

OSCE  
Office for Democratic Institutions and Human Rights

**Analysis of the Reporting on Human Rights of Armed Forces Personnel  
under the 2014 Information Exchange on the  
Code of Conduct on Politico-Military Aspects of Security**



## **Acknowledgements:**

ODIHR would like to extend particular thanks to Paulyn Marrinan Quinn, S.C., Former Founding Ombudsman for the Defence Forces – Ireland, for her research and first draft of the study. ODIHR acknowledges the comments and suggestions from Mr. Ian Leigh, Professor of Law at Durham University, Dr. Alexandre Lambert, Academic Director at the School for International Training (SIT), and Ms. Farangis Zikriyaeva, Program Director at Human Rights Matter.



## **ODIHR:**

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) is the main institution mandated to promote the OSCE's work in the human dimension of security. As such, ODIHR assists participating States to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and to build, strengthen and protect democratic institutions, as well as to promote tolerance throughout society.

## **Disclaimer**

*This publication was published with the support of the OSCE Office for Democratic Institutions and Human Rights (ODIHR). The opinions and information it contains do not necessarily reflect the policy and position of ODIHR.*

## Table of Contents

Introduction.....	2
1. Methodology .....	4
2. Analysis and findings .....	6
<i>General findings</i> .....	6
<i>Section II: Intra-State elements – 1. National planning and decision-making process</i> .....	7
<i>Section II: Intra-State elements – 2. Existing structures and processes</i> .....	8
<i>Section II: Intra-State elements – 3. Procedures related to different forces personnel</i> .....	8
<i>Section III: Public access and contact information</i> .....	13
3. Women, Peace and Security.....	14
4. Recommendations.....	15
<i>Current reporting by participating States</i> .....	15
<i>Reference Guide and Questionnaire</i> .....	16

## Introduction

1. The OSCE Code of Conduct on Politico-Military Aspects of Security (Code of Conduct), adopted at the Budapest Summit in 1994, is considered a landmark document in security sector reform and governance. It spells out a set of principles for inter-state and intra-state behaviour, which should govern the role of armed forces in democratic societies. This includes *inter alia* principles of the democratic control of armed forces, civilian and parliamentary oversight and the rights of armed service personnel.
2. The Forum for Security Co-operation (FSC), which is one of the OSCE's two main decision-making bodies, implements a number of activities to promote the implementation of the Code of Conduct.<sup>1</sup> Through the annual Information Exchange on the Code of Conduct participating States report on their progress in implementing the Code of Conduct. Participating States provide each other and the Conflict Prevention Centre (CPC) relevant information on the implementation of the Code of Conduct by 15 April of each year.<sup>2</sup> As such the Information Exchange constitutes an important confidence-building measure, with an emphasis on transparency and with the potential to further develop and promulgate standards of best practice.

---

<sup>1</sup> MC Decision 3/07 on issues relevant to the FSC where participating States expressed their determination to continue enhancing the implementation of the Code of Conduct.

<sup>2</sup> FSC.DEC/2/09.

