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Annual Report

Conscientious Objection to Military Service in Europe 2019

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Foreword by Friedhelm Schneider, EBCO President

In May 2019 the European Bureau for Conscientious Objection (EBCO) signed as one of 110 organisations the appeal „**Save the European Peace Project**". Addressed to the members of the incoming European Parliament this appeal embodies a critical assessment of the ongoing militarization of Europe and argues for „**a European Union that advocates peace and human rights – at home and beyond its borders**". (see https://www.forumzfd.de/de/node/1260)

In the political context of a growing importance attached to European defence cooperation, armament projects and joint military operations, the right to conscientious objection to military service risks to be marginalized instead of being consistently perceived as a human right to be monitored and guaranteed.

For numerous conscientious objectors in Europe 2019 has been a year predominantly characterized by regression and political lack of interest to implement the right to conscientious objection in compliance with European human rights standards.

Turkey continued to prosecute conscientious objectors and to disrespect the judgements of the European Court of Human Rights (ECtHR) pronounced since 2006 in favour of Turkish objectors. **Azerbaijan** did not adopt the law on alternative service promised on the occasion of its accession to the Council of Europe in 2001. In October 2019 the ECtHR decided that Azerbaijan is in breach of the European Convention on Human Rights because of its lack of civilian service as an alternative to military service (Judgement Mushfig Mammadov and others v. Azerbaijan of 17/10/2019). It remains to be seen if Azerbaijan will finally introduce an adequate legislation on conscientious objection in 2020.

Discrimination against conscientious objectors as part of the current legislation persists inter alia in **Ukraine**, **Russia** and **Greece**. In September and December 2019 the Swiss Council of States as well as the National Assembly of **Switzerland** argued for an amendment of the Alternative service law aggravating the accession to alternative service by massive restrictions.

Unfortunately as a result of a change of government in **Greece** and in the Turkish-occupied northern part of **Cyprus** indications of a positive development finally did not prevail in the political process: After a long period of international advocacy work in June 2019 the former Greek Syriza government reduced the discriminatory duration of alternative service from usually 15 to 12 months. In October 2019 the corresponding decree was revoked by the newly-elected Nea Demokratia government so that the alternative service for conscientious objectors continues to be 6 months longer than the military service of most conscripts.

In January 2019 it was sensational news that the Council of Ministers of the Turkish-occupied northern part of Cyprus had submitted to the Parliament a draft law which included the right to conscientious objection. The Parliamentary Committee of Law, Political Affairs and Foreign Relations started to discuss the draft law and had a number of meetings. Unfortunately, after a change of government, the draft law proposal was withdrawn in autumn 2019 and there is no further discussion on the matter.

In 2019 the item of implementing the right to conscientious objection and executing the corresponding judgements of the ECtHR was largely absent from the agenda of European political institutions. Answering a parliamentary question criticizing the violation of the fundamental right to conscientious objection by Greece the **European Commission** once more avoided taking a stand. It confined itself to remarking that in matters of

conscientious objection to military service it is „for (EU) member states to ensure that their obligations regarding fundamental rights… are respected. For those reasons the Commission is not in a position to comment further on the question…" (24 May 2019, answer to Question N° P-002045/19 of MEP Jo Leinen).

Fortunately, the **United Nations** human rights mechanisms - unlike the vast majority of European political institutions – continue to monitor regularly the implementation of the human right to conscientious objection to military service. In May 2019 **the Office of the United Nations High Commissioner for Human Rights** published its comprehensive Report "Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards". Including various submissions of EBCO and its member organisations this important document is based on current information from states and relevant NGOs.

In July 2019 the **UN Special Rapporteur on freedom of religion or belief** addressed a communication to the Greek government asking it „to ensure that legislation and practice regarding conscientious objection and the alternative civil service in Greece is compatible with the right to freedom of thought, conscience, belief and religion."

Besides common difficulties related to the conscientious objection of conscripts, particular problems persist when conscientious objection coincides with the situation of **underaged recruits**, **professional soldiers** and **refugees**.

On the whole it remains a serious problem that, though having signed the EU Charter of Fundamental Rights and/or the European Convention of Human Rights, **states can evidently violate the right to conscientious objection with impunity**. The recurrent impression that the disregard of this right is condoned by the European community of states weakens the credibility of European human rights policy altogether. The overview given in the present report illustrates once more that **the human right to conscientious objection needs implementation instead of indifference**.

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1. DEVELOPMENTS DURING 2019

1.1 INTERNATIONAL AND REGIONAL ORGANISATIONS AND MECHANISMS

1.1.1 COUNCIL OF EUROPE

1.1.1.1 European Court of Human Rights

Case of Mushfig Mammadov and others v. Azerbaijan

(Applications nos. 14604/08 and 3 others - five applicants)

Chamber Judgment of the 17th October 2019

The case concerned the five applicants' refusal on religious grounds (Jehovah's Witnesses) to serve in the army.

The Court held that there had been a violation of Article 9 of the Convention, finding that the criminal prosecutions and convictions of the applicants on account of their refusal to perform military service had stemmed from the fact that there was no alternative service system under which individuals could benefit from conscientious objector status.

The Court further noted that the case highlighted an issue relating to the lack of legislation on civilian service as an alternative to military service in Azerbaijan.

It remains to be seen if Azerbaijan unlike Turkey[1] will adequately execute the mentioned judgement and finally adopt a suitable legislation on conscientious objection and alternative service.

Case of Aghanyan and others v. Armenia

(Applications nos. 58070/12[2] and 21 others)

Chamber Judgement of the 5th December 2019

The applicants are all Jehovah's Witnesses who were convicted on various dates in 2012 after refusing to perform both military and alternative civilian service, alleging that the latter was not of genuinely civilian nature and that it contradicted their conscience.

Having regard to its case-law on the subject, the Court considers that the applicants' convictions for evasion of military and alternative service violated their right to freedom of thought, conscience and religion. Therefore, the Court held that there had been a violation of Article 9 of the Convention.

In December 2019 the Press unit of the European Court of Human Rights published an informative **fact sheet on conscientious objection** giving an overview of the case-law concerning this matter[3]. Moreover the fact sheet refers to the updated **Guide on Article 9** of the European Convention on Human Rights[4] explaining i.a. relevant cases of conscientious objection. Both ECtHR papers are useful publications recalling the indispensable respect and implementation of the fundamental right to conscientious objection.

[1] Since January 2006 (Chamber judgement Ülke v. Turkey, application no. 39437/98) Turkey refused continuously to execute ECtHR judgements requiring the legalization of conscientious objection and alternative service.
[2] https://hudoc.echr.coe.int/eng#{"appno":["58070/12"]}
[3] https://www.echr.coe.int/Documents/FS_Conscientious_objection_ENG.pdf
[4] https://www.echr.coe.int/Documents/Guide_Art_9_ENG.pdf, see in particular para 58 ff.

1.1.1.2 European Committee of Social Rights

In the framework of the European Social Charter mechanism, the European Committee of Social Rights declared on 16 October 2018 the admissibility of the Complaint No. 164/2018 of the European Organisation of Military Associations (EUROMIL) vs Ireland[5]. Referring to Articles 1§2 and 26§2 of the Charter the complaint is aimed at introducing a provision in Irish law that enables members of the Irish Defence Forces to discharge from the armed forces on grounds of conscientious objection.

In 2019, the Irish Government and Euromil introduced their submission on the merits.

The case is still in the pending cases list of the European Committee of Social Rights.

1.1.1.3 Council of Europe Commissioner For Human Rights

Regrettably yet again in 2019, Commissioner Mrs. Dunja Mijatović in her reports and human rights comments has not addressed any of the situations of concern regarding conscientious objection within the Council of Europe states, even though she visited Turkey and Azerbaijan in July.

Meanwhile, EBCO President, Friedhelm Schneider, met on 7th October 2019 with Isil Gachet, Director of the Office of the CoE Commissioner for Human Rights, and her deputies. He drew particularly to their attention the current situations in Turkey, Greece, Switzerland and in the northern part of Cyprus. EBCO continues to send relevant materials to the Commissioner's office.

1.1.2 EUROPEAN UNION

On 18th April 2019 **MEP Jo Leinen**, former President of the EP Committee on Constitutional Affairs, submitted to the European Commission the following question for written answer:[6]

Subject: Fundamental right to conscientious objection to military service

"Greek legislation continues to discriminate against conscientious objectors to military service. The substitute civilian service remains punitive and discriminatory in length, cost and location. Moreover, the assessment of applications for conscientious objector status is not placed under the full control of the civilian authorities and the right to conscientious objection (CO) after enlistment is not recognised. What is more, the right to fair trial is violated by military courts that convict civilians who refuse to take up military service.

Although Greek legislation on CO is in breach of the right to CO, as outlined in Article 10(2) of the Charter of Fundamental Rights of the EU (CFR), the Fundamental Rights Agency (FRA) refuses to deal with the right to CO and de facto excludes conscientious objectors from the implementation of the FRA's guideline 'Helping to make fundamental rights a reality for everyone in the European Union'.

Violating the right to CO also means non-compliance with the imperative of non-discrimination, as provided for by Article 21 CFR, and the scope of guaranteed rights, as provided for in its Article 52.

What measures will the Commission consider so as to remedy these shortcomings? How will it ensure that the Member States no longer violate the right to CO? How will it ensure

[5] European Organisation of Military Associations (EUROMIL) v. Ireland, Complaint No. 164/2018 and related documentations available at www.coe.int/en/web/european-social-charter/pending-complaints/-/asset_publisher/lf8ufoBY2Thr/content/no-164-2018-euromil-v-ireland?inheritRedirect=false

[6] http://www.europarl.europa.eu/doceo/document/P-8-2019-002045_EN.html

that the protection of the right to CO is no longer excluded from the remit of the FRA's work?"

