

NORWAY**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 Norwegian Government is responsible for the protection of the human rights of all citizens, including members of armed forces. The Norwegian Ministry of Defence is responsible for the implementation of the particularities relating to the protection of the human rights of the members of the Armed Forces.

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

The impact of the recommendation is esteemed to be adequate, as its content is already part of national law.

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 human rights of the members of the armed forces in Norway are already covered by national law. Seeing as the rights evoked in the recommendation already exist under our current laws, no specific measures have been adopted after the adoption of the recommendation.

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

As mentioned under question I.1 it is the Norwegian Ministry of Defence who in part is responsible for the protection of the human rights of members of the Armed Forces.

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

As mentioned under question I.3 the rights evoked in the recommendation already exist under our current laws, therefore there was no need to organize specific events to ensure the dissemination of the recommendation.

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 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.

The regular penal legal system (penal law and criminal procedural law) naturally applies to members of the armed forces, as to any other citizen. The military penal law applies specifically (militære straffelov).

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.

All military personnel are informed of their duty to report any allegation of such treatment. Examples of measures in place are the Ombudsmann for the Armed Forces serving under the Parliament, or simply the officers in charge on the base which have particular responsibility when they're on duty (vaktkommandør and daghavende officer). As what regards conscripts, they have an elected representative to whom they can transmit any such complaints personally (“tillitsmann”). You also find elected representatives of employees in every office in the Armed Forces, to whom one can transmit any complaints of the working environment (Verneombud). There is also the possibility to place anonymous complaints either written or oral (to a call center).

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

Until this summer (1st July 2012) one could apply for “siviltjeneste” / civil service instead of military service. This alternative is now phased out and those who do not want to complete a regular military service have to apply for a dispensation from military service based on reasons of conscience (“fritak fra militærtjeneste av overbevisningsgrunner”, see militærnektekterloven § 1).

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

Disiplinærloven (‘Disciplinary law’), entered into force on 1st January 1989.

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?

The same legal framework applies to members of armed forces under the age of 18 as to other citizens under the age of 18. According to the procedural penal law (Straffeprosessloven § 174) the police may detain persons under 18 if this is of essential importance (“særlig påkrevd”). 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. Yes No

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.

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

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 **NO** they are placed in military bases in Norway but they are entitled to a certain amount of travels home free of charge during their posting, and that posting of professional members far from their family and home is not used as a disciplinary punishment **YES**?

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.

One example is the fact that you have "family coordinators" on most bases, whose job is to facilitate contact between the families and the member of the Armed Forces. You also have very good financial aid systems when it comes to visiting family outside of the base (the army covers all travel expenses for either the spouse or the soldier/officer for up to 40 travels/year). The army also organizes therapy sessions for couples, or 'family days' where the entire family is invited on the base.

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

A. Legal framework:

- Directive on the adjustment for religious exercise in the armed forces («Direktiv vedrørende tilrettelegging for religionsutøvelse i forsvaret») from 2001. This directive treats regulations on diet, religious symbols worn with uniforms as well as religious holidays. (it is currently being updated and will be reissued in 2013).
- Guidelines for the service corps in the armed forces relating to the provisioning of the army regulating alternative diets in the armed forces from 2008.
- Agreement for the army chaplains regulating the role of army chaplains in the free exercise of religions other than Christianity from 20.may 2011.

B. Examples from the above listed framework:

- Diet: Alternative diets shall be offered to personnel that of religious or other reasons cannot eat the regular meals offered. This also applies on military exercises.
- Religious symbols: Religious symbols allowed with uniform in the Armed Forces are linked to the larger officially registered religious communities in Norway. The right to wear and the restrictions in using them are independent of personnel categories. The permitted symbols may be used with all orders of uniform and in most types of military duties. The unit commander will consider whether the use of such symbols may jeopardise requirements regarding health, security and operational effectiveness. Possible restrictions in the use of permitted religious symbols will have to be assessed objectively on a case to case basis. The following joint rules apply to all religions: Hair and beard shall be well groomed. Pendants, necklaces and the likes shall be worn invisibly under the uniform.
- Regulations pertaining to the various religions:

- **Islam**

Female Muslim soldiers may wear shirts with long sleeves though the rest of the unit wears shirts with short or rolled up sleeves. Alternatively a long sleeve undershirt in black colour may be used under the uniform shirt.

Wearing a tight Hijab, following the shape of the head, is allowed but not a loose fitting one. The colour of the hijab is to be plain patterned black without decoration. Hijab does not replace military headgear and shall therefore be used under the ordinary military headgear.

Niqab, jilbab, burka and other clothing concealing the face and/or the uniform is not permitted.

- **Sikhism**

Long hair shall be worn in a knot either on top of the head or at the neck. The knot may be covered by a turban or a patka. Turban may replace other military headgear. Normally it shall be in the same colour as the unit's headgear. The colour of the headband of the turban shall be black. Headgear badge shall be fitted just above the triangle of the headband. Wearing a helmet or other protective equipment is not always compatible with the use of a turban. In such cases a patka may be worn. If so, the colour of the patka shall be black, plain patterned. Patka does not replace military headgear. An iron bangle (bracelet) may be worn on the right wrist and is permissible to wear as long as it does not come in conflict with health and security and operational effectiveness.

A symbolic knife may be worn over a shirt. When jacket is used, the knife is worn under the jacket. Carrying a knife in public is done according to the local police regulations.

- **Judaism**

Male members of the Jewish faith may wear a black, plain pattern kippa without ornaments under military headgear or alone when military headgear is not used. Kippa does not replace military headgear.

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.

See the reply under question C.1.

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.

See answer to H.1

Other examples: Time off from military service usually follows National public holidays (Christian holidays). Each soldier/officer is entitled to the same amount of days off duty, but the commander

may accord additional days off for specific religious celebrations.

Chapels, praying and quiet rooms: The armed forces may lend out their chapels to other Christian communities. The army chaplain shall also assist in finding suitable venues on base for other religions.

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.

Sikkerhetsloven ('law on safety') which provides restrictions on the freedom of expression when it comes to for instance the handling of classified documents.

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

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

Likestillingsloven ('law on equal status' from 1978).

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

Likestillingsloven ('law on equal status' from 1978). Especially § 8a. Arbeidsmiljøloven ('law on working environment'). Especially chapter 13 on the protection against discrimination.

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.

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

Arbeidsmiljøloven ('law on working environment'). Especially chapter 13 on the protection against discrimination.

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? See T.4. 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

Personnel under the age of 18 can apply for membership in the "Heimevernsungdom" ('Home Guard Youth'). Membership in the Home Guard Youth is a part time activity with meetings and outdoor exercises conducted mainly during evenings and weekends. They have the status of non-combatants and cannot undergo training in combat or fighting, or in the use of heavy weapons. Most of their training relates to physical exercise, first aid and outdoor-life.

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

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

This is among others regulated by the Chief of Armed Forces directive on notification/reporting (Varslingsdirektivet). Employees have a duty to inform their superiors, a specially elected representative (“verneombud”) or other public services of any misconduct such as discrimination, bullying, etc. These duties also derive from legal duties (“Arbeidsmiljøloven”, ‘law on working environment’).

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 mentioned earlier, the principles set out in the recommendation are already complied with in national legislation.

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?

It depends on the answers in this questionnaire. Those countries that do not already provide the same level of protection as the recommendation could be subjected to a follow-up questionnaire in the future in order to see whether any measures have been taken.

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