3. The reporting through the annual Information Exchange is carried out by means of a Questionnaire.<sup>3</sup> The Questionnaire currently in use dates from 2009<sup>4</sup> and covers three main sections: inter-state elements, intra-state elements and public access and contact information. In 2010, a Reference Guide<sup>5</sup> on the Code of Conduct was adopted to assist participating States to compile their answers to the Questionnaire. The Reference Guide contains an indicative list of references on issues that participating States can consider in filling out the Questionnaire. In 2011, 30 participating States attached an interpretative statement containing an indicative list of questions for the voluntary reporting on Women, Peace and Security.<sup>6</sup> The CPC compiles and presents an overall statistical report of all the responses in the Annual Discussion on the Implementation of the Code of Conduct at the FSC in Vienna.<sup>7</sup>
4. In 2010, the Report of the Academic Study<sup>8</sup> on the 2010 Information Exchange of the Code of Conduct on Politico-Military Aspects of Security (*hereafter Academic Study*) was published. It analysed the responses and offered recommendations on the Code of Conduct's Reference Guide and Questionnaire. A recommendation contained therein was to provide further guidance on human rights and fundamental freedoms of armed forces personnel, as well as on civil rights and political neutrality. In 2013, the Gender Section of the OSCE Secretariat conducted an Analysis of the Voluntary Answers Pertaining to Women, Peace and Security as provided in the Annual Information Exchange on the Code of Conduct on Politico-Military Aspects of Security (*hereafter Analysis of Women, Peace and Security*).
5. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has a comprehensive mandate to assist participating States in fulfilling their commitments on, *inter alia*, human rights, gender, women, peace and security, rule of law and democratic governance, and provides assistance to enhance institutional accountability and responsiveness, and a vibrant civil society. ODIHR has a solid track record in supporting participating States in the implementation of these commitments also in the politico-military dimension. This includes support to activities to raise awareness of the Code of Conduct and its implementation throughout the OSCE region. The Code of Conduct and other relevant human rights and gender commitments underpin the ODIHR Human Rights Discussion Series for the FSC initiated in 2013, as well as the ODIHR-DCAF Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel.
6. With the overall objective to further contribute to the promotion and uptake of the Code of Conduct in the OSCE region, in April 2014, ODIHR commissioned an independent consultant to analyse the responses to the Code of Conduct with a focus on human rights of armed forces personnel. The study specifically aims to provide food-for-thought and feed into the deliberations at the FSC on how the Information Exchange on the Code of Conduct can be of optimal benefit to the OSCE and the participating States. In doing so, the study looks

---

<sup>3</sup> *IBID.*

<sup>4</sup> The Questionnaire on the Code of Conduct was originally adopted in 1998 and updated in 2003 and 2009.

<sup>5</sup> FSC.DEL/142/10.

<sup>6</sup> FSC.DEC/5/11.

<sup>7</sup> FSC.DEC/12/11.

<sup>8</sup> This academic study, which was drafted by Ms. Didi Alayli and Dr. Alexandre Lambert, was commissioned by the OSCE Conflict Prevention Centre. The study is available here: <http://www.osce.org/cpc/76191?download=true>.

particularly at the qualitative aspects of the reporting, oversight and enforcement of human rights, the differing needs, concerns and experiences of women and men serving in the armed forces. The present study is not a legal critique of the overall process and it should be understood that comments made in the course of the review are not intended to convey or attribute criticism. Rather, the study aims to highlight key 'learning points' and it is hoped that the observations will be accepted in the constructive spirit in which they are intended.

7. This report is structured in four main parts. The first part outlines the methodology and approach taken for this study. The second part details the analysis and main findings in the obligatory reports of participating States, while part three comments briefly on findings in the voluntary reports on Women, Peace and Security. Part four covers the recommendations on the current reporting, as well as recommendations on the Questionnaire and the Reference Guide should there be a decision to revise these documents in the future.

## 1. Methodology

8. This review is based on the responses from the 49 participating States that were available at the time when drafting and completing this study. The main focus has been on analysing the overall quality of the contents and presentation of the information submitted. This has provided the basis for a number of findings<sup>9</sup> referring to general trends in the reporting and more specific observations in individual responses. The study has come up with a number of recommendations on how the qualitative aspects of the information could be enriched both in the content and form of the reporting. It is anticipated that this might also facilitate participating States in providing the information in a way that would be less burdensome and would enhance the reciprocal benefits.
9. Independent civilian oversight of military administrative and human resource management practices is recognised as crucial for the protection of human rights and fundamental freedoms. Accordingly, this review has considered the protection of human rights of armed forces personnel within the wider framework of the democratic corrective of civilian oversight of the armed forces. In addition, for the purpose of this study, the question of how the formal political systems and structures of the participating States translate into sound oversight and accountability on the ground has been considered.<sup>10</sup>
10. This study focuses primarily on the responses to the questions under Section II: Intra-State elements in the Questionnaire. The main questions making explicit reference to the rights of

---

<sup>9</sup> The differences in the reporting between participating States and time constraints have not permitted a detailed specification of trends in quantifiable terms in this study. The Academic Study presented its findings in a similar manner.