On behalf of the **European Commission** the following answer was given on 24th May 2019:[7]

"The Commission recalls that, according to Article 51 (1) of the Charter of Fundamental Rights, the provisions of the Charter are addressed to the Member States only when they are implementing Union law.

In the matter referred to by the Honourable Member it is thus for Member States to ensure that their obligations regarding fundamental rights — as resulting from international agreements and from their internal legislation — are respected. For those reasons, the Commission is not in a position to comment further on the question asked by the Honourable Member…"

As additional reply the **EU Agency for Fundamental Rights** made its comment on 4th June 2019:[8]

"In reply to question P-002045/2019 to the European Commission, the European Union Agency for Fundamental Rights would like to give the following complementary answer:

The right to freedom of thought, conscience and religion is guaranteed by article 10 of the EU Charter of Fundamental Rights (the Charter). Article 10 paragraph 2 of the Charter clarifies that the right to conscientious objection is recognised, „in accordance with the national laws governing the exercise of this right." Moreover, according to its Article 51, the Charter is only applicable to Member States when they are implementing EU law. In the case Dory, C-186/01, the European Court of Justice decided on 11 March 2003 (see Paras 35-42) that the decision by a Member State to ensure its defense in part by compulsory military service is the expression of a choice to which EU law is not applicable.

The EU Agency for Fundamental Rights is not mandated to deal with instances of individual rights complaints. It is mandated to advise Member States and EU institutions but may do so only within the scope of EU law. On its website, the Agency makes available information on other bodies that may be able to help with complaints concerning fundamental rights violations at the following page: https://fra.europa.eu/en/about-fundamental-rights/where-to-turn"

The mentioned parliamentary question and the answers deriving from it illustrate a political dilemma inhibiting the adequate monitoring and implementation of the human right to conscientious objection on the level of the European Union.

While actively promoting the military cooperation within the European Union, the European Commission delegates to a purely national level the responsibility to respect the right to conscientious objection. By declaring itself not competent to deal with this right, the EU Agency for Fundamental Rights excludes conscientious objectors from the implementation of its guideline „Helping to make fundamental rights a reality for everyone in the European Union".

1.1.3 UNITED NATIONS

1.1.3.1 Treaty Bodies – Human Rights Committee

There were no new concluding observations (recommendations) or cases on CO for European countries from the Treaty Bodies in 2019.

[7] http://www.europarl.europa.eu/doceo/document/P-8-2019-002045-ASW_EN.html
[8] Ref. Ares(2019)3592166 - 04/06/2019

1.1.3.2 Human Rights Council

a) Special Procedures

During the most recent 42nd session of the Human Rights Council on 16/07/2019, the Working Group on Arbitrary Detention chose the detention of conscientious objectors to military service as one of four thematic focuses for its report.[9] Through this report the Working Group states its position with regard to the detention of conscientious objectors to military service. The Working Group position is clear:

> While each case depends on its own facts, the Working Group considers that the detention of conscientious objectors is a per se violation of article 18 (1) of the Covenant.[10]

In Human Rights Council resolution 42/22 States agreed that they should:

> consider reviewing laws and practices that may give rise to arbitrary detention, in accordance with the recommendations of the Working Group; [11]

This is a call to States to review the legislation and practices that allow for the detention of conscientious objectors to military service.

b) Universal Periodic Review

Finland received the following recommendation in the Universal Periodic Review in 2017: "Release prisoners detained as conscientious objectors to military service and ensure that civilian alternatives to military service are not punitive or discriminatory and remain under civilian control".[12] In response, Finland's mid-term report, dated on 18th September 2019, states:[13]

> Finnish legislation provides possibility to conduct the non-military service instead of conscription. The NonMilitary Service Act (1466/2007), which took effect at the beginning of 2008, reduced the duration of nonmilitary service to 362 days. The non-military service duration is the same than conscription for those who train for more demanding duties. The Non-Military Service Act also acknowledges the right to conscientious objection during times of crisis.
>
> Aside from their respective durations, any comparisons of military service and non-military service must also consider the associated overall strain of each form of service, their differences in principle, and their manner of implementation. Military service conducted in a closed garrison from which leave of absence obtained, even during leisure time. Non-military service conducted under civilian conditions that entitle the individual to enjoy leisure time in accordance with normal working hours (not exceeding 40 hours weekly). Freedom of movement is not restricted in any way. Ministry of Economic and Employment of Finland has the responsibility to supervise and develop the non-military service.
>
> The Act on the exemption of Jehovah's Witnesses from military service under certain conditions was repealed on 1 April 2019. This change in legislation has made the

[9] Report of the Working Group on Arbitrary Detention, A/HRC/42/39, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/42/39

[10] Report of the Working Group on Arbitrary Detention, A/HRC/42/39, para. 61

[11] UN Human Rights Council Resolution 42/22 on Arbitrary Detention, A/HRC/RES/42/22, para. 5(i)

[12] UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: Finland (A/HRC/36/8), 14th July, 2017, para 100.84 (Uruguay), https://www.refworld.org/docid/59ba8f2f4.html

[13] https://lib.ohchr.org/HRBodies/UPR/Documents/Session27/FI/FinlandThirdCycleMid-TermReport.pdf

> military service as an institution more equal since all religious communities in Finland are now treated the same.
>
> The Government is constantly developing non-military service. Equality between persons attending non-military service and persons attending military service is a key element of non-military service legislation. Organisations representing persons attending non-military service participate actively in developing non-military service.[14]

In reality Finland had not implemented any of the recommended measures. Repeal of the law granting total exemption of Jehovah's Witnesses increases the number of conscientious objectors at risk of being imprisoned, alternative service remains 2,1 times as long as the shortest military service and there is a strong military presence in the alternative service institutions.

c) OHCHR Provides Technical Guidance for Human Rights Compliant Application Procedures for Conscientious Objector Status

In May 2019, at the 41st session, the Office of the High Commissioner for Human Rights delivered a report on procedures for recognition as a conscientious objector[15]. This report was requested by the Human Rights Council in resolution 36/18 [16]. The report covers good practices and practices that do not comply with human rights. The report draws on the input of IFOR, QUNO and others, and highlights both good and bad practice from across Europe and the world. The report concludes with a check list of minimum criteria that must be met to ensure that application procedures are in line with human rights law. The Report says:

> "The criteria are intended primarily to provide technical guidance for members of parliament and government officials who may be involved in the drafting of relevant laws or administrative regulations, but also for State officials responsible for their implementation and, ultimately, for civil society organizations monitoring States' compliance with their human rights obligations with respect to the right to conscientious objection to military service." [17]

This therefore provides a useful and welcome checklist for those advocating for the rights of conscientious objectors to military service. That checklist in full is:

1. Availability of information

> All persons affected by military service should have access to information about the right to conscientious objection and the means of acquiring objector status.

2. Cost-free access to application procedures

> The process for applying for status as a conscientious objector should be free, and there should be no charge for any part of the whole procedure.

3. Availability of the application procedure to all persons affected by military service

[14] Universal Period Review Mid-Term Report – Finland https://lib.ohchr.org/HRBodies/UPR/Documents/Session27/FI/FinlandThirdCycleMid-TermReport.pdf

[15] Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, A/HRC/41/23, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/23

[16] https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/36/18

[17] Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, A/HRC/41/23, para. 13

The right to conscientious objection should be recognized for conscripts, for professional members of the armed forces and for reservists.

4. Recognition of selective conscientious objection

The right to object also applies to selective objectors who believe that the use of force is justified in some circumstances but not in others.

5. Non-discrimination on the basis of the grounds for conscientious objection and between groups

Alternative service arrangements should be accessible to all conscientious objectors without discrimination as to the nature of their religious or non-religious beliefs; there should be no discrimination between groups of conscientious objectors.

6. No time limit on applications

No time limit should be applicable for the submission of a request to be recognized as a conscientious objector. Conscripts and volunteers should be able to object before the commencement of military service, or at any stage during or after military service.

7. Independence and impartiality of the decision-making process

Independent and impartial decision-making bodies should determine whether a conscientious objection to military service is genuinely held in a specific case. Such bodies should be placed under the full control of civilian authorities.

8. Good faith determination process

Application procedures should be based on reasonable and relevant criteria, and should avoid the imposition of any conditions that would result in the automatic disqualification of applicants.

9. Timeliness of decision-making and status pending determination

The process for consideration of any claim of conscientious objection should be timely so that applicants are not left waiting for an unreasonable length of time for a decision. As matter of good practice, all duties involving the bearing of arms should be suspended pending the decision.

10. Right to appeal

After any decision on conscientious objector status, there should always be a right to appeal to an independent civilian judicial body.

11. Compatibility of alternative service with the reasons for conscientious objection

Alternative service, whether of a non-combatant or civilian character, should be compatible with the reasons for conscientious objection.

12. Non-punitive conditions and duration of alternative service

The conditions for alternative service should be neither punitive nor have a deterrent effect. Any duration longer than that of military service is permissible only if the additional time for alternative service is based on reasonable and objective criteria. Equalizing the duration of alternative service with military service should be considered a good practice.

13. Freedom of expression for conscientious objectors and those supporting them

> The personal information of conscientious objectors should not be disclosed publicly by the State, and their criminal records should be expunged. States should neither discriminate against conscientious objectors in relation to their civil, cultural, economic, political or social rights nor stigmatize them as "traitors". Those who support conscientious objectors or who support the right to conscientious objection to military service should fully enjoy their freedom of expression. [18]

This report was welcomed in a joint statement by the core group for the Human Rights Council resolution on conscientious objection to military service, namely Croatia, Costa Rica and Poland.

1.2 DEVELOPMENTS WITHIN COUNCIL OF EUROPE STATES

1.2.1 ARMENIA

In December 2019 the ECtHR decided that Armenia was in breach of the European Convention on Human Rights in the case of Aghanyan and others v. Armenia (see Section 1.1.1.1 above).

