

## UKRAINE

### Section I – Impact assessment

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

***Though no authority has been assigned as the only one responsible for the implementation of the Recommendation, a number of Ukrainian ministries, within their terms of reference, have been involved in the process, in particular:***

***- Ministry of Justice of Ukraine ensures the preparation of proposals on bringing the Ukraine's legislations in compliance with the Council of Europe's principals and standards, including those concerning human rights of members of the armed forces:***

***- Ministry of Defence (MoD) as military authority to which the Armed Forces of Ukraine are subordinate and Ministry of Internal Affairs (MIA) to which the Interior troops are subordinate ensures human rights protection towards military personnel.***

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

Recommendations will have an impact on improving the legal culture of personnel.

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. No

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

***No obstacles***

### 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

***Ministry for Foreign Affairs of Ukraine ensured the dissemination of the Recommendation to the Ministry of Defence, Ministry of Justice, Ministry of Internal Affairs and Office of the Ukrainian Parliament Commissioner for Human Rights***

II.2 Have specific events been organised to ensure the dissemination of the Recommendation? If so, please provide examples. Yes

***The Recommendation was used by educational department of the Ministry of Internal Affairs during in the framework of humanitarian training for all categories of personnel. Methodological materials are printed in a special issue of the Interior Troops` newspaper "Ratnyk" (№ 29-30, printed on 08/10/2012)***

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

***There were no problems with dissemination of the Recommendation***

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

**Ministry of Defence, Ministry of Justice, Ministry of Internal Affairs and Office of the Ukrainian Parliament Commissioner for Human Rights**

II.5 Has the Recommendation been distributed to members of the armed forces? No

II.6 Has the Recommendation been translated ? Yes

II.7 If not, is this foreseen? Yes

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

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

A.3 Please provide information about the legal framework of such measures and examples of the measures in place. If the reply to one or more of the questions above is “NO”, please explain why such measures are not in place and whether any measure is in preparation.

***According to the current Ukrainian legislation the procedure of investigating deaths, violations of the right to life and health is assigned to the appropriate law enforcement and judicial authorities. In case of appropriate grounds, persons who provide information about crimes or who are victims of crime, have the right to security according to the provisions of the Law of Ukraine "On safety of persons involved in criminal proceedings", the Criminal Procedure Code and the Disciplinary Statute of Armed Forces of Ukraine.***

#### 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

B.2 Are there specific measures in place for more vulnerable categories, such as conscripts? Yes

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 Yes

have occurred?

**According to the Ukrainian legislation the procedure of independent and effective investigation into alleged acts of torture or other ill-treatment is assigned to the appropriate law enforcement and judicial authorities.**

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

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.

**Constitution of Ukraine, Criminal Code of Ukraine (Art. 126, 127, 406), Disciplinary Statute of Armed Forces of Ukraine**

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

**According to Article 1 of the Law of Ukraine "On Military Duty and Military Service «Motherland defence, independence and territorial integrity of Ukraine is the constitutional duty of the Ukrainian citizens».**

**The person can be allowed not to perform military duty, which is only possible in the cases stipulated by this Law.**

**If the performance of military duty contradicts the religious beliefs of a person, the fulfilment of his duty should be replaced by alternative (non-military) service.**

**The right to alternative service have only persons whose religious beliefs forbid them using weapons.**

**Alternative service is performed in the service of state owned enterprises, institutions and organizations, as well as of the organizations under the patronage of the Red Cross Society of Ukraine.**

**The duration of military service is 12 months, in this time the duration of alternative service is 1,5 time longer.**

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

- **Disciplinary Statute of the Armed Forces of Ukraine, adopted by the Law of Ukraine on March 24, 1999 № 551-XIV;**
- **Code of Ukraine on Administrative Offences;**
- **the Resolution of the Verkhovna Rada of Ukraine of 23.06.1995 № 243/95-VR "On Approval of the financial responsibility of servicemen for damage caused to the state "**
- **Directive of the Supreme Commander of the Armed Forces of Ukraine on October 28, 2002 № 1-1/1384 "On additional measures to improve discipline in the Armed Forces of Ukraine and other military formations";**

- ***the conception of educational work in the Armed Forces and other military formations of Ukraine, approved by the President of Ukraine and dated on September 4, 1998 № 981/98; order of the Commander-in-chief of Interior Troops of Ukraine from 06.02.2007 № 50 "On improvement of work to ensure military discipline and crime prevention in the Interior Troops of Ukraine."***

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**

***Criminal Procedure Code of Ukraine defines the same procedure of imprisonment for all groups of society***

E.2 Is it lawful to detain members of armed forces under the age of 18? **Yes**  
***Criminal Procedure Code of Ukraine defines arrest and detention procedure of a minor as a preventive measure only in exceptional cases depending on the severity of the crime. Parents or persons in loco parentis must be informed about the arrest and detention of a minor.***

E.2.1 If so, do detention conditions comply with the conditions set out in Paragraph 23 of the Appendix to the Recommendation? **No**

E.2.2 If the reply to question E.2.1 is "NO", please explain why and whether any measure is in preparation.

E.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. **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**

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. **No**

F.3 Does your country have military courts? **No**  
***According to the Law of Ukraine "On the Judicial System and Status of Judges" (2010) the military courts were eliminated in Ukraine***

F.3.1 If so, are they separate from the chain of command?

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?