<sup>10</sup> The OSCE Code of Conduct on Politico-Military Aspects of Security: Anatomy and Implementation breaks down the principle of democratic control and use of armed forces (as outlined in sections VII and VIII of the Code of Conduct) into the comprehensive question: "Who must control what, how, and why?" The publication is available here: <http://www.dcaf.ch/Publications/The-OSCE-Code-of-Conduct-on-Politico-Military-Aspects-of-Security.-Anatomy-and-Implementation>.

the members of the armed forces are questions 3.1, 3.2, 3.3, and aspects of 4.4 in the Questionnaire<sup>11</sup>:

- 3. Procedures related to different forces personnel**
  - 3.1 What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary and internal security forces does your State have?
  - 3.2 What kind of exemptions or alternatives to military service does your State have?
  - 3.3 What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?
- 4. Implementation of other political norms, principles, decisions and international humanitarian law**
  - 4.4 What has been done to provide for the individual service member's exercise of his or her civil rights and how does your State ensure that the country's armed forces are politically neutral?

The responses to these questions are reviewed in the overall context of other questions in this section. This is to take into account the linkages between the questions and the differences between participating States in their reporting.

11. In addition, the study analyses briefly the responses to the questions under Section III: Public access and contact information. The responses to this section provide valuable information on how the reports have been prepared and the extent to which the Code of Conduct and the information contained therein have been shared and with whom. The study also takes into account and draws extensively on the current Questionnaire and Reference Guide to the Code of Conduct in assessing the responses, and in turn comments on these documents in light of the responses. This study has benefitted from, and refers to, the two abovementioned earlier studies on the Code of Conduct and their findings. In this context, the Academic Study commissioned by the CPC provided a particularly useful benchmark for the present study in that a number of findings in 2010 are also of relevance in 2014.
12. The review takes account of gender perspectives where they arise in the information provided to underscore the importance, timeliness, and benefits of gender mainstreaming in the reporting under the Information Exchange on the Code of Conduct. The primary focus has been on identifying gender aspects within the obligatory reports of participating States, but the review also briefly considers selected aspects in the voluntary reports on Women, Peace and Security submitted along with the main reports to build on and add to the findings of the more comprehensive study conducted by the Gender Section of the OSCE Secretariat in 2013.
13. The prism through which the observations in this study are noted is the quality of reporting on measures to safeguard human rights of armed forces personnel. To determine 'quality' in this

---

<sup>11</sup> The questions here and later in the report have been copied from the Questionnaire.

context, the study has sought to ascertain whether there are transparent and effective processes of oversight to protect the rights of male and female service personnel, and if yes, what these are and how they work. There may be a range of legislation in place, but it is necessary to have clear sight of the routes to remedy and redress in the event that the '*citizen in uniform*' has suffered a wrong and is adversely affected. Such processes provide assurances that there are accessible and visible safeguards. Specifically, the study considers an individual soldier's access to an internal military complaint handling process and whether the fairness and impartiality of such a process is vindicated by a right of appeal to an independent civilian office of administrative oversight. This office can be an ombuds institution or an alternative mandated office with meaningful powers.

## **2. Analysis and findings**

### ***General findings***

14. An overall observation is that the Information Exchange on the Code of Conduct enjoys a very high response rate, and that participating States should be commended for gathering such a vast amount of information. The information contained within the Information Exchange constitutes a very important bank of information not collected by any other international body. The study found that more than half of the responses included information on human rights of armed forces personnel.
15. The study identified the significant variations in the presentation and reporting of the information provided by the participating States as a key challenge. The significant differences in the level of detail and the varying degree of clarity of the information provided were quite striking. Some national reports exceeded 50 pages in length, whereas some consisted of one single page. There were replies to individual questions that exceeded 10 pages while other questions were not addressed at all. A similar finding in the 2010 Academic Study attributed some of this inconsistency to the new Questionnaire at that time, which is less likely to be a key factor in the reporting in 2014.
16. Whereas information sought by the questions may well be available within the overall text of the submission, it is not always evident in the expected context. It is not likely or desirable that all participating States report according to the same pattern or model – taking into account the specificities of every system – but more structured and coherent replies would contribute to the usefulness and derived benefit of the shared information. In this regard, when the responses were lengthy, the inclusion of Reference Guide headings for the various questions in some responses aided the understanding of the information provided. A couple of notable examples from the reports reviewed is described in more detail when discussing responses to Questions 2.2 and 3.3 later in the report.
17. This review also takes account of the fact that there are certain overlaps between the various questions in the Questionnaire leading often to different approaches in answering these questions. Such overlaps were identified particularly in Questions 4.4 and 3.3.