1.2.2 AZERBAIJAN

Azerbaijan undertook on accession to the Council of Europe in 2001 that it would adopt a law on alternative service in compliance with European standards by January 2003. It has still not done so. To this day Azerbaijani conscientious objectors are imprisoned.

In October 2019 the ECtHR decided that Azerbaijan was in breach of the European Convention on Human Rights in the case of Mushfig Mammadov and others v. Azerbaijan (see Section 1.1.1.1 above).

There is currently an asylum seeker from Azerbaijan in Belgium citing CO grounds (see the following section).

1.2.3 BELGIUM

A refugee from Azerbaijan who has been in Belgium for 3 years, and who declares his motivation as conscientious objection to military service, appealed on 22nd October 2019 against the rejection of his asylum claim a year earlier. Sam Biesemans represented EBCO as an observer. By the end of the year the decision was still pending. The October 2019 judgement of the European Court of Human Rights in the case of Mushfig Mammadov and Others v. Azerbaijan (see Section 1.1.1.1 above) was used by the lawyer who defended this refugee.

1.2.4 CYPRUS

Northern part of Cyprus:

On 7/1/2019, the Council of Ministers submitted to the Parliament of the northern, Turkish-occupied, part of Cyprus (the self-styled "Turkish Republic of North Cyprus") a Draft Amendment to the Military Service Act which included provision for conscientious objection. The Parliamentary Committee of Law, Political Affairs and Foreign Relations started to discuss the draft law and held a number of meetings which involved the Initiative for Conscientious Objection in Cyprus, the Human Rights Foundation, the Military, the Ministry of Foreign Affairs and the State Prosecutor, and others, including an international Jehovah's

[18] Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, A/HRC/41/23, para. 60

Witnesses association, and a retired military officer. Unfortunately, after the change of government, the draft Amendment proposal was withdrawn in autumn 2019 and there has been no further discussion on the matter.

Halil Karapasaoglu: Following the non-payment of the fine issued to Halil in the decision of the military court on 3/1/2019, Halil was sent to prison to serve his sentence of 20 days. The Court of Appeal which was held on the fourth day of Halil's prison sentence, in its decision said:

- the Council of Ministers had announced the preparation of a draft law therefore the military court should had taken this fact into consideration.
- the draft law was published in the official gazette immediately after the decision of the Military court.
- the fine given to Halil was justified but the prison sentence was disproportionate considering the publication of the draft law in the gazette.
- The Court therefore decided to reduce the sentence to three days, which he had already served.

On 05/07/2019 Halil submitted an application to the ECtHR against Turkey (case number 40627/19) for violations of articles 5, 6 and 9 of the European Convention of Human Rights which refer to deprivation of liberty, the right to a fair trial and the right to freedom of thought, conscience and religion respectively. The ECtHR accepted his application on 10/01/2020. This is the third application to the ECtHR from a conscientious objector in the northern part of Cyprus. The two other applications from Murat Kanatli and Haluk Selam Tufanli are currently before the Court. [19]

Republic of Cyprus:

There has been positive reaction following Karapasaoglu's case in the Republic of Cyprus as well, and interest for informational meetings on the issue of conscientious objection.

1.2.5 FINLAND

In February 2019 the Parliament accepted small changes to the non-military service law. From now on the conscientious objector status of reservist objectors is recognised from the moment when their application is received. Also there are improvements in the alternative service subsistence allowance. AKL (the Union of Conscientious Objectors in Finland and member of EBCO) was part of the committee which drafted the memorandum and it was from their initiative these positive changes were included.

The law which completely exempted Jehovah's Witnesses from both military and alternative service was abolished on 1st April 2019. This was the opposite of what the UN's Human Rights Committee had recommended, namely to extend the preferential treatment accorded to Jehovah's Witnesses to other groups of conscientious objectors.

Since April all Finnish males except those who are living on the isle of Åland are again obligated to serve either in the army or in the discriminatorily longer alternative service or face six months' imprisonment.

Under the Non-military Service Law the non-military serviceman who has refused to perform non-military service but has not been sentenced to imprisonment, will be called again to serve his non-military service. However district courts have decided not to examine the charges of second-time-objectors according to the *ne bis in idem* principle. AKL is following that the rule of law with non-retroactivity will happen also to those who objected before April 2019 but whose trials are still ahead.

19 https://in-cyprus.com/echr-accepts-application-from-turkish-cypriot-conscientious-objector/?fbclid=IwAR0ybcXl50TaU8aXuKnat0EmnN4qPOtTxilvFspEQniqEj0bg_a7paL_u4c

In the early 2019 there was a launch of a campaign called Asepalvelus 2020 (Military Service 2020)[20] to abandon punishments for total objectors and to change Finnish military system into equal for all genders. Campaign gathered together 14 organisations. During the parliamentary elections in the spring 2019 the campaign gathered commitments from approximately 10 percent of all candidates. 14 of them were chosen to the parliament of 200 MP's in total.

In June 2019 Finland's new government decided to launch parliamentary committee to examine development for conscription in the beginning of its reign. The aim is to "fulfill high will of military defence and strengthening of equality of citizens." AKL has been strongly lobbying to ensure that the committee's squad will have human rights knowledge on it and has been promoting itself as a member to the committee. By the end of 2019 the committee was not appointed.

1.2.6 FRANCE

Emmanuel Macron (mandate 2017 to 2022), who is, under the French Constitution, as President of the Republic until 2022 also «Head of the Army» wants to reintroduce a compulsory «Universal National Service»[21], reverting to the terminology of 1970s legislation.

In June 2019, two thousand sixteen- and seventeen-year olds volunteered for a trial run of the first leg of this scheme. In mixed groups of 20 from the various French territories they spent two full weeks living together, singing the «Marseillaise», raising the French flag each day and in official ceremonies, participating in activities around health, security, citizenship and institutions of the Republic, the fight against racism, exclusion, sexism, homophobia, and for gender equality, debating current issues, participating in sports activities and, in some locations, initiation into military training. Three professional categories of organizers are mobilized by the National Ministry of Education and not the Ministry of Defence): military trainers, NGO trainers (for youth centres and non-formal-education) and national education officers. The second leg of this «universal national service» is volunteering in NGO or public services for 15 days (not necessarily consecutive). The third, the longest, is six months' «civic service» between 16 and 25 years old (30 years old for persons with disabilities), also open to foreigners. More than 100.000 youth performed such service in 2018.

French youth representative organizations have all publicly denounced the project to make this service compulsory.

1.2.7 GERMANY

The German army is still recruiting 17-year-old voluntary soldiers. The campaign „Never under 18" started in 2019. It's a large alliance, for the moment a 3-year project.[22]

In 2019 1.706 17-year-old recruits enrolled in the army, the ratio of underage soldiers represented 8,5 % of the total number of commencements of duties (compared to 8,4 % in 2018).[23] Strikingly there has always been a significant number of underage recruits who

[20] Asepalvelus 2020 campaign. Available at: https://asepalvelus2020.fi/
[21] Le Service National Universel (SNU). Available at: https://www.education.gouv.fr/cid136561/le-service-national-universel-snu.html#La_premiere_phase_du_service_national_universel
[22] https://unter18nie.de/
[23] Annual Report 2019 of the Parliamentary Commissioner for the Armed Forces p. 32 http://dip21.bundestag.de/dip21/btd/19/165/1916500.pdf

quit the army during their 6 months long probationary period (usually at their own request).[24]

Conscientious objectors who are recognized during their contract period of serving as professional soldier regularly meet particular financial problems.

After leaving the army, recruits have to pay back their training costs, in so far as these are useful in civilian life. The army can insist that this is done as a lump sum, rather than in staged payments. In this context a judgement has been pronounced in September 2019 by the administrative court of Halle/Saale[25]: The court ruled that the army had been overstating the repayments legally due. The maximum repayment required is the amount fixed by the federal law concerning the promotion of education and training, that students, pupils and trainees can apply for (in 2019: 853€ per month). There is more legal certainty now for conscientious objectors and those who are thinking about objecting while being a professional soldier.

In 2018 127 requests for discharge on grounds of conscience were accepted: 41 basic soldiers, 63 non-commissioned officers and 23 officers. The acceptance rate of requests is 60-70%.

1.2.8 GREECE

On 13 February 2019 EBCO and the Association of Greek Conscientious Objectors submitted to the Vice-Minister of Defence a Memorandum[26] detailing all the necessary legislative changes to bring the Greek legislation about conscientious objectors in line with the international human rights law and standards. Regrettably the Greek authorities ignored our recommendations.

In April 2019 the legislation on conscientious objection to military service was only slightly amended. EBCO expressed its deep disappointment at this lost opportunity[27].

Thanks to many interventions from EBCO (see open letter from EBCO to Minister Rigas[28]) and other players, the Syriza Government did reduce the length of civilian service from 15 to 12 months in June 2019[29].

In July 2019, after the elections, the UN Special Rapporteur on freedom of religion or belief addressed a communication[30] to the (new) Greek government. He praised the reduction of the length of the alternative service but found insufficient the recent legislative amendments, recalling the recommendations of the Human Rights Committee, and asking the Greek government „to ensure that legislation and practice regarding conscientious objection and the alternative civil service in Greece is compatible with the right to freedom of thought, conscience, belief and religion."

