

## ROMANIA

### 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

The members of the armed forces enjoy, in accordance with the constitutional and legislative provisions, the exercise of all rights referred to by the present Recommendation.

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?  
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

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?  
None

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

Ministry of National Defence, Ministry of Interior, other armed structures.

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 legal framework is provided by the Constitution, the Romanian Penal Code, and all the International Conventions that Romania is part of and by the following specific legislation:***  
- ***Order of the Minister of National Defense no. MS. 92/2008 for approving the Rules of interior order in unit, (unpublished);***  
- ***Order of the Minister of National Defense no. M. 26 /2009 for approving the Military Discipline Regulation, published in the Official Gazette of Romania, Part I, no. 187/25 March 2009;***  
- ***Order of the Minister of National Defense no. MS. 26/2008 for approving the PM. 3 - instructions regarding events in the Romanian Army (unpublished);***  
- ***Order of the Minister of National Defence no. M 17/2008 for approving the rules of procedure applicable to civilian personnel of Ministry of National Defence (unpublished);***  
- ***Order of the Minister of National Defence no. M 219/2007 for approving the instructions on the organization and functioning of labour safety and health in the Romanian army, (unpublished).***

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.

***The legal framework is provided by:  
the Constitution;  
all the International Conventions that Romania is part of;***

- ***the Romanian Penal Code:***

***"...Article 266. - (1) Any person who, having knowledge of the commission of offenses under the criminal law against life or resulted in death of a person, it shall promptly notify the authorities is punishable by imprisonment from 6 months to 2 years or a fine".***

“... Omission of notification

...Article 267. - (1) The public official who, having knowledge of the commission of an offense under the criminal law in connection with the service which it performs its duties, fails to immediately notify the prosecuting authorities is punishable by imprisonment from 3 months to 3 years fine.

(2) When the offense is committed negligently, the punishment shall be imprisonment from three months to one year or a fine.”....

- **the Order of the Minister of National Defence no. MS. 26/2008 for approving the PM. 3 - instructions regarding events in the Romanian Army (unpublished), the Order of the Minister of National Defense no. MS. 92/2008 for approving the Rules of interior order in unit, (unpublished) and the Order of the Minister of National Defense no. M. 26 /2009 for approving the Military Discipline Regulation, published in the Official Gazette of Romania, Part I, no. 187/25 March 2009.**

#### 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

**Romania has suspended the compulsory military service starting with 1<sup>st</sup> January 2007, through the Law no. 395/2005 on peacetime suspension of compulsory military service and transition to voluntary military service, published in the Official Gazette of Romania, Part I, no. 1155/20 December 2005.**

#### 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

**The legal framework is provided by:**

- **the Romanian Penal Code;**
- **the Law no. 80/1995 on the military personnel statute, published in the Official Gazette of Romania, Part I, no. 155/20 July 1995;**
- **the Order of the Minister of National Defense no. M. 26 /2009 for approving the Military Discipline Regulation, published in the Official Gazette of Romania, Part I, no. 187/25 March 2009;**
- **the Order of the Minister of National Defense no. M. 76 /2010 for approving RG – 7 Regulation of organization and functioning of the Council of Honor, published in the Official Gazette of Romania, Part I, no. 522 from 27 July 2010;**
- **the Order of the Minister of National Defense no. M. 153 /2005 for approving RG – 8 Regulation of Councils Court, (unpublished).**

#### 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.

**According to the article 55 of the Romanian Constitution, citizens may be conscripted from the age of 20.**

**For military service as soldiers and noncommissioned professionals can be recruited and employed people aged between 18 and 50 years.**

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 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, 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.

**The legal framework is provided by:**

- the Law no. 80/1995 on the military personnel statute, published in the Official Gazette of Romania, Part I, no. 155/20 July 1995;
- THE Law no. 384/2006 on the status of professional soldiers and sergeants, published in the Official Gazette, Part I no. 868 of 24/10/2006;
- the Law no. 121/2011 on the participation of armed forces in missions and operations outside the territory of the Romanian State, published in the Official Gazette, Part I no. 427 of 17/06/2011.

