

**GEORGIA****Section I – Impact assessment**

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

Currently, the Government is considering the creation of mechanism for the full and rapid implementation of the Committee of Ministers' Recommendations.

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

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?

**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

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?

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.

According to the article 7 of the Law on Military Police as it stands at the material time, the latter organ is responsible for conducting the investigation in relation to the crimes envisaged under the Criminal Code of Georgia, including the offences directed against the right to life of the members of armed forces. However, we would like to outline that the legislative amendment has been drafted legislative amendment; according to the draft the investigation of crimes directed against, life, inhuman and degrading treatment will be investigated by impartial organ.  
In addition, the members of the armed forces are fully entitled by law to file the complaint and report the acts inconsistent with the legislations.

#### 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.

As any other individual, the members of the armed forces are protected against the torture or other forms of inhuman and degrading treatment or punishment. The legal basis of the prohibition constitutes to be the article 1441 of the Criminal Code of Georgia. Similarly, the members of the armed forces are encouraged to report the facts inconsistent with Georgian legislation.

#### 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

Military Service is compulsory for the male citizens of Georgia from the age of 18. However, according to the article 4 of the Law on the Alternative Service, the individuals for whom the military service is contrary to their religious beliefs are entitled to undergo the alternative civil service, namely, community service. The duration of the service would be the same.

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 governed by the Military Discipline Charter adopted by the Presidents Decree of 10 February 2006.

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.2. The military service is not compulsory for individuals under the age of 18.

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

The members of the armed forces enjoy procedural rights and safeguards to the same extent as civilians in the criminal proceedings

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. Yes  No

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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

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

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

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

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.

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

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

According to the article 5 of the Law on the Status of the Members of the Armed forces the members of the armed forces are prohibited to join the political parties.

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

The members of the armed forces enjoy the right to vote, however they are not entitled to run for the office. Similarly according to the article 5 of the Law on the Status of the Members of the Armed Forces, they are prohibited to join the political parties.

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 Yes  No

provide examples. If not, please explain why and whether any measure is in preparation.

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

Under the legislation only male citizens are required to undergo military service, however in case women wish to join the armed forces there is no legal barrier for them to do so.

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

In order to increase the knowledge of the members of the armed forces regarding the human rights standards, the international human rights classes are offered by the Military Academy.

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 members of the armed forces are entitled to bring allegation or report the human rights violations to the Military Police, following to which the formal investigation is commenced with respect to the complaint in question.

**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.