However, the new government of Nea Demokratia (right-wing) not only ignored the recommendations for further improvements, but on the contrary, on the 4th of October, the new Deputy Minister of National Defence, an ex-Chief of the Army, issued a ministerial

[24] Concerning the last published figures see Bundestag paper 19/3965 of 24/08/2018 http://dip21.bundestag.de/dip21/btd/19/039/1903965.pdf
[25] Verwaltungsgericht Halle/Saale: Judgement 5 A 621/17 HA of 24/09/2019
[26] ΥΠΟΜΝΗΜΑ του Ευρωπαϊκου Γραφειου για την Αντιρρηση Συνειδησης (E.B.C.O.) και του Συνδέσμου Αντιρρησιών Συνείδησης προς τον Αναπληρωτή Υπουργό Εθνικής Άμυνας. Available at: http://ebco-beoc.org/node/451
[27] https://ebco-beoc.org/node/453
[28] https://ebco-beoc.org/node/456
[29] https://wri-irg.org/en/story/2019/greece-progress-and-retrogression-conscientious-objectors
[30] https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=24700

decision which, for the first in the history of Greece, increased the duration of alternative civilian service as follows:

- 15 months (from the newly-established 12 months) for the first category, that is, for those required to perform full service (the full military service for the vast majority of conscripts serving in the Army is 9 months - and for the few in the Navy and the Airforce, 12 months), and likewise.
- 12 months (from 9 months) for the second category (the miltary service for this category for the vast majority serving in the Army is 8 months, and 9 months in the Navy and the Airforce).
- 9 months (from 6 months) for the third category (in all branches of the armed forces, for this category the military service is 6 months).
- 5 months (from 3 months) for the fourth category (for all branches of the armed forces, for this category the military service is 3 months).

Militarization has been increased in Greece, especially after the election of the New Democracy Party. The Military is highly involved in the implementation of the state plans related to the management of refugees, managing - at the end of the year - 34 refugee camps, where more than 55.000 persons live. The Vice-Minister of Defence has been appointed as a "general coordinator" for the refugee response, the "coordination centre" governs all the relevant public services and NGOs involved, while all the supplies of goods or services can be contracted without a prior public call, for reasons of national security or public order (law 4650/2019, art. 17). The Military may also be involved in internal security issues, a role which used to be implemented by the Police. According to the Minister of Public Order, the army will act as "a power of deterrence, in order to strengthen the feeling of safety in the border areas", while the Minister of Defence considers the Greek army as a "guardian of the freedom of the Western world".

On 18th April 2019 MEP Jo Leinen, former President of the EP Committee on Constitutional Affairs, submitted to the European Commission a question for written answer on Greece concerning the "Fundamental right to conscientious objection to military service" (see Section 1.1.2 above).

1.2.9 ITALY

In 2017, the voluntary civilian service was renamed Universal Civil Service (law No. 40 of 2017), but only in 2019 did the new arrangements come into effect. The main aspects are as follows:

- The civilian service is now available not only for Italian citizens but also for all EU citizens and for non-Europeans who are permanently resident in Italy. Eligible ages are 18 to 28 years old.
- The law explicitly recognises the civil service as a means to serve your country in a civil, unarmed and nonviolent way.
- An increase in the fields of activities where young people can perform it.

In the 2019 annual communication programme of the Ministry of Defence, high schools are designated as locations for the promotion of voluntary recruitment. Moreover, the same programme also plans recruitment activities in festivals, conferences and similar events dedicated to children and teenagers.

1.2.10 MOLDOVA

On 8 May 2019 the Permanent Mission of the Republic of Moldova to the OSCE submitted Moldova's annual information exchange on the implementation of the Code of Conduct on Politico-Military Aspects of Security, valid as of 15 April 2019. Amongst others, it writes:[31]

"In 2018 Republic of Moldova assumed new Governmental Program of the Professionalization of the National Army for the years 2018-2021. The program follows the firm political will to consolidate, develop and modernize the national defence system, as well as the National Army's professionalization per se. This document is a premiere for the Republic of Moldova and envisions the gradual replacement of the mandatory military service with the service of professional service members. … The Program stipulates that the annual compulsory drafts of young people will be replaced with the employment of military professionals to serve on the basis of personal contracts."

1.2.11 RUSSIA

Two improvements concerning the transparency of the state institutions and the right of citizens to information which were realised thanks to human rights activists in St. Petersburg in 2019:

1) The files of male citizens from pre-conscript and conscript age (17-27) are stored in the military commissariat. These files should contain information relevant to conscription. All the papers should be filled and attached to the files in a special way, described in the Defence Minister's formal directive.
   But usually the papers are not filed and not kept in the proper way. If a citizen wants to be sure that all the relevant medical documents are attached in his files in a proper way and the papers are filled in the military commissariat in the proper way, he needs to be able to consult his file. If he finds violations that would lead to the wrong determination of suitability for military service, he needs to document these violations and send complaints to the appropriate bodies. To photograph all pages in files is the best way of documenting.
   Citizens who want to observe their files in military commissariats usually face a ban on photography. With the support of the human rights organization "Soldiers' mothers of St. Petersburg" some citizens appealed to the Courts against this ban, usually successfully.
   But at the end of 2017 the Minister of Defence issued an order prohibiting the use of smartphones or photo and video equipment in the military establishments. Very soon military commissars of different Russian regions issued directives implementing all these bans in military commissariats. These orders are not published publicly, but are internal regulations.
   When the case was brought in St. Petersburg in 2018, representatives of the military commissariats brought the extract from the order of the military commissar of St Petersburg. This was the only way in which the wording of the ban became public.
   The court ordered the lifting of ban on photography in the individual case. But the order still existed. So each time citizens wanted to make a photo of their files in commissariat they had to appeal to the courts.
   Therefore "Soldiers' mothers of St Petersburg", together with the original complainant, filed a complaint against that order of the military commissar of St. Petersburg, asking the court to recognize the order as unlawful. In the summer of

[31] Response by the Delegation of Moldova to the Questionnaire on the Code of Conduct on Politico-Military Aspects of Security. Available at: https://www.osce.org/forum-for-security-cooperation/419915

2019 during the process the representatives of the military commissar of St. Petersburg reported that the March 2018 had been rescinded in March 2019, being replaced by a new order, applying only to the staff of the military commissariat and only in rooms where confidential information was stored.
The court of first instance denied the complaint. But because of the importance of the issue, it was appealed.
The members of the Movement of Conscientious Objectors also applied to the Court after they were banned from making a video in a military commissariat while a conscientious objector came before the commission. Their complaint failed after three court hearings and they are currently appealing, also on the grounds that the 2018 order was unlawful.
Presumably as a result of these challenges, the Military Commissar has lifted his own order prohibiting the use of smartphones, photos and video equipment in the military commissariats of St. Petersburg. It is not clear from the report EBCO received whether this will prevent from going forward the judicial challenge to the original order as being contrary to the Constitution.

2) The military commissar of St. Petersburg issued instructions on how to provide citizens access to the information contained in their files.
3) The support in this campaign of the office of the Ombudsman in St. Petersburg must be acknowledged.

Sometimes recruitment is treated as an effective means of silencing political opposition. On December 24th 2019, Ruslan Shaveddinov, one of Alexey Navalny's allies was forcibly conscripted and sent to serve at a remote Arctic base. It was very much like kidnapping. [32] [33]

1.2.12 SWEDEN

The Swedish Defence Recruitment Agency received 36 applications for weapon free status in 2018. 34 of these applications were approved and 2 were rejected. Among the 34 that was approved, 14 people received weapon free status after starting their military training, and 20 people before starting their military training.

Total objection to participate within both the military and civilian defence, with or without weapon free status means to be liable for fines. Some people who have repeatedly objected have been sent to prison.

Media has been relatively quiet about conscientious objectors in 2019. Svenska Freds has published articles related to the right to object and continually informs individuals about their choices. Due to the novelty of the reinstated compulsory military service the information is still sparse.

The Swedish government decided in 2018 to increase the military budget between 2019 and 2021. The military itself has also produced several suggestions to increase its capacity. Priorities include strengthening the air force defence and the battle group on Gotland, as well as executing several military training activities. The armed forces have extensively increased their recruitment marketing. Several large media campaigns promoting the armed forces are prominently visible in subway stations and online.

[32] https://www.bbc.com/news/world-europe-50912822
[33] https://www.theguardian.com/world/2019/dec/26/anti-putin-activist-ruslan-shaveddinov-forcibly-conscripted-and-sent-to-arctic

1.2.13 SWITZERLAND

There has continued to be much public agonising over the fact that each year fewer Swiss complete their military service, while more opt for alternative civilian service. An attempt is made to link the two, to make out that alternative service is a threat to Swiss military readiness. In fact, 50% of Swiss young men perform neither, having been declared unfit on preliminary examination, leaving them with no option but to substitute for service a supplementary tax of 3% of their income. Foreigners who become Swiss after the age of 25 are not permitted to perform military service, but they have no option but to pay this notorious «military tax». In the past this obligation lasted until the age of 30, but at the beginning of May 2019 a revision to the law extended the liability to the age of 37, with retrospective effect for those who had not yet reached that age, but had never performed military service.

At the same time, the former right-wing majority government was working on draft legislation to render alternative service less attractive. Among the proposals being canvassed were a reintroduction of the tribunals to examine applications for alternative service, less choice of placements, the requirement that those performing alternative service should wear a symbolic distinguishing armband, a cut in remuneration, and possibly even a further lengthening of the duration of alternative service beyond the already-punitive 150% of that of military service (even though not all military recruits complete the full duration). In both September and December 2019, after the national elections, the Council of State and the National Assembly voted in favour of these proposals.

Meanwhile, as in other European countries, the army is seeking access to schools in a bid to encourage recruitment. Officers and NCOs have been encouraged to write to their former schools, offering to come and speak. More than 1,000 such letters have been sent out, but only a miniscule proportion received a positive response. In October 2019 it was reported that a lieutenant was permitted to speak at a school in Schaffhausen on the German border, but of more than 200 pupils invited, only six turned out.