18. Many participating States listed, at the start of their responses, the conventions to which they are party and have not used the format included in the Reference Guide. The Reference Guide proposes to include an attachment with the list of international agreements and arrangements formatted in a two-column way that would be amenable to updating as required from year to year. Notwithstanding the merits of this suggested approach, and the fact that it is some four years since that guidance was promulgated, there has not been a widespread up-take.
19. Overall approximately a third<sup>12</sup> of the participating States reported on the role of ombuds institutions in protecting the rights of armed forces personnel. However, only a limited number of the responses provided a clear picture of how protective processes work and access to justice is facilitated. In addition to having an overview of the relevant national legislation and protective mechanisms, it is beneficial to see the processes in action and how the separation-of-powers construct works to protect human rights of armed forces personnel.
20. Some participating States made no reference to gender at all or just stated in general terms, for example, that discrimination in recruiting on grounds of race, religion, gender or ethnic origin is prohibited. The study found that a number of responses provided no specific reference to women or gender, but included separate comments or attached a report on Women, Peace and Security at the end of the main report. The continued reporting on Women, Peace and Security is very much encouraged, but it would be beneficial to consider and integrate gender aspects throughout the obligatory reports.

## ***Section II: Intra-State elements – 1. National planning and decision-making process***

### ***1.1 What is the national planning and decision-making process in determining/approving military posture and defence expenditures in your State?***

21. For this question the Reference Guide provides references to institutions and procedures ensuring democratic oversight and public scrutiny, as well as the checks and balances and the chain of command in relation to democratic accountability and transparency. In many respects, these principles are connected to the matters under Question 3.3 on legal and administrative procedures to protect the rights of armed forces personnel. However, it was possible to read responses from participating States to Questions 1.1 and 3.3 and not gather a clear, or any, understanding of the legal and administrative arrangements through a chain of command structure in relation to the human rights protection of armed forces personnel nor trace a transparent connection between the layers of accountability that provide confidence about accessibility to safeguards.

---

<sup>12</sup> Statistical Overview of the 2014 Information Exchange on the OSCE Code of Conduct on Politico-Military Aspects of Security issued by the CPC.



## **Section II: Intra-State elements – 2. Existing structures and processes**

### **2.1 What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence services and the police?**

22. The Reference Guide supports this question focusing on constitutionally established procedures for ensuring civilian control and democratic oversight. In some responses to this question there was only a list of the national institutions to which democratic political control of the security forces is entrusted. Whereas some references to defence committees and the offices of ombuds institution, or nearest equivalent, in general, were included, any indication on how these institutions relate to one another and how the procedures work was missing.
23. On a positive note, one response to this question stated that the act containing instructions for the parliamentary ombuds institution urges the parliamentary ombuds institution with the task of supervising the central government and the municipal authorities, public officials and other officers employed at these authorities, which include the armed forces, the police, and the security forces. In this case, the parliamentary ombuds institution has full insight into the workings of the armed forces. It would have added considerable value if the administrative arrangements through which this power is invoked had been set out. However, one is left with no real idea of how this power was used and invoked, and without the benefit of hearing about the volume and outcomes of the interventions.

### **2.2 How is the fulfilment of these procedures ensured, and which constitutionally established authorities/institutions are responsible for exercising these procedures?**

24. In the Reference Guide, the guidance to this question focuses on providing further procedures, institutions and best practices at the executive and legislative levels beyond what is stated in response to Question 2.1. A positive example of a response to this question described how constitutional political control is exercised through the parliamentary mechanism. The response then provided clear procedural information on how the investigation of matters of public concern would be carried out.

