

POLAND**Section I – Impact assessment**

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

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

Pursuant to the adoption of the recommendation, the promotion and the protection of the human rights of the members of armed forces has been incorporated in military training programmes, including the civil education programme for all members of the Polish Armed Forces.

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

No obstacles have been encountered.

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

Military schools and field commanders of military units.

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

In march 2011, the Human Rights Defender (Ombudsman) arranged a special meeting on the meaning of the Recommendation to the personnel of the Polish Armed forces. Apart from that, the President of the Defence Commission of the Sejm (lower chamber of the Polish Parliament) of the Republic of Poland organized a special meeting of the Commission on the abovementioned issue.

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

No obstacles have been encountered.

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

The recommendation has been delivered to the Office of the Human Rights Defender, to the Sejm of the Republic of Poland and to the Ministry of National Defence. Then, it has been distributed among field commanders of military units and chiefs (commanders, directors, commandants) of organizational units of the Ministry of National Defence.

- 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 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.

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 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 ill-treatment? 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 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.

Due to successful professionalization of the Polish Armed Forces, which has completed in 2010, there are no conscripts. The basic law on military personnel is unified and concerns all soldiers.

C – Forced or compulsory labour

- C.1 Is military service compulsory? If so, please indicate whether it is possible to exact another service instead of compulsory military service, and which are the differences in nature and duration of such service? Yes No

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 not, please explain why and whether any measure is in preparation. Yes No

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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.

In accordance with the Polish Law, the minimum age for an enlisting individual is 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

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F- Right to a fair trial

F.1 In criminal matters, 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 Are military courts separated from the chain of command? Yes No

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F.3 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 Paragraph 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

Yes No

G.2 Are there assistance programmes in place for those accompanying the members of the armed forces posted abroad?

G.3 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

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

Yes No

H.2 Is it possible to grant conscripts 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.

Due to the process of professionalization of the Polish Armed Forces, which has been completed in 2010, the service of conscripts is no longer in effect.

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 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?

Yes No

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 any, please provide examples of restrictions to the right to freedom of expression.

In accordance with article 26 paragraph 2 of the Constitution of the Republic of Poland as of 1997, the Polish Armed Forces are neutral in political affairs. The law on the protection of classified information (mostly set out in the Statute on the protection of classified information as of 2010) also implies restrictions to the right to freedom of expression, but solely in terms of classified information.

J – Right to access to relevant information

J.1 Are there measures in place to ensure that full and detailed

Yes No

information about recruitment in the armed forces and commitments resulting therefrom are provided to potential recruits?

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

Restrictions may be legally introduced under the Statue on the protection of classified information as of 2010.

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

Pursuant to the Statue on military service as of 2003, participation of soldiers in unions is strictly prohibited. However, the same legal act and appropriate ordinances under it allow of their participation in societies and organizations.

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

Under article 26 of the Constitution of the Republic of Poland as of 1997, the armed forces of the Republic of Poland are legally obliged to be neutral in political affairs. As a consequence, other legal acts of lesser rank introduce specific restrictions regarding political activity of soldiers, including general ban on participation in political parties, societies or other organizations having political goals

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

In accordance with Polish law, soldiers have full voting rights. There are, however, certain restrictions regarding election campaign (a soldier has to be granted a temporarily leave of absence with no salary for that period) and if he is elected, he is obliged to leave the armed forces.

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? 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 the families of members of armed forces, 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 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 provide examples. If not, please explain why and whether any measure is in preparation. Yes No

The Plenipotentiary of the Prime Minister for equal treatment has been nominated. In the Ministry of National Defence, the Women Rights Defender has been also introduced. Legal measures, e.g. specific provision in General Rules for the Armed Forces, have been successfully applied. The Ministry of National Defence has launched information and education campaign on equal treatment and personal relations in the military environment. Pamphlets and other publications concerning sexual harassment have been widely distributed among soldiers.

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

R – Nutrition

R.1 Are there measures in place to ensure that specific dietary needs are taken into account in accordance with paragraph 75 of the Appendix to the recommendation? Yes No

S – Non-discrimination

S.1 Are there any limitations to the access of women to the armed forces, or to particular types of occupational activities within the armed Yes No

forces? If so, please provide examples.

No limitations on enlisting are imposed. There are certain limitations with regard to particular types of occupational activities (military positions) due to pregnancy.

S.2 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 of persons under the age of 18? Yes No

T.2 If so, are there measures in place to ensure the full information and 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 part in combat situations? Yes No

U – Training

U.1 Are training activities aimed at increasing the knowledge of human rights by members of armed forces in place? Yes No

U.1.1. If the reply to question U.1 is “YES”:

U.1.1.1 Are the human rights of the members of armed forces themselves part of the training programme? Yes No

U.1.1.2 Is international humanitarian law 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, to which authorities can such allegation be brought. If not, please explain why and whether any measure is in preparation. Yes No

By the mandate of section 117 of the General Rules for the Armed Forces, each soldier is entitled to press complaints in case of violation of his or her rights. Soldiers are also entitled to press complaints to the Human Rights defender or to the Plenipotentiary of the Prime Minister for equal treatment at any time. In such cases, no official channels are required. Generally, pursuant to the Statue on military service as of 2003, soldiers are entitled to appeal from a decision to the appropriate organ of higher level on the basis of the Code of administrative proceeding as of 1960, however, in cases of arisen from duly, actions may be taken solely through the official channels.

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?

No particular need to introduce new measures. The existing ones are considered fully satisfactory.

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?

No such need with regard to the Republic of Poland

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

No such issues have been identified.