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**ODIHR/DCAF launch event of the Handbook on the Human Rights
and Fundamental Freedoms of Armed Forces Personnel**

Segmentgalerie I , Hofburg, Vienna, 28 May

Opening remarks by

Ambassador Christian Strohal,

Director of the OSCE Office for Democratic Institutions and Human Rights

Excellencies,

Ladies and gentlemen,

First of all, I would like to thank Dr. Philipp Fluri of DCAF for joining me here. We have had excellent cooperation with DCAF in making this Handbook a reality, as we have had in other areas, such as our recent project on gender and security sector reform. I was pleased to see the interest shown in the Handbook by DCAF and its member States during our 15 May joint presentation to the DCAF Foundation Council.

I also warmly welcome the practitioners who have joined us today. All three have been involved in the project one way or another: Brig. Gen. Schreiner spoke at our 2006 Berlin conference *Citizen in Uniform* and addressed the German armed forces' concept of *Innere Fuehrung*, a very useful concept in the context of upholding the rights of armed forces personnel, which is also discussed in the Handbook. I look forward to hearing from him. Ms.

Marinnan Quinn and Mr. Sesiashvili both participated in the expert review process of an earlier draft of this Handbook, for which I thank them both. They bring the expertise of a fully independent specialised Ombudsman for the armed forces and the perspective of a civil society actor working on the rights of armed forces personnel at the national level to the table.

I am very pleased to present to you the ODIHR/DCAF Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel. It is a practical Handbook and aims to outline how OSCE participating States have sought to ensure the human rights of armed forces personnel. It is based on a questionnaire which was sent out to all OSCE states in 2005. Its 22 Chapters deal with a wide variety of topics, from civil and political rights to socio-economic rights, from military justice to women in the armed forces. Each chapter ends with specific and concrete recommendations for action.

The Handbook is based on the OSCE's comprehensive concept of security. This concept starts from the premise that democracy, human rights and the rule of law are not merely legal obligations, or goals worth attaining in themselves, but that they are prerequisites for true and lasting security, internal and external. There are few areas where this concept is more visible than the human rights of armed forces personnel, which is indeed a cross-cutting theme through the OSCE's politico-military and human dimensions.

Participating States recognised this link explicitly in the 1994 Budapest forum's *Code of Conduct on Politico-military aspects of security*, when they agreed in principle 32 that

“Each participating State will ensure that military, paramilitary and security forces personnel will be able to enjoy and exercise their human rights and fundamental freedoms as reflected in CSCE documents and international law, in conformity with relevant constitutional and legal provisions and with the requirements of service.”

In the process of reviewing the responses to the project questionnaire, the ODIHR was glad to see that many participating States have taken this challenge up by taking a wide variety of measures to turn this commitment into reality. The best practices we have gathered give us a clear picture: there is no contradiction between respecting human rights and maintaining combat readiness; rather to the contrary, respect for human rights is clearly seen as strengthening morale and unit cohesiveness.

At the same time, the Handbook also shows that many challenges remain. The most serious of these are undoubtedly practices of bullying and violent initiation. Not only the Parliamentary Assembly of the Council of Europe has found, in 2006, that these take place not only in the armed forces of CIS countries, but equally in other parts of our region. They can take very extreme forms, resulting in serious injuries and even death, either murder or suicide. This is an area where urgent action by all stakeholders is necessary, and the Handbook sets out some key recommendations on how to achieve this. Military life may require often rigorous tests of ability and vigorous and tough training, but there is a line which must not be crossed - that of international standards on torture, inhuman and degrading treatment or punishment.

Another major challenge is formed by what appear to be unnecessary restrictions on the exercise of human rights, especially civil and political rights. Some statistics from the Handbook illustrate this point clearly: Of the 30 States which replied to the question on the right of service members to join a political party, 12 States recognized the right to join a political party in legislation, 18 did not. Of the 31 States responding to other relevant questions, 20 States indicated in their responses they recognised the right to stand for elections in legislation, 11 did not. 24 states recognized the freedom of association in legislation, 7 did not; 28 states recognized the freedom of expression in legislation, 1 did not. Of the 20 OSCE participating States which answered the question on selective conscientious objection - that is, service members being able to conscientiously object to particular tasks or missions in the armed forces - 6 indicated they did not recognise such a right, while 14 did.

Whilst States undoubtedly have legitimate motives in restricting these rights, the very fact that these rights are recognised in some States but not in others calls into question whether these restrictions are really necessary for armed forces to function.