## **Section II: Intra-State elements – 3. Procedures related to different forces personnel**

### **3.1 What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary and internal security forces does your State have?**

25. The Reference Guide assists the responses to this question by indicating issues such as: equal job opportunities, policy and legislation (if applicable) on employment of civil servants and employees with civilian background in defence ministerial structures, including special provisions regarding women. The study found that many responses referred to constitutional protection and provided varying comments on provisions concerning women. However, the information in the responses rarely covered these topics comprehensively with limited

reference to provisions regarding equal opportunity policies and practices for women and men. Information on oversight of these procedures was also lacking.

26. As with responses to Question 2.1, the link between these processes and the military or other complaint mechanisms to vindicate the rights of the personnel in the event of a breach of their rights was unclear. Some responses failed to clarify whether there were established internal grievance procedures and, if so, how they were constituted and accessed.

### 3.2 What kind of exemptions or alternatives to military service does your State have?

27. The Reference Guide suggests including information about the range of options covering criteria for exemption or deferral from military service, national provisions for conscientious objection and/or alternative civilian service (where applicable), and types of alternative service. Whereas there was considerable information provided in the responses, the amount of disparity rendered it difficult to draw conclusions on how the application process for exemption was constructed and administered for individuals.

28. Ideological or conscientious objection was included in some reports, but not always, and the provision for deferred or alternative service was sometimes described in lists. However, there were times that so much detail was provided in lists that the core points were not easily discernible.

### 3.3 What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?

29. The Reference Guide provides an indicative list of up to 16 specific areas or issues for consideration by participating States in responding to this question. This list includes fundamental processes such as legal and administrative procedures protecting those rights, rights to submit complaints, rights to appeal disciplinary punishments and/or rights of appeal to a court of law or ombuds institution. Nevertheless, it was difficult at times to understand the processes available and how they would be accessed by a soldier with a grievance.

30. The list in the Reference Guide includes specific references to terms and conditions of employment, social protection provisions, benefits, and/or pay packages, gender-sensitive environments and representative associations for service personnel. Yet, it was difficult to get a clear picture of human resource management policies and processes. It was also difficult to ascertain whether such processes were subject to any independent oversight such as that exercised by an ombuds institution.

31. The study found that there was a notable lack of information about the role of parliamentary cross-party oversight committees in discussions about budgetary matters in connection with spending in the ministry of defence. Thus, it was hard to get a clear sense of how the relevant bodies, state welfare agencies, and the negotiation processes of pay and conditions interacted if at all.

32. Under Question 3.3 in general, the study found that there was a striking lack of clarity in some of the responses about the distinction between the military law procedures in relation to military disciplinary matters and the rights of soldiers to have a fair hearing and the right of an independent appeal from administrative decisions made by the military authorities. Some responses referenced disciplinary actions or measures and, at times, the distinction between military disciplinary, court martial and civil law processes and bespoke systems for dealing with grievances from members of armed forces was unclear. Some responses referred to constitutional civil law and the hierarchy of the courts without relating this to how an individual soldier might be protected on the ground, in the barracks, during training, or otherwise in the course of duty.
33. Question 3.3 was often answered in general terms, stressing that the national defence services must act in accordance with the Constitution, laws and other legal acts, including international agreements. This type of information adds value if the process and relevant layers of jurisdiction are explained. It is essential that the rights of appeal against internal military decisions about alleged actions, that may have adversely affected the soldier, are described. Yet, there was rarely any adequate reference to internal military complaint handling processes or grievance procedures and where there was, there was little or no information on the outcomes.
34. Some responses recorded that under the Constitution, the president is the commander-in-chief of the armed forces, and, in some instances, the president had more than a titular role in that she or he had powers to make high level military appointments with approval of parliament. Some responses referred to an ombuds institution, though not specifically a designated ombuds institution empowered to investigate complaints concerning the abuse of office of government officials with a right to apply for a court ruling regarding their dismissal. It would be beneficial if such information about powers and procedures were substantiated with information about how these powers have been used with updates on their effectiveness.
35. One notable example of a response to Question 3.3, which included and addressed the sub-topics listed in the Reference Guide, provided a substantial answer about the rights of military personnel. The response affirmed that the rights of armed forces personnel were the same as other civilians, save for a few exceptions, and these are described with relevant sources and authorities. Other rights that are restricted, such as rights of assembly and association, are also described. The answer sets out deviations from the ordinary labour law pertinent to the special nature of military service. Information is provided on how military personnel may file complaints and petitions through the chain of command up to the minister of defence and the president. In cases of a serious breach of human rights, a complaint may be handled directly by the inspector general for human rights of the ministry of defence. Military personnel may enjoy the protection of civil administrative law including the administrative justice system the same way as other citizens. Any decision in the first instance may be appealed including disciplinary measures. The answer to this question is clear because the guidance in the Reference Guide was fully utilised.