Having said this, the military remains ubiquitous in Swiss life. Apart from the most senior officers and some instructors, the army is entirely composed of conscripts. At the age of 20, they attend for three weeks of training, but then are obliged to return for brief reserve duties at least one year in two until their mid 30s, and for regular firing practice at a range near their home. Meanwhile, they keep their uniform and weapon at home (more than 50 military weapons are stolen each year Geneva set a precedent by encouraging conscripts to store their weapons in the arsenal, but that possibility is still not ubiquitous). At the weekends, Swiss trains are full of young men travelling to or from their reserve service – in uniform and armed. No one turns a hair to see a young man with an assault rifle over his shoulder going into a bank to use the cash machines. In the larger Swiss enterprises, promotion is reputed to be closely correlated to the military rank obtained. Conscripts also have no say over whether they are chosen for promotion, which can lead to a longer service obligation, causing problems not only for the conscript, but also for the employer who is obliged to release him.

In 2019 a majority voted in a referendum to bring Swiss arms control measures into line with EU standards; they had hitherto been considerably laxer. And by the end of the year signatures were being collected in a campaign to cancel the proposed purchase of a new generation of military aircraft.

1.2.14 TURKEY

Turkey is the only member country in the Council of Europe that has not recognised the right to conscientious objection to military service. Turkey continues to prosecute

conscientious objectors and to ignore the judgements which the European Court of Human Rights (ECtHR) has pronounced since 2006 in favour of Turkish conscientious objectors, in what the Committee of Ministers has named the "Ülke group" of cases. Many different penalties are imposed on those who refuse to perform military service. As a result, conscientious objectors facie ongoing arrest warrants; a life-long cycle of prosecutions and imprisonment, and a situation of "civil death" which excludes them from social, cultural and economic life.

In the 2nd UPR Cycle, three countries (Croatia, Germany and Slovenia) made recommendations to Turkey; to "Recognize the right to conscientious objection and to offer a non-punitive and non-discriminatory civilian alternative service". The Turkish government did not accept these recommendations, but merely "noted" them.

The law draft prepared by HDP (Peoples Democratic Party) was rejected by the votes of the government party and other parties in the parliament. In June the government brought a new Recruitment Law and cancelled the old one. Despite the proposals of HDP, there is nothing new for objectors in the new law.

LEGAL SITUATION OF OBJECTORS and SANCTIONS

Objectors are still criminalised as call-up/draft evaders. An unlimited arrest warrant is issued and due to this arrest warrant, they are detained on any occasion when they have to present their ID to the police or gendarmerie, a situation which frequently occurs. On the first detention, the objector is given an administrative fine. But every subsequent detention opens a new criminal case, which can lead to a prison sentence of anything from 2 months to 3 years. To avoid arrest and detention, objectors are forced to live an underground life.

In the event that the government declares a military mobilization, conscientious objectors risk being charged with desertion, which is subject to the death penalty under Article 63 of the Military Criminal Code.

CIVIL DEATH

The situation of conscientious objectors was in 2006 defined as "civil death" by the European Court of Human Rights. (Ulke v. Turkey, application no. 39437/98) There are three main sources of this condition.

1- Legal restrictions: Objectors cannot work legally in either the public or the private sector as it is a crime to employ an evader. Objectors are forced to live unemployed or to perform illegal, and thus uninsured, work. Also, objectors do not have the right to be elected in either local or national elections.

2- Repeated prosecutions and prison sentences: As mentioned above, objectors face never-ending criminal cases and prison sentences from 2 months to 3 years.

3- Deprivations linked to the life-style necessary to avoid detention: Objectors have to avoid social, economic, legal, cultural activities like:

a. Applying for a passport, driving licence, or marriage registration

b. Going to the police or gendarmerie even when the victim of a crime or accident

c. Staying in a hotel, hostel, camp site, airbnb etc.

d. Driving anywhere

e. Walking in a main thoroughfare or any central place

f. Using any form of public transport stations (train/bus/metro/ferry)

g. Going to an airport

h. Visiting a courthouse or prison, even as a lawyer

i. Voting in elections

As a result; people who have objections of religion or conscience against mandatory military service spend their entire lives facing repeated prison sentences and deprivation from all civil rights whether by law or by the necessity of living a clandestine life.

ARTICLE 318: ALIENATING PEOPLE FROM MILITARY SERVICE

Article 318 of Turkish Penal Code states: "(1) Any person who encourages, or uses repetition which would cause the persons to desert or have the effect of discouraging people from performing military service, shall be sentenced to a penalty of imprisonment for a term of six months to two years. (2) Where the act is committed through the press or broadcasting, the penalty shall be increased by one half."

This article is mostly used against objectors and their supporters. Declarations of objection or statements by anti-militarist or anti-war organisations come under its scope. Any statement against mandatory military service even in social media can be investigated and prosecuted under Article 318.

AMENDMENT TO THE LAW ON MILITARY SERVICE

In June 2019, amendment 7179 to the Law on Military Service was introduced. Under this amendment, the compulsory military service period is reduced to six months. Moreover, for a payment of 31,000 Turkish Lira (just under €5,000), even this requirement can be reduced to just one month's basic training. Thus the military service requirement is effectively different for the rich and the poor.

Anyone who after six months service decides to remain in the military will draw a minimum salary of 2,000 Lira. Those who serve in Kurdistan, will receive more.

This law does not change the legal status of conscientious objectors. The same human right violations continue – indeed they are getting worse. After the amendment, everyone is allocated to a military unit by the Ministry of Defence, so an arrested objector can be taken straight to "his" military unit.

CASES IN 2019

Şendoğan Yazıcı's bank accounts were frozen for his draft evasion. The court also fined him 22,000 Liras. With his accounts frozen, he was obliged to close his company.

Zana Aksu was eligible to enter university. But as a "draft evader" he was prevented from doing so.

Furkan Çelik was indicted on a charge of "alienating the public from military service". He was accused in relation to posts on the Conscientious Objection Association's Twitter account. The indictment by the Prosecutors Office mentions three different Twitter posts, each considered to include "provocative content in favour of avoiding military service". Furkan Çelik was held responsible because he created the Twitter account in 2013.

1.2.15 UKRAINE

In September 2019 the military commissariats of Kyiv sent to the police 34,930 cases of evaders from the conscription. The military commissariat of Lviv Oblast reported that two-thirds of summoned conscripts did not appear at draft stations so the police were asked to search for them. Hunting for conscripts at the streets to abduct them and deliver to the military assembly point against their will is the usual (and partly legal) activity of police

during the draft period. Officers of military commissariats doing their draft duties often received bribes. At other times they were confronted by outraged civilians.

The United Nations Human Rights Monitoring Mission in Ukraine documented eleven cases between May and August 2019 of arbitrary detention of conscripts by the representatives of the military commissariat who do not have the right to apprehend individuals.[34] For example, Yehor Potamanov was abducted by police and military commissariat during the raid for conscripts on the streets of the city when he was taking his sick father to the hospital with his brother. Protesting against the abduction, Yehor Potamanov resorted to a week-long hunger strike and refused to take a military oath.

According to Dmytro Tyshchenko, brother of Yehor Potamanov, hundreds of conscripts were abducted the same way in the streets of Kharkiv this summer. Three of them cut their veins and one hanged himself in desperate attempts to get an exemption from the draft on the grounds of mental disorder. Abducted conscripts' requests to meet with their relatives were refused since authorities tried to conceal bruises and injuries caused by violent transportation to the military commissariat. Police failed to conduct an effective criminal investigation of abduction, inhuman treatment, and abuses of power during so-called "hunting for draftees".

According to official statistics, 228 draft dodgers in 2018 were sentenced by the courts, 12 of them incarcerated, and 207 received suspended sentences mostly of one or two years' imprisonment. Fines were imposed on 108 evaders from military registration or mandatory gatherings.

Servicemen who develop a conscientious objection have no legal way to have their objection recognized, and voluntary dismissal from military service is usually unavailable. This also applies to conscripts transported to military units against their will. In 2018 there were 2,490 sentences for unauthorized abandonment of military units or desertion, usually two to five years of prison with discharge on probation, but 193 were jailed, 128 arrested, and 11 detained in a disciplinary battalion. Also, one person was arrested and two got suspended sentences for self-harm to avoid military service. In Ukrainian armed forces, about two or three servicemen have committed suicide weekly since the start of the Donbas war, and several cases of conscript suicide are reported by the media. In Kyiv and Ternopil, conscripts killed themselves by jumping from the windows of military commissariats.

There are many signals of abuse of power by the military commissariats during the spring and autumn drafts in 2019 in particular, as noted by the UN Human Rights Monitoring Mission in Ukraine. The Potamanov case in Kharkiv, detention of conscripts in Rivne oblast, and hunting for conscripts at the streets was widely reported by the media.

Defence Minister Andriy Zahorodniuk stated the cancellation of conscription is the policy of the state and his personal goal, but it will not happen quickly.

The United Nations General Assembly, condemning the ongoing temporary occupation of part of the territory of Ukraine, namely, the Autonomous Republic of Crimea and the city of Sevastopol, expressed its deep concern over the conscription by the Russian Federation of the residents of Crimea into its armed forces, including assignment to military bases in the Russian Federation, and urged the Russian Federation to stop such illegal activity.

On 29 August 2019 Ukrainian Pacifist Movement picketed Verkhovna Rada (the Ukrainian parliament) and the President's Office in Kyiv demanding an end to the cruel "hunting for

[34] Human Rights Council document A/HRC/42/CRP.7 "Report on the human rights situation in Ukraine 16 May to 15 August 2019, 24th September 2019,

conscripts" and the abolition of conscription. Petitions to President Zelensky calling to abolish conscription gathered more than 10,000 signatures.

Territories of Ukraine beyond governmental control

In the Russia-backed quasi-states in Eastern Ukraine information about military service is rarely published and, when published, sometimes shows obvious marks of distortion in the interests of propaganda. That's why it is hard to say how much military personnel they have and whether their military service is voluntary.

