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Annual Report

Conscientious Objection in Europe 2017

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Foreword by Friedhelm Schneider, EBCO President

In 2017 efforts to recognize the rights of conscientious objectors to military service have taken once more a negative track in Europe. Apparently the predominant concerns of EU politics were less marked by the promotion of human rights than by economic planning and by the intention to strengthen military cooperation and spending¹. It is self-evident that a context of progressing **militarization** does not facilitate the implementation of the fundamental right of conscientious objection to military service. Correspondingly in 2017 the item of conscientious objection did not figure on the political agenda of European institutions – even though massive and repeated violations of this right continue to be deplored.

In some cases state authorities pursued the obsessive **persecution of conscientious objectors** who had declared their refusal of military service decades before. Whereas in Greece the military trial against Panagiotis Makris indicted for insubordination since 1990 (sic!) was halted, in Turkey the illegitimate persecution of conscientious objectors continued together with the open violation of the jurisdiction issued by the European Court of Human Rights (ECtHR) in favour of them. Two decades after his first imprisonment as conscientious objector **Osman Murat Ülke** was informed in November 2017 that the prosecutor of Bilecik had reopened his case and summoned him to the local police station. Almost 12 years after the ECtHR landmark decision in favour of Osman Murat Ülke² neither the individual nor the general measures mandated by the judgement have been implemented by Turkish authorities. Osman Murat Ülke continues to be harassed and discriminated against because of his firm pacifist conviction. The proceedings against him are far from being halted. Legislation protecting the right of conscientious objection to military service in Turkey and making an alternative civilian service available is not in sight. It remains a scandal that Turkey disrespects in the long term the judgements of the European Court of Human Rights as well as international human rights standards regarding conscientious objection. And it is no less irritating that the political representatives of the European human rights community seem to get accustomed to this situation.

The marginalization of conscientious objection in the public awareness is often attributed to the suspension or abolition of **conscription** in the majority of European states. Nevertheless it should be noted that at present conscription is still enforced respectively reinforced in 17 states of the Council of Europe area³. Moreover it is imposed by the de facto authorities in a number of territories which are not internationally recognized⁴. In a number of other countries the reintroduction of conscription is under discussion, in some cases, such as Sweden and Croatia, the term is being used loosely to refer to a short period of military training for a relatively small number of volunteers.

Apart from Turkey and Greece the black list of states discriminating against conscientious objectors still includes inter alia Ukraine where the criminal proceedings against conscientious objector and journalist Ruslan Kotsaba might be resumed notwithstanding

¹ See i.a. the adoption of the joint military plan PESCO (November 2017) as well as the European Commission's proposal to repurpose the EU's civil conflict management budget IcSP to fund military capacity building in future (June 2017).

² European Court of Human Rights, Chamber Judgement Ülke v. Turkey of 24.01.2006.

³ Armenia, Austria, Azerbaijan, Belarus, Cyprus, Denmark, Estonia, Finland, Georgia, Greece, Lithuania, Moldova, Norway, the Russian Federation, Switzerland, Turkey and Ukraine.

⁴ Abkhazia and South Ossetia (Georgia), Nagorno-Karabakh (Azerbaijan), Transdniestria (Moldova), the northern part of Cyprus and the self-styled Donetsk and Luhansk People's Republics (Ukraine).



the 16 months he already had to spend in prison. In Russia, the Jehovah's Witnesses, who hitherto provided the majority of those admitted to Alternative Civilian Service, have been banned as a subversive organisation, and in Switzerland proposed changes to the civilian service which would make it even less satisfactory are currently being debated in Parliament.