36. Whereas this answer was comprehensive and demonstrated ‘the life-cycle’ of the process, a number of other responses provided only general information such as that every soldier has the right to complain orally or in writing about matters affecting him or her in the performance of duty with limited further information. Other responses emphasized that the armed forces personnel have the same access to petition or otherwise make complaints to civil or constitutional tribunals, but it was rarely clear how the soldier accessed this right to legal protection and – most importantly – if he or she must first exhaust any internal complaints-handling processes within the military in the first instance.
37. Overall, there was a general lack of information or recognition of the separate functions of an ombuds institution with specifically designated jurisdiction over administrative military matters and human resource management practices and procedures within the armed forces. There was some reference to a general human rights or other ombuds institution having the members of armed forces within their remit. However, where these references were included, information on how armed forces personnel would access that office of redress and whether they had a legal right to so do was generally lacking.
38. It was encouraging to find one response that made reference to some discrepancies in their complaint handling processes and practices, which had been drawn to attention in the four annual reports of the oversight body. This is an example of quality reporting in that there is an opportunity here to build on this information by reporting on the outcomes in subsequent Information Exchanges.
39. The study found that, on the whole, limited information was provided about complaints-handling or grievance procedures except in responses from participating States where there are designated offices of military ombuds institutions or complaints commissioners. One notable response referred to the power whereby an independent oversight body (ombuds institution) can initiate an investigation on its own decision. It is important to point out that this represents a significant aspect of independence and power and carries with it a range of protections.
40. There was a worrying lack of a distinction drawn between the right to make a complaint about maladministration or matters such as bullying and harassment and the rights provided to personnel in military disciplinary actions. Such rights include legal representation and the right to appeal a military disciplinary sanction and the right to appeal by way of judicial review to a court of law.
41. Answers occasionally referred to complaints against military personnel while on overseas duty, but this rarely amounted to consistent or substantiated information in the overall context. It would be helpful to explain the arrangements for handling complaints and grievances from military personnel about alleged wrongs adversely affecting them while on overseas service. It would also be of value to have information about arrangements in connection with similar matters for auxiliary support personnel such as an army nursing corps or other similar groups of civilian support staff.

**Section II: Intra-State elements – 4. Implementation of other political norms, principles, decisions and international humanitarian law**

**4.2 What has been done to ensure that armed forces personnel are aware of being individually accountable under national and international law for their actions?**

42. The Reference Guide indicates that general information on international humanitarian and international human rights law beyond what is provided in Question 4.1 be included. Some responses informed of a number of courses included in pre-deployment training, which related to protection of civilians in armed conflict and local cultural aspects. In this context some references were made to gender equality, which was said, in some instances, to be incorporated into the education programmes of all levels of military personnel.
43. A few responses stated that personnel are informed about traditions and customs in the area of operation and, in particular, that soldiers' awareness is raised about the status of women. There were some references to female personnel, who were taking part in three day-long 'in the theatre' training courses organised in the operation zone. Among other topics, discussion on the implementation of the UNSCR 1325 was said to be included in the programme. These references appeared most prominently in responses from participating States that included information about their involvement in peacekeeping missions.

