

## IRELAND

### Section I – Impact assessment

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

A/COS SP Brigadier General Colm Campbell

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

As Ireland has legislated to give domestic effect to the provisions of the European Convention of Human Rights, it is felt that the recommendations and their dissemination will further reinforce the awareness of Human Rights in the Irish 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**

The authority responsible for the implementation of the recommendations has convened a board of officers to propose methods by which the recommendations can be communicated to members of the Defence Forces.

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

N/A

### 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**

A COS SP Brigadier General Colm Campbell.

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

The Recommendation will be disseminated throughout the Defence Forces via the internal electronic notice boards that are located in every barracks throughout the State

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

N/A.

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

All necessary bodies within the Defence Forces and Department of Defence.

II.5 Has the Recommendation been distributed to members of the **Yes**  **No**

armed forces?

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.

Section 192 of the Defence Act 1954 provides that serious offences such as murder shall be investigated by the civilian police force, An Garda Síochána, except when personnel are on active service or serving outside the jurisdiction of the State. The decision to prosecute in such cases is solely a matter for the Director of Public Prosecutions, an independent decision making body. In the case of personnel serving outside the jurisdiction of the State, the Military Police lead and conduct any investigations involving death or serious injury. In such cases it is the policy to deploy an investigation team from Ireland who operate under Irish standards and legislation.

Members of the Defence Forces also have full access to an independent confidential helpline and counselling service.

#### 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.

Section 192 of the Defence Act 1954 provides that serious offences such as torture or inhuman treatment shall be investigated by the civilian police force, An Garda Síochána, except when personnel are on active service or serving outside the jurisdiction of the State. The decision to prosecute in such cases is solely a matter for the Director of Public Prosecutions, an independent decision making body. The Defence Forces also operate a complaints mechanism whereby any member of the Defence Forces may complain to an independent civilian ombudsman (known as the Ombudsman for the Defence Forces), on any matter including mistreatment, bullying or inappropriate behaviour. Members of the Defence Forces also have full access to an independent confidential helpline and counselling service. The Defence Forces is a volunteer professional organisation and accordingly does not conscript. However, new entrants to the Defence Forces receive a two week familiarisation course before the formal commencement of their training whereby they are fully briefed on the Defence Forces Dignity Charter, complaints procedures and military codes of conduct for students and instructors.

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

N/A

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

Yes. Part V of the Defence Act 1954 provides the legal framework for military discipline in the Defence Forces. The Act provides for an independent Military Judge who oversees courts-martial, an independent court-martial administrator who fulfils the role of a court service and an independent Director of Military Prosecutions (DMpros) whose functions mirrors that of his civilian counterpart, the Director of Public Prosecutions (DPP). All members of the Defence Forces who are being tried for court-martial have the right to be legally represented by a civilian lawyer and if convicted may appeal to the Court-Martial Appeals Court which is civilian court consisting one Supreme Court Judge and two High Court Judges. Further, all courts-martial operate under the rules of evidence that are applicable in the civilian criminal law system.

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.

At present the Defence Forces recruit individuals who are 17 years of age. Such persons at present are detained under the same conditions as members who are of 18 years or older. It is the intention of the Department of Defence to amend legislation in the near future in this area which shall restrict recruitment of individuals to persons who are 18 years or older.

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? **Yes**  **No**   
If so, please specify.

N/A.

**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**

Members of the Defence Forces enjoy the full procedural rights and safeguards that are afforded to civilians facing criminal proceedings in accordance with ECHR norms.

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 is no limitation or exclusion on members of the Defence Forces from seeking recourse through the civilian courts on any matter that may affect their civil rights.

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 **Yes**  **No**

near their family and home, and that posting of professional members far from their family and home is not used as a disciplinary punishment?

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**

Members of the Defence Forces enjoy full statutory leave entitlements as per answer at G.5 below. When posted abroad on accompanied missions assistance is provided for access to nursery schools and children's health and educational systems. As stated at B.5 the Defence Forces is a volunteer professional organisation and accordingly does not conscript.

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.

All members of the Defence Forces are entitled to Statutory leave which includes Parental, Maternal, Paternity, Adoptive and Carer's leave amongst others. Members of the Defence Forces are provided with a comprehensive welfare system when operating overseas which, subject to the operational environment, includes access to the internet, provision of phone cards and leave outside of the mission area. Further, liaison teams are tasked with assisting the families of members who are deployed overseas with any issue that may be of concern to them.

#### 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**

Members of the Defence Forces have full access to a dedicated Military Chaplaincy Service which provides Chaplains to each Barracks in the State. Further, Defence Forces Chaplains routinely serve with overseas units of the Defence Forces.

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.

N/A – The Irish Defence Forces is a volunteer professional organisation.

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

All members of the Defence Forces can voluntarily seek their discharge from the Defence Forces without being required to state a particular reason. At present there have been no recorded cases of individuals leaving the Defence Forces for reasons of conscience and there is no specific measure in place in the Defence Forces that relates to conscientious objectors.

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.

As stated at H.1, the Defence Forces provides a full time Chaplaincy service to members of the Defence Forces. Further the Defence Forces fully comply with national legislation, in particular the Equality Act which prohibits discrimination on the grounds of religious beliefs or sexual orientation amongst others.