Fortunately in spite of everything there have been some **rays of hope**: In the northern part of Cyprus, currently under Turkish occupation, the Petition Committee of the Parliament took up an application of the Bi-communal Initiative for Conscientious Objection in Cyprus. In its report presented to the Parliament of the self-styled "Turkish Republic of Northern Cyprus" (TRNC) on 30 October 2017 the Committee stated that following decision n° 2/2013 of the Constitutional Court and taking into account Article 9 of the European Convention on Human Rights and Article 74 of the TRNC constitution it should be possible to adopt legislation on conscientious objection and alternative service in Northern Cyprus. The Committee concluded that this question should be discussed in detail and with all its aspects in a thorough way, together with experts, on the basis of human rights. It went on to recommend to the Prime Ministry to initiate the evaluation and related initiatives in this framework with sensitivity. Presently such a development would be inconceivable in Turkey itself!

Another positive news item is that the Republic of Cyprus has in October 2017 granted asylum to the well-known Turkish conscientious objector Halil Savda who since 2004 had been arrested, detained and ill-treated on multiple occasions for refusing to perform military service in Turkey and for expressing his support for conscientious objectors. As in the case of Osman Murat Ülke the ECtHR jurisdiction in favour of Halil Savda has not been implemented by Turkish authorities. And the refugee protection obtained by a number of Ukrainian objectors in Italy confirms the intolerable violation of the right of conscientious objection in Ukraine.

Last but not least, it should not be omitted that the situation of conscientious objectors continued to be monitored periodically by the **United Nations** human rights mechanisms. Supported by relevant NGOs like WRI, IFOR and EBCO the Office of the UN High Commissioner for Human Rights published its latest quadrennial analytical report on conscientious objection to military service on 1st May 2017. Furthermore shortcomings in implementing the right of conscientious objection remain a regular item in the UN Universal Periodical Review system.

Finally this introduction cannot end without paying tribute to a great humanist and political personality who advanced the respect of the fundamental right of conscientious objection in Europe. **Simone Veil**, deceased on 30th June 2017 in Paris, had been the first female President of the European Parliament from 1979 to 1982, later on she served among others as chairwoman of the Committee on Legal Affairs. It was thanks to the persuasive advocacy of Simone Veil that on 7th February 1983 the European Parliament adopted with clear majority its first comprehensive resolution on conscientious objection. In the preceding controversial debate Veil argued against a contribution stating that conscientious objection regards only persons at the margins of society. In this context she underlined that conscientious objection to military service has to be affirmed in the framework of human rights as a right appearing more and more as one of the essential rights of the individual. Bearing in mind Simone Veil's commitment EBCO will continue its efforts to keep the human right of conscientious objection to military service and its implementation on the agenda of European institutions and states.



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1 DEVELOPMENTS SINCE THE PREVIOUS REPORT (October 2016)

1.1 INTERNATIONAL AND REGIONAL ORGANISATIONS AND MECHANISMS

1.1.1 COUNCIL OF EUROPE

1.1.1.1 European Court of Human Rights

Savda v Turkey (no. 2) (application no. 2458/12; Judgement of 15th November 2016)

In 2012, **Halil Savda** was the first non-religious conscientious objector to successfully claim a violation of Article 9 (right to freedom of thought, conscience and religion) of the European Convention. Meanwhile he had also become widely quoted as an example of the reach of the notorious Article 318 of the Turkish Constitution.

On 1st August 2006, he and four other members of the Anti-Militarist Platform had met in front of the Israeli Consulate in Istanbul to read a statement declaring their solidarity with Israeli conscientious objectors. For this he was charged under Article 318 with “inciting the population to evade military service” and in August 2008, was sentenced to five months imprisonment. The Court of Cassation upheld that judgment in November 2010.

In 2012 he made an application to the European Court of Human Rights claiming that the Turkish authorities had violated Article 9 (right to freedom of thought, conscience and religion) and Article 10 (Freedom of expression) of the European Convention.

In its Judgment released on Tuesday 15th November 2016, and became definitive on 15th February 2017, the Court found a violation of Article 10.

Even if it decided to reject the allegation of violation of Article 9, the Court recalls that it has already noted in judgments concerning conscientious objectors that the legal framework in Turkey is not sufficient to adequately regulate situations arising from the refusal to perform military service on grounds of conviction and that it continues to be insufficient.

About the violation of Article 10 (Freedom of Expression) the Court considered that inciting to evade the military service cannot in itself justify the interference with the right to freedom of expression of Mr **Savda**.