Russian-occupied Crimea

According to Ukrainian intelligence, Russia has nearly 30,000 military servicemen in Crimea. Alexander Sedov, the Crimean Human Rights Group expert, said at Radio Liberty that from 2014 to the present nearly 18,900 locals were drafted into Russian armed forces; quoting the UN Monitoring Mission the article says at least 4,800 were drafted in 2017, and quoting the US Representative, that a further 5,600 were drafted in 2018. The UN General Assembly condemned the Russian occupation of Crimea, including the city of Sevastopol, and urged Russia to stop illegal conscription of the residents of Crimea. Kate Gilmore, United Nations Deputy High Commissioner for Human Rights, said that in 2017, in violation of the Fourth Geneva Convention which prohibits compelling protected persons to undergo military service, 4,800 Crimean residents were sent to serve in the Russian Federation Armed Forces.

Russia imposes in occupied Crimea a military draft under the laws and regulations applicable in other parts of the country. Conscientious objectors can apply to military commissariats for alternative civil service in state-owned enterprises, but the military has full discretion to recognize or not recognize the "authenticity" of their beliefs; refusal can be challenged in the courts, but with little chance of winning. Conscientious objectors meet severe obstacles to the recognition of their objection including procedural barriers and discriminatory mistreatment on religious, political, and other grounds. For example, it became known that the Bakhchysarai military commissar demanded that a Jehovah's Witness change his faith to ask for alternative service since the Jehovah's Witnesses are banned in Russia.

In April 2016 were published two statements by officers of Russian military commissariats about the accessibility of alternative service in Crimea. The military commissar of Simferopol, Kazbek Mahmathanova said in an interview for Rossiyskaya Gazeta "during two years, only four people applied for alternative service to Simferopol city military commissariat and all of them withdrew their applications." Simferopol city military commissariat is a territorial division of the Military Commissariat of the Republic of Crimea where Vadim Meshalkin heads the department of the military draft and training; according to his statement, "we have four conscripts wishing to conduct alternative service, two of them are serving in the middle part of the country". Meshalkin added that alternative service must be conducted in other regions of Russia, not in Crimea; Mahmathanova also said that being unwilling to bear arms cannot be a legal ground for alternative service because conscientious objector must prove membership in some organization – both remarks seemingly contradictory to the law.

In 2018 representative of Crimean military commissariat Vadim Meshalkin stated that 18 Crimean residents were fined by the courts from 18,000 to 50,000 roubles (€270-740) for evasion of conscription. At the end of November 2019, the Crimean Human Rights Group recorded 79 criminal cases against evaders from military service in Crimean courts. Human Rights Watch reports about 63 guilty verdicts between 2017 and 2019 sentencing evaders from military draft mostly to fines of $77 to $1,000. It noted also military propaganda aimed at schoolchildren in Crimea.

Russia-backed "Donetsk People's Republic (DPR or DNR) and "Luhansk People´s Republic" (LPR or LNR)

Former military prosecutor Matios said there were 35,000 military personnel in 2018 fighting against Ukraine in Donetsk oblast; he added that the Donetsk and Luhansk armies consist of local soldiers under the command of Russian officers, and in sum in Donetsk and Luhansk regions there are near 40,000 armed people plus a Russian military force estimated at different times as anything between 3,000 and 16,000.

According to 2019 French research, recruitment to the army of the "Donetsk People's Republic" is mostly voluntary although there are cases of forced recruitment and military obligations have been reinforced; prisoners and children also fight in the DNR's armed forces; desertion can be severely punished, including by the death penalty.

All males from the age of 17 are obliged to register under the "Law of DNR on military duty and military service." Also, military registration of all males is ensured by many formalities of separatist bureaucracy – for example, it is necessary for obtaining a passport of DNR citizen needed to live in the Donetsk region without arrests by separatist police.

Separatist leaders claim that military service in DNR/LNR is voluntary but, in fact, they summon men to compulsory military gatherings, in 2017 27,000 reservists were summoned in DNR. Employers order male employees to participate in military gatherings; evaders were threatened by punishment. Military gatherings include field training in military units or camps for ten days. Apart from compulsory military training, reservists may be drafted at any time for military needs.

Pro-Ukrainian sources report mass desertions from DNR separatist forces, including an incident of the supposed suicide of a militant denied in request for dismissal. According to Ukrainian intelligence, separatist militants developed their mobilization capacity, forbade dismissal of military personnel, and surrounded locations of military units by minefields to prevent desertion. There are YouTube videos of the humiliation of deserters in DNR army, including tying hands to the wall, beating, and coercion to put on women's skirts. Russian units are reportedly involved in counter measures to stop desertion.

Similar situations, including mass summoning to military gatherings, mobilization and desertion are reported in separatist military forces of LPR.

2. OVERVIEW OF NATIONAL PROVISIONS

2.1 CONSCRIPTION

In 1960, conscription was almost universal in what are now Council of Europe states. This table shows the date on which it was abolished (and sadly sometimes that of reintroduction).

Table 1. Abolition of conscription in states within the Council of Europe area

Country	Time of abolition (ascending order)
UK	1963
Luxembourg	June 1969
Belgium	February 1995
Netherlands	1996
France	2001
Spain	December 2001
Slovenia	September 2003
Czechia	December 2004
Italy	December 2004
Portugal	December 2004
Slovakia	2004
Hungary	July 2005
Bosnia-Herzogovina	December 2005
Montenegro	July 2006
Romania	December 2006
Bulgaria	2007
Latvia	2007
North Macedonia	2007
Croatia	January 2008
Lithuania	2009 (reintroduced in March 2015)
Poland	October 2009
Albania	January 2010
Sweden	July 2010 (reintroduced in January 2018)
Serbia	January 2011
Germany	July 2011
Ukraine	2012 (reintroduced in May 2014)
Georgia	2016 (reintroduced in February 2017)

In seventeen member states of the Council of Europe conscription is still enforced. They are Armenia, Austria, Azerbaijan, Cyprus, Denmark, Estonia, Finland, Georgia (reintroduced in 2017), Greece, Lithuania (reintroduced in 2015), Moldova, Norway, Russia, Sweden (reintroduced in 2018), Switzerland, Turkey and Ukraine (reintroduced in 2014). Of former Soviet Republics, only in Latvia is conscription currently suspended. To this list should be added Belarus, which, although not a member, lies within the Council of Europe area. In 1960 the UK abolished conscription. New legislation would be required to reintroduce it. In most other cases the legislation remains on the statute books, and could be rapidly reactivated in the event of war or national emergency.

In practice, the meaning of conscription varies considerably between the states (for example Sweden's system is so selective that it is in reality volunteer-based, and so are systems in some other states as well). However, the system of "voluntary conscription", which has applied in Croatia since 2014, does not qualify – the word "conscription" is wrongly applied to a purely voluntary short-term period of military training. Proposals adopted in 2017 to reintroduce a measure of compulsion there do not yet seem to have been implemented.

Of Council of Europe members, Andorra, Liechtenstein, Monaco, and San Marino maintain a token military for ceremonial purposes only, and Iceland has never had a military, although it does maintain a small paramilitary coastguard. In none of these countries has conscription ever applied. This has also been the case in Ireland and Malta.

Conscription is also imposed by the *de facto* authorities in a number of territories which are not internationally recognised: Abkhazia and South Ossetia (Georgia), Nagorno-Karabakh (Azerbaijan), Transnistria (Moldova), and the self-styled "Turkish Republic of Northern Cyprus" and "Peoples Republics" of Donetsk and Luhansk (Ukraine).

2.2 CONSCRIPTS AND CONTRACT OR PROFESSIONAL SOLDIERS

Data on the precise number of conscripts serving in many countries are not readily available. But for those where they are available, this table shows the proportion of the active strength of the armed forces at any one time which is made up of conscripts as opposed to "career" soldiers.

Table 2. Number and percentage of conscripts [35]

Country	Total strength of armed forces	Number of conscripts	As % (descending order)
Cyprus	12.000	10.700	89,2%
Switzerland	21.450	18.500	86,2%
Finland	21.500	12.950	60,2%
Estonia	6.600	3.300	50,0%
Russia	900.000	313.000	44,5%
Moldova	5.150	2.200	42,7%

[35] Estimates for November 2018 as published by the International Institute for Strategic Studies in "The Military Balance 2019", except that the number of conscripts in Russia is a 2015 estimate from EBCO member Citizen, Army, Law. Figures for Cyprus, Georgia and Moldova refer to the areas under Government control only.

Country	Total strength of armed forces	Number of conscripts	As % (descending order)
Armenia	44.800	18.950	42,3%
Greece	142.350	49.250	34,6%
Norway	23.250	7.200	31,0%
Georgia	20.650	4.350	21,1%
Sweden	29.750	4.000	7,4%

An alternative way of measuring how militarised a society is, is to compare the entire armed forces manpower (conscript, contract and professional) with the population, especially the young male population, which provides the bulk of military recruits.

Table 3. Armed forces active strength compared with eligible age group [36]

Country	Annual cohort of males reaching 18	Total armed forces active strength	As % (descending order)
Armenia	15.797	44.800	283,6% (conscripts 120,0%)
Greece	51.658	142.350	275,6% (conscripts 95,3%)
Cyprus	7.669	18.000	234,7% (conscripts 139,5%)
Russia	682.190	900.000	131,9% (conscripts 44,4%)
Ukraine	184.589	243.000[37]	131,6%
Lithuania	15.082	19.850	131,6%
Azerbaijan	52.244	66.950	128,1%
Estonia	5.474	6.600	120,6% (conscripts 60,3%)
Bulgaria	36.702	31.300	85,3%
Belarus	53.356	43.350	85,0%
Malta	2.425	1.950	80,4%
Montenegro	2.456	1.950	79,4%
Slovenia	9.669	7.250	75,0%
Georgia	27.586	20.650	74,9% (conscripts 15,8%)
Serbia	38.221	28.150	73,7%

[36] Figures derived from those given by the International Institute for Strategic Studies in "The Military Balance 2019", except that the conscript percentages for Cyprus, Georgia, Moldova and Russia are on the basis of the figures given in Table 2.

