

ESTONIA**Section I – Impact assessment**

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

Protection of human rights and fundamental freedoms are implemented by the Estonian Ministry of Defence (MOD), Headquarters of the Estonian Defence Forces in close cooperation with the Legal Chancellor office.

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

According to the constitution human rights and fundamental freedoms have to be guaranteed and all of the specific recommendations are incorporated into Estonian legislation concerning military service. Therefore it is difficult to assess the specific impact of the recommendation but rather it is an estimate of overall implementation of fundamental freedoms and human rights in the Estonian Defence Forces.

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 *

Through a close and continuous dialogue with the Legal Chancellor office the rights of conscripts and members of defence forces and overall working conditions in the defence forces have been improved.

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

Certain obstacles derive from practical and financial difficulties in order to improve the working conditions and standard of living for the members of the defence forces. However Estonian MOD is fully committed to improving the areas where we face challenges.

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 *

It is the obligation of the Estonian MOD and the Headquarters of the Defence Forces to protect and guarantee fundamental freedoms as they are stated in the Estonian constitution and in international agreements ratified by the Republic of Estonia.

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

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

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

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| | | | |
| II.5 | Has the Recommendation been distributed to members of the armed forces? | Yes <input type="checkbox"/> | No * |
| II.6 | Has the Recommendation been translated ? | Yes <input type="checkbox"/> | No * |
| II.7 | If not, is this foreseen? | Yes * | No <input type="checkbox"/> |
| II.8 | How would you assess the visibility of the Recommendation? | Fully satisfactory <input type="checkbox"/> Adequate * Inufficient <input type="checkbox"/> Absent <input type="checkbox"/> | |

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.

The Military Police, State Police and State’s Prosecutor office have the obligation to investigate alleged violations. There is no military judicial system and the Prosecutor’s Office leads the investigation and not the Military Police. The same legal framework is applied to the military as to the civilians.

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.

Same information as provided for the previous question is relevant to B.

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 regulated by the Estonian constitution and the Defence Forces Service Act. A person who refuses to serve in the Defence Forces for religious or moral reasons has a duty to perform alternative service pursuant to the procedure prescribed by the Defence Forces Service Act. Duration of the alternative service may be from 8 to 12 months and its nature is civilian. According to the Defence Forces Services Act the alternative service can not be activities that require carrying a gun.

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

Military discipline is regulated by Defence Forces Disciplinary Act. Starting from April 1st 2013 it will be regulated by the new Defence Forces Service Act.

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? Yes * No

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.

As there are no military courts in Estonia criminal charges against military personnel are filed by State prosecutor and it is regulated by the Criminal Procedure Act. Although certain part of the investigation may be done by the Military Police the State Prosecutor Office is leading the investigation. Therefore there are no differences in procedural rights and safeguards.

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

Question is not clear. If it is meant whether a member of the defence forces will be able to enforce its civil rights and obligations outside its military service then the answer is "yes".

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

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

If possible conscripts are posted closer to family and home. Private contacts can be maintained through regular communication means while a member is on a military mission outside of Estonia. Estonia does not have permanent military bases outside its territory. Postings to the military headquarters and participation in military operations are voluntary.

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.

1. A conscript shall be released from compulsory military service in connection with the person being a parent or guardian of a child or other person maintaining a child within the meaning of the Family Law Act, who maintains at least two children or alone at least one child.
2. Fathers have the right to receive up to ten working days of paternity leave during the two months before the estimated birth date given by a doctor or midwife and during the two months after the birth of the child.

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

All major religions and denominations in Estonia are included in the cooperation and can be contacted where necessary.

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

Answer to H.4 depends on what is exactly meant. Professional members of the defence forces are under contract and under certain conditions service contract can be terminated. However member of the defence forces can not refuse to comply with a lawful order.

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.

Persons liable to service in defence forces receive a call for service and with it also information concerning his rights and obligations. A person can also turn to Estonian MOD or to the Defence Resources Agency for further information.

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.

For example conscripts are not allowed to distribute political views. The same applies also to members of defence forces who are not allowed to distribute their political view while on duty. Nor can they belong to a political party. This restriction of course does not prohibit exchange of opinions but however refers to a more active distribution views.

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

Person who is liable to serve in the defence forces receives detailed information concerning its rights and obligation and about practicalities.

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

Members of the defence forces can not participate in the activities of other organisation that are carrying weapons except Estonian Defence League and sports and hunting clubs. They can work for a non-profit organisation if it is not a political party.

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 *

Service in the defence forces has to be non-political in order to provide most effective defence of the Republic of Estonia. Defence matters should be above political issues. As explained a member of the defence forces can not distribute his/her political views.

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 Yes No

member's candidacy or term of office? If so, please provide examples.

Member of the armed forces may not stand as a candidate for election to the Riigikogu (national parliament) or European Parliament or candidate for the President of the Republic.

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

A right to file a complaint in case a person feels he/she has been sexually harassed. Regulated by general legal framework.

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 Yes * No

death in service?

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.

1. Members of the Defence Forces are guaranteed medical examinations and regular health examinations, vaccinations and other medical care to the extent which is deemed equal to general medical care at the expense of the state.
2. In the case of medical indications, members of the Defence Forces who have participated in international military operations are guaranteed medical rehabilitation
3. The duration of the annual leave of a regular member of the Defence Forces is thirty-five calendar days

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

1. During active service, conscripts are ensured catering without charge.
2. During field exercises, international military operations, on board of aircraft of the air force and in service on navy vessels, regular members of the Defence Forces are granted catering without charge.

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 *

Women do not have an obligation serve in the military however they can voluntarily do it. There are no limitations on military positions.

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

Conscripts and members of the defence forces receive training on humanitarian law according to their position.

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

Such allegations can be brought to the attention of Military Police, Defence Forces ombudsman Estonian MOD, State Prosecutor Office, Legal Chancellor. Oral or written complaint is necessary and it can be sent via internet.

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?

As most of the principles set out in the Recommendation and in its Appendix are also stated in Estonian Constitution and relevant national legislation, we see the correct implementation of these principles as a dialogue between relevant stakeholders such as the Ombudsman office in Estonia and the Ministry of Defence. Therefore it is difficult to point out any additional specific measure for the implementation of the Recommendation.

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?

Taking into account the previous answer we are of the opinion that an important role is played by an adequate periodical examination of implementation of the Recommendation which should however take account of practical implications of the review.

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

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