Moreover, the Court observed that although the speech delivered by Mr **Savda** gave an hostile connotation to military service, it does not exhort the use of violence, armed resistance or uprising, and (it) cannot be seen as a hate speech or a speech with an ability to harm.

Aydan and others v Armenia (application no. 75604/11; Judgement of 12 October 2017)

The case concerned four Jehovah’s Witnesses who were convicted in 2011 for refusing to perform either military or alternative civilian service.

They argued that, even though domestic law did provide for an alternative to military service, it was not of a genuinely civilian nature, as it was supervised by the military authorities.



After they had been released from prison following a general amnesty in October 2013, they served more than two years of their prison sentence.

The Court held, unanimously, that there had been a violation of Article 9 (freedom of thought, conscience, and religion) of the European Convention.

The Court found that the Armenian authorities had failed to guarantee an appropriate alternative possibility to the military service.

In particular, the Court found two main shortcomings in the system. First, it was not sufficiently separated from the military system: either as concerned authority, control or applicable rules, the military being involved in the supervision and organisation of the alternative service, including such aspects as the use of the military rules and that civilian servicemen being required to wear a uniform which resembled that of the military.

Secondly, alternative service was significantly longer than military (42 months instead of 24 months), which had punitive and discriminatory effects.

Indeed, in 2011 the Armenian parliament was explicit in its criticism of the alternative to military service; and as a result, legislative amendments were introduced in 2013. Even though those amendments had allowed the applicants to apply for the replacement of the remainder of their sentences with alternative service and to have their convictions quashed, it would not appear from the Armenian Court of Cassation's case-law that a violation of their rights under Article 9 would have been acknowledged or, moreover, that any compensation would have been awarded. In any case, by the time the legislative amendments had been introduced, the applicants had already served almost two years of their sentences.

1.1.1.2 European Committee of Social Rights

In 2000, the Quaker Council for European Affairs (QCEA), lodged a case against Greece under the European Charter for Social Rights. A correction to the mention in the 2016 EBCO Report: Richard Seeböhm was the QCEA Representative at the time.

Every four years, the European Committee on Social Rights (hereinafter "ECSR" or "The Committee"), which oversees the implementation of the Charter, produces a follow-up report.

In **Conclusions XIX – 1 (2008)** the ECSR noting that the length of different periods of alternative service to replace armed military service were:

- 23 months for those who would have had to serve a full armed military service of 12 months;
- 17 months for those who would have had to serve a reduced armed military service of 9 months;
- 11 months for those who would have had to serve a reduced armed military service of 6 months;
- 5 months for those who would have had to serve a reduced armed military service of 3 months.

It stated that, even though the situation in Greece had improved significantly, it was still not compatible with Article 1§2 of the Charter.

In **Conclusions XX-1 (2012)**, the ECSR stated:

"Service alternative to military service



The Committee recalls that it had previously noted that armed military service lasts twelve months. Certain conscripts may only serve nine months, others six and some three. There are two forms of replacement for armed military service: unarmed military service and alternative service.

The two types of service differ in length. The Committee considered that the periods of unarmed military service to replace armed military service were compatible with Article 1§2 of the 1961 Charter, whereas it found that the length of the alternative service to armed military service was excessive and not in conformity with the Charter.

However, the Committee notes that the situation has been amended and unarmed military service has been abolished further duration of alternative service has been reduced, the alternative service duration has been set as follows:

- at 15 months for those who would be required to serve full military service;
- at twelve months for those who would be required to serve nine months military service;
- at nine months for those who would be required to serve six months military service;
- and at five months for those who would be required to serve three months military service.

The Committee considers that this brings the situation into conformity with the Charter but notes that these changes occurred outside the reference period. Therefore during the reference period the situation was not in conformity with the 1961 Charter.”