**4.4 What has been done to provide for the individual service member's exercise of his or her civil rights and how does your State ensure that the country's armed forces are politically neutral?**

44. The Reference Guide indicates two specific areas to be considered in the context of this study. The first concerns constitutional and legal restrictions on the exercise of civil rights and fundamental freedoms by service personnel. The second refers to the rights and freedoms of service personnel to participate in lawful demonstrations and other political gatherings. Many responses, mostly to Question 4.4, but also Question 3.3, mentioned the need for soldiers to refrain from any partisan political activity during their duty hours and within the area of national service. In this context, limitations on activities promoting the aims and objectives of a political party or in an election campaign were also mentioned.
45. Some participating States referred to the right of armed forces personnel to vote in elections on the same basis as other citizens, and one response referred to facilitating this right by postal voting arrangements as necessary. Further information about the specific arrangements to facilitate the exercise of this right would be of interest.
46. Regulations against the organisation of meetings and rallies on military premises were cited in a number of responses and many included references to the prohibition on soldiers taking part in public meetings or demonstrations while in uniform. Whereas there were references to the restriction on the right to strike, these were not always supported by information on how the working 'terms and conditions' such as pay scales, benefits, allowances, pensions, and well-fare provisions were negotiated on behalf of armed forces personnel. Information about the

right to freedom of association through representative associations or military unions was sparse.

### **Section III: Public access and contact information**

#### **1. Public access**

1.1 How is the public informed about the provisions of the Code of Conduct?

1.2 What additional information related to the Code of Conduct, e.g., replies to the Questionnaire on the Code of Conduct, is made publicly available in your State?

1.3 How does your State ensure public access to information related to your State's armed forces?

47. The Reference Guide outlines how the provisions of the Code of Conduct can be made available to the public, as well as which information is deemed valuable, relevant and of interest to the wider public and specific groups. Yet, in general, participating States provided limited information on the specific issues discussed in the study. Notable positive contributions included one response that referred to a government requirement that the armed forces disseminate the OSCE Code of Conduct to ensure that the armed forces personnel are instructed on their State's commitments therein and to their implications. Another response referred to the requirement for pre-deployment troops to sign the Code of Conduct.

48. Another notable example was a response which referred to a regulation stipulating that it is the responsibility of every military commander to ensure that his or her subordinates, both military and civilian, receive instruction on their rights and obligations in line with the laws of war.

#### **2. Contact information**

2.1 Provide information on the national point of contact for the implementation of the Code of Conduct.

49. In addition to providing a national point of contact concerning the Code of Conduct, the Reference Guide also suggests providing additional information on how the national reply to the Questionnaire was prepared. The study found that there is an abundance of information contained in the responses, but a number of gaps persist. This concerns particularly the qualitative aspects of how human rights of armed forces personnel are protected. Hence, it may be valuable to discuss and re-evaluate the ways in which the information is gathered.

### 3. Women, Peace and Security

50. The majority of participating States provided voluntary information on issues pertaining to Women, Peace and Security in this year's Information Exchange on the Code of Conduct. The level of reporting on Women, Peace and Security this year appears to be similar to the reporting on this topic in the previous year.
51. The Indicative List of Issues Pertaining to Women, Peace and Security provides guidance in three main areas: prevention, participation and protection. It also includes a section on 'other information' where details on how the report is developed and best practices can be added. In this study, only some of the most salient findings are presented without further reference to the Indicative List.
52. The study found that where reports made no specific reference to women or gender, a separate piece was added under Section II: Intra-State elements 4. Implementation of other political norms, principles, decisions and international humanitarian law entitled: 'Information on Women, Peace and Security'. Other participating States added an additional sub-section on Women, Peace and Security (3.4) entitled: 'Issues Pertaining to Women, Peace and Security'. In general, the responses to Women, Peace and Security varied considerably in terms of both substance and form despite the existence of the Indicative List. This observation is made mindful of the voluntary nature of these responses.
53. Some responses provided data about female participation in the armed forces disaggregated by rank and service and in relation to the number of women participating in overseas missions. These statements were annexed even where participating States had no UNSCR 1325 National Action Plan. It would be a valuable source of information if such responses were revisited the following year and updated with information about the relative success of such programmes and any plans to implement reviews or amendments.
54. One response referred to the fact that in 2013 the media were constantly monitoring the status of women in the armed forces both at national and regional levels. The monitoring section of the ministry of defence had archived more than 80 pages of printed press reports from records on the subject. The response went on to give details of the percentage of women in senior positions or performing highly specialised working duties at the ministry of defence over a selected period. Comprehensive information in relation to the percentage of female soldiers in senior positions within the armed forces and a table showing the relative percentages and ranks of women for 2013 and 2014 were also provided.
55. In some responses, where gender-related data had been annexed, there were additional voluntary comments such as that there were no incidents of sexual harassment reported. In other instances, there was information provided about a small number of cases alleging discrimination and/or sexual harassment, but there was no added information about what procedures were available and/or being invoked to have these complaints investigated or their status.