#### 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.

Defence Forces Regulation A.7, a Statutory Instrument, provides at Part VII, the Defence Forces protocols and conditions for communications with members of the press and public. For example, paragraph 27 of the aforementioned Statutory Instrument provides that *"the granting of interviews or the divulging of information by any officer or man of the Permanent Defence Force to members of the public on matters pertaining to the service or to the conduct thereof is forbidden."* This prohibition is qualified to state that communication on service matters may be authorised if prior approval is sought by the appropriate authority.

#### 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? Yes  No

regarding exposure to situations potentially hazardous to their health?

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

Members of the Defence Forces have rights of access to personal information that is retained by the Defence Forces through the provisions of the Freedom of Information Acts 1997 and 2003 and the Data Protection Acts 1998 and 2003. Restrictions to this right include information of a sensitive security nature about the data subject that was provided in confidence and information that relates to a third party.

*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 may join representative associations. Enlisted personnel may become members of the Permanent Defence Forces Other Ranks Association (PDFORRA) and commissioned officers, up to and including the rank of Colonel, may become members of the Representative Association of Commissioned Officers (RACO). Defence Forces Regulation S.6, a Statutory Instrument, regulates the powers of associations. Both associations have a wide scope of representation which primarily relates to pay and conditions of members. Both associations are also restricted from engaging in acts of public agitation.

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**

Section 103(1) of the Defence Act 1954 provides that members of the Permanent Defence Force shall not join, or be a member of, or subscribe to, any political organisation whatsoever. This position is adopted by the Irish State to ensure that those who wear the uniform of the State are non political servants of the State. This prohibition ensures that permanent military personnel understand that while they are in service, their loyalty is to the State as a whole and not to one particular political party who may or may not be in government. There is no measure or review in preparation to lift this prohibition. However, section 103(2) prohibits members of the Reserve Defence Forces only from joining secret societies; there is no such prohibition on joining 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**

As for answer provided at K.2. Members of the Permanent Defence Force may not become members of political parties or become candidates for election to public office. Members of the Defence Forces are free to vote in elections.

*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**

The Defence Forces have a comprehensive dignity at work programme in place that includes a Dignity Charter which is displayed in all working areas of the organisation. Further, the Defence Forces have clear guidelines in place that are communicated to all members of the Defence Forces which outlines the Defence Forces zero tolerance approach to any form of inappropriate behaviour. This policy also outlines how members, if they feel that they have been subjected to such inappropriate behaviour, may report such abuses to higher authority. Ultimately, if a member feels that such behaviour has not been dealt with adequately by the chain of command, s/he may complain to an independent civilian ombudsman (known as the Ombudsman for the Defence Forces) that is appointed by the Government.

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 **Yes**  **No**



of an injury resulting from the exercise of military duties, or in case of 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.

The Defence Forces operate a comprehensive Health and Safety programme whereby a trained commissioned officer fulfils the appointment of Health and Safety officer in each barracks in the State. This officer routinely liaises with the States Health and Safety Authority to ensure that best practice in this area is adhered to. Further, the Defence Forces also operate a civil litigation section staffed by military lawyers who also liaise with the State's Health and Safety Authority so as to ensure a proactive approach is afforded to each member's safety in the workplace. In response to the Q.3, members of the Defence Forces who are injured in service in the Defence Forces may apply to the Defence Forces Pension Board, an independent statutory body established under Section 5 of the Army Pensions Act 1927.

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

The Defence Forces operate modern dining facilities in all installations throughout the State. Dining facilities are subject to routine and unannounced inspection by both military and civilian health and safety authorities. All personnel in the Defence Forces receive comprehensive briefings on diet and nutrition throughout their careers. Any specific dietary requests that are related to religion or diet are catered for, subject to operational requirements.

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

The Defence Forces fully comply with national legislation in this area, in particular the Equality Acts, which prohibit discrimination on a number of grounds, which include, sex, sexual orientation, race, colour and religion amongst other grounds. The Defence Forces have been to the forefront in international terms in regards to female members, in that there is no restriction in terms of duties or appointments which may be undertaken by females in the Irish Defence Forces.

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

Yes  No

armed forces of persons under the age of 18?

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**

The Defence Forces United Nations Training School routinely conducts courses in both the Law of Armed Conflict (LOAC) and Human Rights Law for both military and civilian students. Lectures on these courses are conducted by military lawyers who have received specialised instruction in the area from established institutions such as the International Institute of Humanitarian Law in San Remo, Italy and the NATO training school in Oberammergau, Germany, amongst other institutions.

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**

As per previous answers at B5 and Q1, members of the Defence Forces, including those who may be subject to inappropriate behaviour, bullying and harassment have unrestricted access to an independent civilian ombudsman (known as the Ombudsman for the Defence Forces) who oversees any complaint that may be made.

## 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?

Recommendation U – members of the armed forces should receive training on human rights and international humanitarian law. As all armed forces operate in difficult and stressful environments when deployed overseas particularly where the national legal framework may have unravelled, it is vital that each member of the armed forces fully understand their rights and obligations under both LOAC and Human Rights law so as to ensure there is some legal framework which safeguards vulnerable individuals' human rights.

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?

Yes, such examinations should concentrate on specific issues, in particular the training of members of armed forces in both Human Rights Law and IHL and also on the issue of independent redress for members of the armed forces who may feel mistreated in any way.

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

No.