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

**According to the article 29 of the Law no. 80/1995 on the military personnel statute, religious membership is free, except those that by law, are contrary to the rules of keeping public order, those which violate morals or affect the profession.**

**Symbols, literature and objects of religious significance may be use by military personnel in an individual manner.**

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.

**Romania has suspended the compulsory military service starting with 1<sup>st</sup> January 2007.**

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

**There are no specific legal provisions regarding this situation, but, according the article 85 of the Law no. 80/1995 on the military personnel statute, it is possible to request to leave the armed forces for reason of conscience/personnel reasons.**

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.

**The legal framework is provided by Romanian Constitution and the Law no. 80/1995 on the military personnel statute, published in the Official Gazette of Romania, Part I, no. 155/20 July 1995.**

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.

**According to the article 29 of the Law no. 80/1995 on the military personnel statute, military personnel may express their political opinions only outside service. The public expression of opinions contrary to the interests of Romania and the armed forces is not allowed.**

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 there from 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

**Military personnel may establish, according to the military regulations, various forms of professional associations, scientific-technical, cultural, sporting, recreational or charitable, except unions or associations that are contrary to the chain of command and the military order and discipline.**

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 28 of the Law no. 80/1995 on the military personnel statute, the active members of the armed forces are not allowed to join political parties or political organizations.**

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

**According to the article 28 of the Law no. 80/1995 on the military personnel statute, the active members of the armed forces are not allowed to run for election as member of local administration, of Parliament or as President.**

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 Yes  No

why and whether any measure is in preparation.

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

***Through the Order of the Minister of National Defence no. M. 57/2003 for the approval of "M.R.U. 9, measures to implement the national action plan for equality between women and men in the activity of the Ministry of National Defence, "were established specific measures that ensure equal opportunities and treatment between women and men in labour relations and professional activity.***

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.

***The legal framework is provided by the Law no. 80/1995 on the military personnel statute, published in the Official Gazette of Romania, Part I, no. 155/20 July 1995 and the Emergency Ordinance no. 82/2006 on the recognition of merit military personnel engaged in military action, published in the Official Gazette, Part I no. 896 of 03/11/2006.***

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

- **Government Ordinance no. 26/1994 regarding the right to nutrition in peace time for the national defence, public order and security system’s personnel, republished in the Official Gazette of Romania, Part I, no. 144 from 9th April 1998;**
- **Government Decision no. 501/1994 regarding the approval of the nutrition norms, on caloric limits, personnel categories entitled to, and public institutions of the national defence, public order and security system within these norms are applicable (unpublished)**
- **Government Decision no. 1474/2009 regarding the approval of the nutrition, equipment and technique norms and supplies necessary for nutrition activity, applicable within the institutions of the national defence, public order and security system, during mobilization, war time, siege and emergency situations;**
- **Instructions regarding the militaries nutrition in Ministry of National Defence during peace time, approved through the Order of the minister of national defence no. M.S. 96/2008 (unpublished)**
- **Instructions regarding the application in the Ministry of National Defence of nutrition norms and equipment norms with technique and supplies necessary for nutrition activity during mobilization, war time, siege and emergency situations, approved through the Order of the minister of national defence no. M.S. 79/2011 (unpublished).**

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

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 who is such training activities carried out. Yes  No

***International Humanitarian Law Centre is a structure specialized in providing IHL training for Romanian Armed Forces, through the dissemination of specific information, the integration of international treaties in internal legal acts and by publishing and disseminating related publications.***

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

***Law no. 571/2004 on protection of personnel in public authorities, public institutions and other units who reports violations, published in the Official Gazette, Part I no. 1214 of 17 December 2004***

## **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?

None

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?

None

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

None