to the access of women to the armed forces, or to particular types of occupational activities within the armed forces? If so, please provide examples. Yes  No

Only limitation is a test of their fitness,,; however they have separate goals from men they have to fulfil.
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S.3 Can sexual orientation constitute a ground to prevent access to the armed forces, or for discharge? Yes  No

T – Persons under the age of 18 enlisted in the armed forces

T.1 Does your legislation allow the voluntary recruitment into the armed forces of persons under the age of 18? Yes  No

T.2 If so, are there measures in place to ensure the full information about the duties involved and the informed consent of these persons and of their parents or legal guardians? Yes  No

T.3 Are there special measures in place to protect the physical and psychological welfare of these persons? Yes  No

T.4 Can these persons take an active part in the hostilities? Yes  No

U – Training

U.1 Are training activities aimed at increasing the knowledge of human rights by members of armed forces in place? If so, please indicate by whom are such training activities carried out. Yes  No

Human Rights training is part of the legal training of all officers in the Austrian Armed forces. Legal trainings are held by legal experts of the Austrian Armed forces.
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U.1.1. If the reply to question U.1 is “YES”:

U.1.1.1 Is international human rights law part of the training programme? Yes  No

U.1.1.2 Are the human rights of the members of armed forces themselves part of the training programme? Yes  No

U.1.1.3 Are prevention of ill-treatment and discrimination part of the training programme? Yes  No

U.1.1.4 Is international humanitarian law, including the duties mentioned in paragraph 84 of the Appendix to the Recommendation, part of the training programme? Yes  No

U.1.2 If the reply to question U.1 is “NO”, please explain why and whether any measure is in preparation.

V – Allegations of human rights violations

V.1 Are there measures in place to ensure that members of the armed Yes  No



forces have the right to bring allegations of human rights violations, in particular of discrimination, harassment and bullying, before an independent body? If so, please indicate to which authorities can such allegations be brought and which is the procedure. If not, please explain why and whether any measure is in preparation.

Discrimination, harassment and bullying must be prosecuted with disciplinary proceedings, and every soldier can file a complaint regarding disciplinary offences with the disciplinary commission. Furthermore every soldier can file an extraordinary complaint with the parliamentary complaints commission for Austrian Armed forces.

#### **Section IV - Follow-up**

IV.1 Which measures would you recommend to ensure that the principles set out in the Recommendation and in its Appendix are complied with in national legislation and practice?

IV.2 Should the Council of Europe continue examining periodically the implementation of this Recommendation? If so, should such examination in future concentrate on specific issues, and which specific issues would you recommend examining in that case?

IV.3 Are there any issues on which the Recommendation and its Appendix should be revised or completed? If so, please indicate them.