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**
- G.2 Are there measures in place to ensure that members of the armed forces posted abroad are able to maintain private contacts? **Yes**
- G.3 Are there assistance programmes in place for those accompanying the members of the armed forces posted abroad? **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**
- G.5 Where appropriate, please provide examples of good practices regarding the right of members of armed forces to respect for their private and family life, home and correspondence, in accordance with section “G” of the Appendix to the Recommendation.

H – Freedom of thought, conscience and religion

- H.1 Are there measures in place to allow all members of armed forces to comply, as much as possible, with their religious obligations? If so, please provide examples. If not, please explain why and whether any measure is in preparation. **Yes**

***According to Article 35 of the Constitution of Ukraine, everyone has the right to freedom of belief and religion. This right includes the freedom to practice any religion or no one, to perform alone or collectively religious rites or rituals, conduct religious activities.***

***Article 6 of the Law of Ukraine "On social and legal protection of servicemen and members of their families" confirms that the military has the right to profess any religion or profess no one, openly express their religious or atheistic beliefs. Commanders (chiefs) of military formations and units enable soldiers to participate in worships and religious rites in free from military service duty time.***

***If the performance of military duty contradicts the religious beliefs, the fulfilment of this duty shall be replaced by alternative (non-military) service.***

***Establishing religious organizations at the military administration departments, other military departments and units is prohibited.***

- H.2 Do conscripts have the rights to be granted conscientious objector status? **Yes**
- H.2.1 If so, is an alternative service of a civilian nature available? **Yes**

H.2.2 If not, please explain why and whether any measure is in preparation.

H.3 Are conscientious objectors exposed to sanctions, disciplinary measures or judicial prosecutions? **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. **No**

***The grounds for dismissal of servicemen are clearly regulated by Article 26 of the Law of Ukraine "On Military Duty and Military Service", by the Decree of the President of Ukraine, adopted on December 10, 2008 № 1153 "On Regulations of the citizens of Ukraine military service in the Armed Forces of Ukraine" and by the Resolution of the Cabinet of Ministers of Ukraine "On approval of the list of circumstances or other valid reasons that could be grounds for dismissal from the army professional servicemen " (adopted March 4, 1995 № 150)***

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**

H.6 Where appropriate, please provide examples of good practices regarding the right of members of armed forces to freedom of thought, conscience and religion, in accordance with section "H" of the Appendix to the Recommendation.

I – Freedom of expression

I.1 Is there a clear legal framework setting out formalities, conditions and restrictions to the right to freedom of expression for the members of armed forces? **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 Article 8 of the Law of Ukraine "On the Internal Troops of Ukraine", activities of all political parties and movements are not permitted in the Internal troops, as well as participation therein of military officers and re-enlisted military members is prohibited.***

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**

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**

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

examples, if any.

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**

***According to Article 5 of the Law of Ukraine «On social and legal protection of servicemen and members of their families» the members of armed forces have the right to establish their associations (trade unions) in accordance with the legislation of Ukraine. The members of armed forces can not be members of any political parties, organizations or movements***

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. **No**

***According to Article 5 of the Law of Ukraine «On social and legal protection of servicemen and members of their families» the members of armed forces can not to be members of any political parties, organizations or movements.***

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. **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**

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**

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**

O.2 Where accommodation is provided in barracks, are there separate dormitories for women and men? **Yes**

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? **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**

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**

***The Constitution of Ukraine, The Criminal Code of Ukraine, Statute of internal service in Armed Forces***

Q.2 Is medical care provided during and as a result of military operations free of charge for the servicepersons? **Yes**

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**

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**

***There are legal frameworks for such type of State’s support of servicemen. It foresees, in particular, norms and kinds of nutrition for different services and categories of military members***

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**

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**

***Women cannot be conscripted. They can join the Armed Forces via contract. No restrictions concerning types of occupation***



S.3 Can sexual orientation constitute a ground to prevent access to the armed forces, or for discharge? **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**

**According to the current Ukrainian legislation the person is able to serve on active military service only from 18 years old. Joining the military higher educational establishments and contracting for the professional service are permitted in 17 years.**

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**

T.3 Are there special measures in place to protect the physical and psychological welfare of these persons? **Yes**

T.4 Can these persons take an active part in the hostilities? **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**

***It is provided by the officers of the educational departments and units***

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**

U.1.1.2 Are the human rights of the members of armed forces themselves part of the training programme? **Yes**

U.1.1.3 Are prevention of ill-treatment and discrimination part of the training programme? **Yes**

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**

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**

***In accordance with the Criminal Procedure Code of Ukraine, the Law of Ukraine "On Public Appeals" servicemen have the right to apply to the law enforcement agencies and judicial institutions to protect their rights and freedoms.***

***Statute of the Armed Forces of Ukraine and the Law of Ukraine "On social and legal protection of servicemen and members of their families" stipulate that serviceman may apply to the Court with regard to illegal actions of military officials and military command***

#### **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?

***Elaboration of the flexible mortgage lending mechanism for professional military personnel.  
Elaboration of the scheme of housing renting for professional military personnel.  
To amend the anti-corruption legislation of Ukraine in order to extend the list of paid employment jobs, which are allowed during off-duty time (at present it is allowed to be engaged in teaching activities, research and creative activities, medical practice, as well as to serve as instructors and to have referee practice in sport).***

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, it would be useful***

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

***No***