In **Conclusions XX-1 (2016)**, the ECSR explicitly referred to the submission made by EBCO (quoted in full in the 2016 report):

“Service alternative to military service

The Committee had previously found in its decision on the merits of 25 April 2001 of Complaint No. 8/2000 Quaker Council for European Affairs (QCEA) v. Greece and then in its subsequent conclusions that the situation was not in conformity with 1961 Charter in respect of this point on the ground that the length of alternative service was excessive. In its last conclusion (Conclusions XX-1/2012), the Committee noted that outside the reference period the length of alternative service had been reduced thereby bringing the situation into conformity with the Charter. This has been confirmed in the context of the monitoring of the aforementioned complaint (Findings 2015).

In this connection, the Committee received comments from the European Bureau for Conscientious Objection (EBCO-BEOC) and from the Greek National Commission for Human Rights (GNCHR) that considered that the situation was not in conformity with Article 1§2 of the 1961 Charter. They considered in fact that there was a discriminatory treatment for two categories of conscientious objectors: those who are required to do a full 15-month alternative service instead of the full 9-month military service and those who are required to do a reduced 5-month alternative service instead of a reduced 3-month military service.

The Committee asks that the next report provide information on this issue.”

1.1.1.3 Council of Europe Commissioner For Human Rights

Regrettably yet again in 2017, Commissioner **Muznieks** has not addressed any of the situations of concern regarding conscientious objection within Council of within the Council of Europe states. EBCO will be seeking a meeting with his successor, early in his term of office.



1.1.2 EUROPEAN UNION

1.1.2.1 European Parliament

In 2017, the European Parliament addressed conscientious objection or wider freedom of religion issues, with regard to third countries only.

In its resolution on the situation in Eritrea,⁵ the European Parliament pointed out as follows.

"Many young people have fled the country to escape the repressive government and mandatory military conscription, which often starts at a very young age, with most Eritreans serving indefinitely; whereas the majority of those in national service remain in a situation of slavery, in which any work, job applications and the possibility of having a family life are controlled; whereas an estimated 400 000 people are currently in unlimited forced national service and many of them are subjected to forced labour, with little or no pay; whereas women conscripts are forced to endure domestic servitude and sexual abuse"⁶

Also in the same resolution, European Parliament urges Eritrea *to end the 'guilt-by-association' policies that target family members of those who evade national service, seek to flee Eritrea or fail to pay the 2 % income tax imposed by the government on Eritrean expats.*⁷

1.1.3 UNITED NATIONS

1.1.3.1 Human Rights Committee

1.1.3.1.1 Jurisprudence

The Committee has continued to receive a sequence of communications from Jehovah's Witness conscientious objectors in Turkmenistan, in which the facts and decisions reached have been largely similar.

The table below summarizes six communications on which the Committee has been the 15th July 2016 (117th session).

Tab. 1. Jurisprudence of the Human Rights Committee on Conscientious objection to compulsory military service in Turkmenistan (117th session).

Case No.	Claims	Admissibility	Views
2219/2012 Navruz Tahirovich Nasiryriyev	Violations of arts. 7, 14 (7) and 18 (1) of the Covenant.	All claims.	Violations of arts. 7, 10 (1), 14 (7) and 18 (1) of the Covenant.
2220/2012 Matkarim Aminov	Violations of arts. 7, 14 (7) and 18 (1) of the Covenant.	All claims.	Violations of arts. 7, 10 (1), 14 (7) and 18 (1) of the Covenant.
2224/2012 Dovran Bahramovich	Violations of artt. 7, 14 (7) and 18 (1) of the	All claims.	Violations of artt. 7, 10 (1), 14 (7) and 18 (1)

⁵European Parliament resolution of 6 July 2017 on Eritrea, notably the cases of Abune Antonios and Dawit Isaak (2017/2755(RSP)).

⁶Ibid., para. R.

⁷Ibid., para. 16.



