

CZECH REPUBLIC**Section I – Impact assessment**

I.1 Has an authority been assigned as responsible for the implementation of the Recommendation? If so, which?

Yes No

The Main Inspector for Protection of Human Rights of the 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

Almost all of the recommendations had already been implemented in the legal order in the past.

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

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

None

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

Yes, the Main Inspector for Protection of Human Rights.

II.2 Have specific events been organised to ensure the dissemination of the Recommendation? If so, please provide examples.

Yes No

Introduction to all members of the armed forces by the way of the General Staff and commanders of them, publication on the Army's Intranet.

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?

By the way of the Chief of the General Staff to all military formations, to military schools.

II.5 Has the Recommendation been distributed to members of the armed forces?

Yes No

II.6 Has the Recommendation been translated ?

Yes No

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.

Laws and internal regulations; control mechanisms, treatment of complaints, direct access to the Main Inspector for Protection of Human Rights (possibility to send complaints directly to him, possibility to use telephone and mail contact).

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.

Ad B.2.: obligatory military service was abolished

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

There is only conscription in case of war or state of war emergency. In this case, the alternative of conscientious objection is possible.

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

Act no. 221/1999, on Professional Soldiers, §§ 50 – 57.

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
There are no members of armed forces under the age of 18.

E.2.1 If so, do detention conditions comply with the conditions set out in Paragraph 23 of the Appendix to the Recommendation?

In fact, military prisons have been in practice abolished though, theoretically, there could be a disciplinary punishment of deprivation of liberty imposed (this punishment is not imposed in practice).

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

There are no special military courts.

Yes No

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

There no real specificities in this area.

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

We have no conscripts, only professional soldiers.

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

Individually – there are no accompanying persons usually.

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.

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

They have the same possibilities as other citizens, and possibility to use the army chaplain service. An army chaplain participates in each foreign mission and is available to soldiers.

H.2 Do conscripts have the rights to be granted conscientious objector status? Yes No

The armed forces are not established on the basis of conscription.

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.

It is an administrative procedure with the possibility of judicial review.

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

There are no particular restrictions to the right to freedom of expression.

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

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

Yes No

prohibitions is in preparation.

There is a general prohibition for the members of armed forces to join political parties or movements and trade unions. Soldiers can associate in professional associations agreed by the Ministry of Defence.

Some of these restrictions will probably be reviewed.

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

Act no. 221/1999, on Professional Soldiers. A change is not considered

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

We have only professional soldiers and we are not authorised to take their properties.

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

Act no. 221/1999, on Professional Soldiers, § 2, Act no. 198/2008 on equal treatment and legal protection against discrimination. System of control and complaints.

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

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

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

Military Academy (training, preparation for the mission), University of Defense, Military secondary school, lifelong learning (various courses).

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 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. Yes No

The (general) ombudsman, (civil) courts.

Many complaints are dealt with by the main Inspector for Protection of Human Rights of the Ministry of Defence.

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?

A new conception of protection of human rights is under preparation.

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?

We leave this aspect open.

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

We leave this aspect open.