[37] Including approximately 20,000 and 14,000 members of the separatist forces of the self-styled Donesk and Luhansk Peoples Republics, respectively. Figures for Ukraine refer to the areas under Government control only.

Country	Annual cohort of males reaching 18	Total armed forces active strength	As % (descending order)
Latvia	8.466	6.210	73,4%
Norway	33.306	23.250	69,8% (conscripts 21,6%)
Finland	31.007	21.500	69,3% (conscripts 41,8%)
Croatia	23.058	15.200	65,9%
Poland	192.105	117.800	61,3%
Romania	115.868	69.300	59,8%
Italy	298.786	171.050	57,2%
North Macedonia	13.985	8.000	57,2%
Slovakia	28.314	15.850	56,0%
Sweden	54.221	29.750	54,9%
Hungary	53.060	27.800	52,4%
Turkey	682.559	355.200	49,1%
France	417.657	203.900	48,8%
Spain	246.655	120.350	48,8%
Bosnia-Herzegovina	21.594	10.500	48,6%
Switzerland	44.782	21.450	47,9% (conscripts 41,3%)
Czech Republic	49.156	23.200	47,2%
Austria	45.723	21.200	46,4%
Germany	402.290	182.019	45,25%
Portugal	62.130	27.200	43,8%
Belgium	64.798	26.550	41,0%
United Kingdom	364.588	148.350	40,7%
Denmark	38.346	14.500	37,8%
Netherlands	106.366	35.400	33,3%
Albania	25.679	8.000	31,2%
Ireland	31.422	9.500	30,2%
Moldova	19.253	5.150	26,7% (conscripts 11,4%)
Luxembourg	3.636	900	24,8%
Iceland	2.270	250	11,0%

2.3 RECOGNITION OF CONSCIENTIOUS OBJECTION

With the solitary exception of Turkey, all the States in the Council of Europe area which have had conscription, have over the course of the years either explicitly recognised conscientious objection to military service or at least indicated the intention of making alternative service available.

The accompanying table gives the dates of the first explicit reference, in either legislation or a constitutional document, either to conscientious objection to military service or to an alternative service for conscientious objectors. This should not be taken as implying that arrangements in accordance with modern international standards were in place from the date quoted; constitutional provisions in for example Bulgaria, the Russian Federation and Belarus were not implemented in legislation for many years. In many cases the initial legislation applied only to very narrowly-defined groups, or merely made an unarmed military service available.

The persecution of conscientious objectors often persisted – and in some places still persists – long after a law was in place. Recognition of conscientious objection to military service is also beginning to reach places which are not internationally-recognised states, including Transnistria[38] and some parts of Kurdish-administered Rojava in Syria. Note also the encouraging developments in the northern part of Cyprus.

Table 4. First Recognition of Conscientious Objection to Military Service in States within the Council of Europe area[39]

Year (ascending order)	Country	Provision
1916	United Kingdom	Military Service Act, 27th Jan.
1917	Denmark	Alternative Service Act, 13th Dec.
1920	Sweden	Alternative Service Schemes Act, 21st May
1922	Netherlands	Constitutional amendment
1922	Norway	Civilian Conscript Workers Act, 24th March
1931	Finland	Alternative Service Act, 4th June
1949	Germany	In principle in the Grundgesetz "Basic Law" of the Federal Republic of Germany, Art. 4. The first provisions in the German Democratic Republic dated from 1964
1955	Austria	National Service Act
1963	France	Act No. 1255/63, 21st December
1963	Luxembourg	Act of 23rd July, Art. 8
1964	Belgium	Act of 3rd June
1972	Italy	Act No. 772/1972
1976	Portugal	Constitution, Article 41

[38] EBCO Report 2014. Chapter 1.2.6 Moldova. Available at: http://ebco-beoc.org/sites/ebco-beoc.org/files/attachments/2014-EBCO-REPORT-EUROPE.pdf

[39] Even if Belarus is not in Council of Europe area, when available, tables indicate Belarusian information.

Year (ascending order)	Country	Provision
1978	Spain	Constitution
1988	Poland	Constitution, Art. 85
1989	Hungary	Constitution, Art. 70
1990	Croatia	Constitution, Article 47.2
1990	Latvia	Law on Substitute Service of the Latvian Soviet Socialist Republic
1990	Lithuania	Law on Alternative Service of the Lithuanian Soviet Socialist Republic
1991	Bulgaria	Constitution, Article 59.2
1991	Estonia	Constitution, Article 124
1992	Moldova	Alternative Service Act, No. 633/91
1992	Cyprus	National Guard Act, No. 2/1992, 9th Jan.
1992	Czechoslovakia	Civilian Service Act, No.18/1992 – now the Czechia and Slovakia
1992	Georgia	Military Service Act, Art. 12
1992	Serbia and Montenegro	Constitution, Art. 58 – Montenegro gained independence in 2006
1992	Slovenia	Constitution
1993	Russian Federation	Constitution, Art. 59.3
1994	Belarus	Constitution, Art. 57. First Alternative Service Law in 2015.
1995	Azerbaijan	Constitution, Art. 76
1996	Bosnia-Herzegovina	parallel Defence Acts in the Federation and in the Republika Srpska
1996	Romania	Act No. 46/1996, Art. 4
1996	Switzerland	Civilian Service Act
1996	Ukraine	Constitution, Art. 35.3
1997	Greece	Act No. 2510/97
1998	Albania	Constitution, Art. 166
2001	North Macedonia	Defence Act, Art. 8
2003	Armenia	Alternative Service Act

2.4 COMPULSORY MILITARY SERVICE AND CIVILIAN SERVICE

The relative durations in the countries which retain conscription are as follows. The figure quoted is for the normal basic military service in the army, before any adjustments to reflect rank, educational qualifications etc.

Table 5. Duration of military and civilian service in states within the Council of Europe area

Country	Military service duration (ascending order)	Civilian service duration	Ratio to military service duration
Denmark	4	4	1
Finland	5.5-11.6	11.6	1-2.1
Austria	6	9	1.5
Estonia	8	8	1
Switzerland	260 days	390 days	1.5
Greece	9	15	1.7
Sweden	4-11	4-11	1
Norway	12	no alternative service required of conscientious objectors	
Turkey	12	no alternative civilian service available	
Moldova	12	12	1
Ukraine	12	18	1.5
Russia	12	18	1.5
Georgia	12	24	2
Cyprus	14	19	1.4
Azerbaijan	18	no alternative civilian service available	
Belarus	18	27	1.5
Armenia	24	36	1.5

2.5 MILITARY EXPENDITURE

Yet another measure of militarisation is given by military expenditure figures. This table shows the level of military expenditure as reported by the Stockholm International Peace Research Institute (SIPRI) for 2018.Figures are in US $m., in current prices, converted at the exchange rate for the given year. Figures in blue are SIPRI estimates. Figures in red indicate highly uncertain data.

Table 6. Military expenditure in states within the Council of Europe area[40]

Country	Military Expenditure US$ million 2018	% change from 2017	US$ per capita (descending order)	As% of GDP

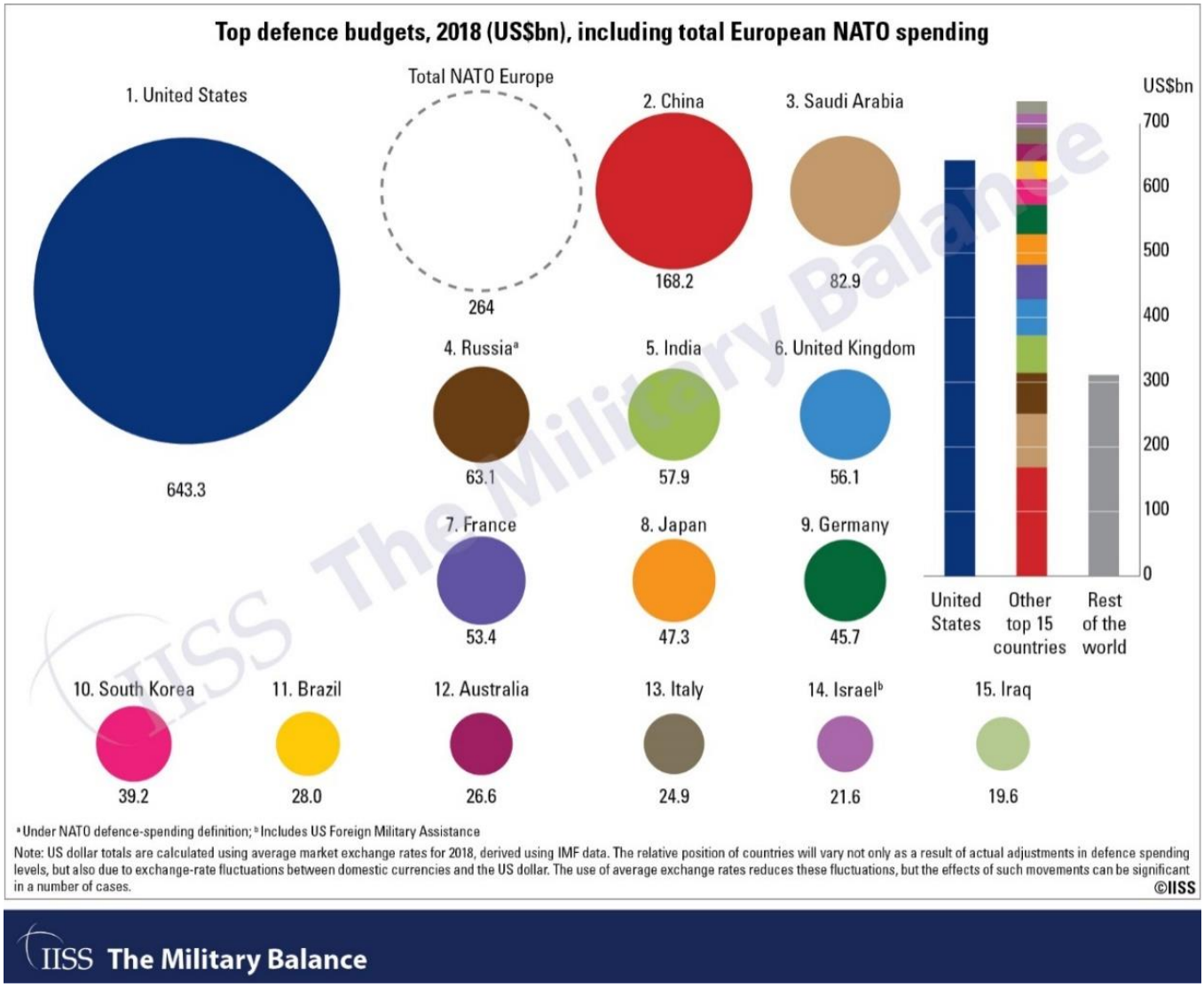
[40] Figures derived from the SIPRI Military Expenditure Database. Available at: https://www.sipri.org/databases/milex