56. One response referred to unlimited access by women to recruitment, adding ‘including combat positions’, which had not appeared in many of the responses. There were a few references in other responses to the fact that women are entitled to apply for the same training including weapons training. Responses occasionally referred to participation in joint ventures with other States on gender awareness in training centres. This included topics such as gender, cultural awareness, international laws, use of force and protection of civilians with a comprehensive approach to gender and programmes including local women in peace missions.
57. There were also some references to gender field advisors supporting the commanders in implementing a gender perspective. One response stated that this concept had developed as a result of cooperation between the armed forces and stakeholders from other parts of the governmental security sector, as well as civil society as part of a comprehensive approach to work on UNSCR 1325.

## **4. Recommendations**

### ***Current reporting by participating States***

- i. The FSC and participating States could consider the merits of including the sub-headings in the Reference Guide in their reporting, as some already do. This study found that there was a discernible qualitative difference in the clarity and relevance of responses that had copied the sub-topics of the Reference Guide into the Questionnaire before responding to the specific questions.
- ii. Increased attention should be paid to presenting and reporting on how protective processes work and access to justice for service personnel is facilitated. Demonstrating in practice how laws, policies and complaints mechanisms work is necessary in order to see the processes in action and how effectively members of the armed forces are able to enjoy and exercise their human rights and fundamental freedoms.
- iii. The reporting process would benefit from follow-up to information such as feedback on new policy or legislative reforms, and innovations that have worked well and are being commended. Such reporting would show changes from year to year, as well as support the sharing of good practices with other participating States.
- iv. It would be helpful if participating States provided overall figures for complaints referred through the grievance procedures, where these exist. In the interest of completeness, participating States could include information on how complaints are dealt with and followed up on, to ensure a better understanding of how laws, institutions and procedures work in practice to protect rights.
- v. There would be considerable value in knowing the nature and causes of complaints, as well as a breakdown of their causes over a reporting period. It would also be a significant indicator of commitment in this area to have a breakdown of the ratio of the findings and



recommendations emanating from an office of oversight, such as an ombuds institution, accepted and followed by the chief of staff and the minister for defence.

- vi. Participating States could consider tasking the offices of ombudspersons (where such exist) or other similar offices to submit information for the national response on relevant questions in the Questionnaire. For example, the quality of the responses to Question 3.3 could be enhanced by drawing on the knowledge and remit of ombuds institutions dealing with grievances, causes of complaint, and the democratic oversight and monitoring functions. This recommendation takes into account particularly recommendations III, IV and V and underscores the value of discussing and re-evaluating the ways in which the information that goes into the national reports is gathered and by whom.
- vii. The FSC and participating States could consider the merits of focusing specifically on designated themes in some sections in alternate years so as to reduce repetition and overlap. This could maximise the potential use and benefit of the information for analysis by the OSCE, participating States, international organisations, civil society organisations, think-tanks and academia to inform reviews of best practice, lessons learned and capacity building.
- viii. In the interest of reducing the burden on various institutions in the data collection, reporting and submission process of the Code of Conduct Questionnaire every year, participating States should consider the recommendation from the 2010 Academic Study to provide information in relation to international agreements, conventions, and treaties in an appendix.

### ***Reference Guide and Questionnaire***

- ix. In the event the Questionnaire and Reference Guide should be reviewed every effort should be made to clearly structure the questions and define the relevant underlying information to assist the participating States in their responses and avoid the possibility of ambiguity, overlap or repetition. In this regard this study found that sub-item: “Criteria of exclusion and (as distinct from) exemption from military service” in the Reference Guide Section II Question 3.2 is repeated. In addition, the wording of Questions 3.3 and 4.4 in Section II: Intra-State elements in the Questionnaire and Reference Guide could be amended to avoid unnecessary overlaps.
- x. The FSC and the OSCE participating States should consider mainstreaming gender in the Questionnaire and the Reference Guide drawing on good practices from national reports and independent competent sources.