A similar point can be made about participation of women in the armed forces. It would be an understatement to say that great strides need to be made. In the vast majority of States which responded, the number of female senior officers is below 6 percent, with some states reporting there were no female senior officers at all. Although many States allow women to serve in all positions, including combat positions there are few, especially in senior positions. One cause may be the prevalence of prejudice and sexual harassment towards women in the armed forces, which the Handbook also addresses.

I mentioned this Handbook is aimed at practitioners. This is why we took care to consult practitioners in developing its concept and content. This includes all those who have a stake in ensuring the human rights of armed forces personnel are upheld. We may think first and foremost of military personnel themselves, including officers and military educators. This also includes civilian government officials who set policy in ministries of defence; parliamentarians exercising democratic control over the armed forces; judges, be they military or civilian; professional military associations; and non-governmental organizations. All these actors have a role to play in ensuring that military personnel enjoy, within the limits imposed by military life and consistent with international human rights law, the same rights and freedoms as the rest of us.

As outlined in the best practices gathered in this Handbook, this requires action and vigilance on many fronts.

It requires action and vigilance in the area of *legislation* to bring it in line with international standards, for example by ensuring that any restrictions on

freedom of expression, assembly and association are strictly proportional to the aims pursued. Military life may make it necessary to restrict members in giving away vital operational secrets, but it should not make it impossible for service members to stand up for their own rights, freedoms and interests.

In order to translate the principles of respect for human rights into practice, there is also a need for *human rights education*. As the Handbook shows, this is already contained in the curriculum of many participating States' armed forces training, and it should contain information also on where and how the service member can exercise their rights, and where to go if he or she feels they are not being upheld.

Where the chain of command does not or cannot fulfil this function, the role of *external complaints mechanisms* becomes important. Fully independent military ombudsman institutions have proven their value in some participating States already - we may think of Germany, Canada and Ireland - and have always overcome the initial reluctance of the chain of command. They are to be recommended to other states as well.

There is also an important role for general *monitoring* by associations of service members themselves, or independent external civil society organisations. They can identify any deficiencies which may exist in the protection of human rights of armed forces personnel, bring them to the attention of the ministry of defence, parliamentarians and the wider public, and make suggestions for these to be remedied. This requires not only that monitoring be allowed to take place, but also that these bodies are competent to hearing complaints and to make suggestions for improvement.

The responsiveness of civilian and military bodies can also be enhanced by *parliamentarians*. Members of parliament, especially members of defence oversight committees, can ensure that adequate oversight over the ministry of defence leads to necessary querying of the actions and policies adopted by military structures. Parliamentarians can and should also scrutinize proposed

and existing legislation to ensure that it does not unnecessarily restrict fundamental freedoms.

Finally, members should have the opportunity to take their case to the *courts*. Military courts, independent of the chain of command, and under full oversight by civilian courts, can fulfil the function of providing a remedy where none is offered. Court decisions, such as the decisions of the European Court of Human Rights as well as national courts have in the past often been the catalyst for positive change in the armed forces.

So how will we now proceed in making use of the Handbook?

The ODIHR, in cooperation with DCAF, will be organising implementation events in OSCE participating States – we will hold roundtables with relevant stakeholders to discuss issues raised in the Handbook and to consider concrete improvements. I am glad to take this opportunity to announce that the first of these events will take place in Georgia on June 16th, and we have also had interest from other States to hold such events.

We will also make use of the structures offered by the OSCE, be it our field operations and their assistance to participating States, or the governmental debates such as those in the Forum for Security Cooperation in Vienna. We are also pleased to announce that copies of the Handbook have been provided at an early stage to the Council of Europe Group drafting a Committee of Ministers Recommendation on Human Rights in the Armed Forces, which will ensure the responses by participating States to our questionnaire will be used more than once, in what I believe is a good example of cooperation between international organisations.

In order to continue organising all these activities beyond June, when existing funding will have been exhausted, we will require additional funding. This also goes for translating the Handbook into other languages and organising roundtables in other countries.

This Handbook is not a legal publication: it is an overview of concrete actions which have been taken and can be taken to improve the enjoyment of human

rights and fundamental freedoms of a significant segment of the population of most countries. It will be only as good as the action it generates.

The ODIHR stands ready to assist participating States in improving their human rights protection systems for the armed forces, and with that, to enhance their and our collective security.

Thank you very much.