Country	Military Expenditure US$ million 2018	% change from 2017	US$ per capita (descending order)	As% of GDP
Norway	7.067,1	+9,3%	1.320,1	1,6%
France	63.799,7	+5,6%	978,0	2,3%
United Kingdom	49.9997,2	+7,7%	751,0	1,8%
Denmark	4.228,2	+12,3%	734,8	1,2%
Luxembourg	419,4	+17,3%	710,4	0,6%
Finland	3.849,0	+12,2%	694,5	1,4%
Netherlands	11.242,8	+17,3%	658,1	1,2%
Germany	49.470,6	+9,0%	601,1	1,2%
Sweden	5.755,4	+4,1%	576,5	1,0%
Switzerland	4.795,8	+3,6%	561,3	0,7%
Estonia	618,5	+15,1%	473,3	2,1%
Greece	5.227,2	+2,6%	469,1	2,4%
Italy	27.807,5	+5,1%	469,0	1,3%
Belgium	4.959,7	+10,6%	431,3	0,9%
Russia	61.387,5	-7,7%	426,4	3,9%
Portugal	4.247,8	+16,5%	412,8	1,8%
Spain	18.248,3	+13,7%	393,3	1,3%
Austria	3.367,5	+7,3%	384,8	0,7%
Lithuania	1.030,4	+26,9%	358,2	2,0%
Latvia	679,9	+33,5%	352,3	2,0%
Cyprus	381,9	+6,9%	321,2	1,6%
Poland	11.596,2	+17,5%	304,3	2,0%
Czechia	2.710,0	+30,4%	255,1	1,1%
Slovenia	529,5	11,8%	254,4	1,0%
Ireland	1.207,6	+17,8%	251,4	0,3%
Romania	4.608,7	+27,2%	235,4	1,9%
Slovakia	1.280,6	+22,1%	235,0	1,2%
Croatia	889,5	+13,4%	213,6	1,5%
Armenia	608,9	+37,2%	207,5	4,8%
Azerbaijan	1.708,9	+11,8%	172,2	3,8%
Hungary	1.642,3	+12,3%	169,5	1,1%
Malta	69,3	+7,9%	160,3	0,5%
Bulgaria	1.095,6	+32,9%	155,7	1,7%
Montenegro	83,8	+27,5%	133,2	1,5%
Ukraine	4.750,2	+30,2%	107,9	3,8%
Serbia	904,3	+12,8%	103,2	1,9%
Georgia	316,5	+2,7%	81,0	1,9%
Belarus	715,2	+13,5%	75,7	1,3%
Bosnia-Herzegovina	221,1	+34,3%	63,1	1,1%
Albania	180,5	+25,0%	61,5	1,2%
North Macedonia	117,4	+5,0%	56,3	1,0%

Country	Military Expenditure US$ million 2018	% change from 2017	US$ per capita (descending order)	As% of GDP
Moldova	34,0	+10,9%	8,4	0,3%
Iceland	0,0	0%	0,0	0,0%

In order to make a worldwide comparison, it is useful to give a glance at the following chart.

Chart 1. Top defence budget, 2018 (US$bn)[41]



2.6 RECRUITMENT AGES

Although the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict encourages states to end all recruitment of persons below the age of 18, a disturbing number of European states continue to do this.

Worse, some breach the absolute prohibitions in the Optional Protocol by placing servicemen aged under 18 at risk of active deployment, or by allowing conscripts to enlist before their eighteenth birthday. Full details are given in the table below.

[41] Source: Institute for Strategic Studies (IISS), "The Military Balance 2019". Available at: https://www.iiss.org/publications/the-military-balance

Table 7. Recruitment ages in states within the Council of Europe area

Country	Age
Albania	19
Armenia	18, but 17 year old cadets at military higher education institutes
Austria	17 "voluntary" early performance of obligatory military service
Azerbaijan	17 year olds at cadet military school are classed as "on active service"
Belarus	18, but 17 year old cadets at the Military Academy
Belgium	On completion of secondary education, regardless of age
Bosnia-Herzegovina	18
Bulgaria	18
Croatia	18
Cyprus	16 (including "voluntary" early performance of obligatory military service)*
Czechia	18
Denmark	18
Estonia	18
Finland	18
France	17
Georgia	18, but possibly boys under 17 at the "Cadets' Military Academy".[42]
Germany	17
Greece	17*
Hungary	18
Ireland	18 (Not clear whether this applies to "apprentices")
Italy	18
Latvia	18
Lithuania	18
Luxembourg	18 (raised from 17 in 2007)
North Macedonia	18
Malta	17.5 nominally, but de facto no recruitment under 18 since 1970
Moldova	18
Montenegro	18
Netherlands	17
Norway	18 but from the year of the 17th birthday in military schools
Poland	18*
Portugal	18
Romania	18
Russia	18 but from the age of 16 in military schools
Serbia	18
Slovakia	18
Slovenia	18
Spain	18
Sweden	18
Switzerland	18
Turkey	18, but under „National Defence Service Law" 3634, 15-18 year olds may be deployed in civil defence forces in the event of a national emergency"
Ukraine	18 but from the age of 17 in military schools
United Kingdom	16

[42] It is believed that the general recruitment age may now have been raised to 20.

Careful reading of the legislation in both Greece and Cyprus shows that a person is defined as reaching the age of 18 on the first of January of the year of the 18th birthday. In Greece the conscription age is officially 19, thus effectively 18, but voluntary recruitment is permitted from the beginning of the year of the 18th birthday.

In Cyprus, the conscription age is 18, meaning, under the legislative definition, that all men become liable for conscription at the age of 17. This is a clear violation of Article 2 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC).

Worse, the age for voluntary recruitment is set at 17 – meaning potentially 16 – and as in Austria there is provision for conscripts to opt to perform their obligatory military service from the age of 17. In the case of Cyprus, this therefore means that some *conscripts* may be enlisting at the age of 16.

It is ironic that at a time when some states claim to be reintroducing conscription, but actually taking only volunteers, others try to pass off as volunteers those who opt to perform obligatory service early. But if they are more logically defined as conscripts, their recruitment below the age of 18 is a breach of OPAC.

2.7 SERVING MEMBERS OF THE MILITARY

No new developments have been reported regarding serving members of armed forces who develop conscientious objections. Following the advisory opinion of the European Court of Justice delivered in February 2015, the asylum case of former US Servicemen André Shepherd is still before the German Appeals Court.

3. NEW PUBLICATIONS

Why 18 Matters: A Rights-Based Analysis of Child Recruitment. Published in 2018 by Child Soldiers International (https://www.child-soldiers.org/). Accessible at: https://www.researchgate.net/publication/335222410_Why_18_Matters_A_Rights-Based_Analysis_of_Child_Recruitment

Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/41/23. Accessible at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/23

A Hidden Life (formerly titled Radegund), a 2019 epic historical drama film written and directed by Terrence Malick. The film depicts the life of Franz Jägerstätter, an Austrian farmer and devout Catholic who refused to fight for the Nazis in World War II. The film's title was taken from George Eliot's book Middlemarch. More info at: https://en.wikipedia.org/wiki/A_Hidden_Life_(2019_film)

Objector, a 2019 film directed by Molly Stuart. The film follows Israeli conscientious objector Atalya Ben-Abba to prison and beyond, offering a unique window into the Israeli-Palestinian conflict from the perspective of a young woman who seeks truth and takes a stand for justice. More info at: https://objectorfilm.com/

4. RECOMMENDATIONS

EBCO will be presenting this report to the European Parliament, to the Parliamentary Assembly and the Commissioner for Human Rights of the Council of Europe, and to various State authorities. In each case EBCO accompanies it with a set of targeted recommendations.

Meanwhile EBCO repeats its general recommendations, applicable to all European States:

1) if they have not already done so, to **abolish all compulsory military service**, and meanwhile refrain from prosecuting or otherwise harassing conscientious objectors, with no further action required from such persons; or - secondly – providing a non-punitive and non-discriminatory alternative service of purely civilian nature.

2) to ensure that it is possible **for all conscientious objectors to avoid enlistment in the armed forces** and for all serving members of the armed forces or reservists to obtain release without penalties should they develop conscientious objections.

3) to immediately cease any recruitment into the armed forces on of **persons aged under 18**.

4) to accept **applications for asylum** from all persons seeking to escape military service in any country where there is no adequate provision for conscientious objectors.

5) to decrease **military expenditure** and increase social spending.

6) to introduce **peace education** in all parts of the education system.