Case No.	Claims	Admissibility	Views
Matyakubov	Covenant.		of the Covenant.
2225/2012 Akmurad Nurjanov	Violations of arts. 7, 14 (7) and 18 (1) of the Covenant.	Claim under art. 7 found inadmissible.	Violations of arts. 14 (7) and 18 (1) of the Covenant.
2226/2012 Shadurdy Uchetov	Violations of arts. 7 and 18 (1) of the Covenant.	All claims.	Violations of arts. 7, 10 (1) and 18 (1) of the Covenant.
2227/2012 Akmurat Halbayewich Yegendurdyew	Violations of arts. 7 and 18 (1) of the Covenant.	All claims.	Violations of arts. 7, 10 (1) and 18 (1) of the Covenant.

Navruz Tahirovich Nasyrlayev, a Turkmen national born on 21 March 1991 and Jehovah's Witness.⁸ States that on 16th April 2009 he was called up by the Military Commissariat to perform his compulsory military service. He states that he explained orally and in writing that as a Jehovah's Witness, his religious beliefs did not permit him to perform military service.

After a first deferral of six months, on 23 November 2009, he was charged under article 219 (1) of the Criminal Code for refusing to perform military service. On 7 December 2009, he was tried before Dashoguz City Court.

He testified that he had become a Jehovah's Witness three years earlier and that he respected the laws of Turkmenistan and was willing to fulfil his civil obligations by performing alternative civilian service

The Dashoguz City Court convicted the author and sentenced him to 24 months of imprisonment. He was arrested in the court room and placed in detention. The author appealed, but on 5 January 2010, his appeal was rejected by Dashoguz Regional Court.

The author was held in custody for 32 days and after he was transferred to the LBK-12 prison located near the town of Seydi in the Lebap region in the Turkmen desert. On four separate occasions, he was confined in a punishment cell for two or three days, and in on one occasion, he was isolated for a month. One day during his isolation, four masked officers from the Ashgabad special police forces entered into the punishment cell and severely beat him.

He was released from prison in December 2011 and, one month later, he was again called up for military service. Again he refused and he was convicted under article 219 (1) of the Criminal Code to the maximum sentence of 24 months of imprisonment of strict regime prison.

He submitted that after the second trial, he spent 21 days in the DZD-7 detention facility in the city of Dashoguz, where he arrived on 2 May 2012. That day, the chief of the operative department ordered three cellmates to beat him in the head, the kidneys and the chest. On 23 May 2012, he was transferred to the LBK-11 colony in the city of Seydi. Upon his arrival, he was placed in isolation for 10 days. There he was beaten and threatened by one of the sergeants.

Moreover during the detention period he objected to carrying out degrading and hazardous works and being put in isolation for specious reasons.

⁸ Human rights Committee, CCPR/C/117/D/2219/2012, published the 26th September 2016, parr. 1.1., 2.1.



He has furthermore suffered health problems, specifically intracranial pressure resulting from beatings to his head in the colony.

On 14th June 2012, Dashoguz Regional Court dismissed his appeal. He filed a supervisory appeal before the Supreme Court of Turkmenistan. According to the jurisprudence of the Human Rights Committee, such an appeal is a purely discretionary remedy that does not need to be pursued in order to exhaust domestic remedies. On 13th July 2012, the Supreme Court dismissed the author's appeal.

In his additional submission dated 6th February 2013, the author informed the Committee that on 24th January 2013 at 10 p.m. - nine weeks after the communication had been transmitted to the State party by the Committee - his family home was raided by more than 30 police officers. The police subjected the family members and guests present that evening to beatings, threats of rape and serious mistreatment.

He claimed:

- a) that his imprisonment because of his religious beliefs in itself constituted inhuman or degrading treatment within the meaning of article 7 of the Covenant;
- b) to be the victim of a violation of article 7 of the Covenant on account of the conditions at the LBK-12 prison (harsh climate conditions, overcrowded, health issues)⁹;
- c) that he was ill-treated by the prison staff while in the LBK-12 prison again in violation of article 7 of the Covenant;
- d) that there was a violation of his rights under article 14 (7) of the Covenant, as his refusal to perform military service owing to his religious beliefs led to him being convicted twice;¹⁰
- e) that his prosecution, conviction and imprisonment for refusing to perform compulsory military service because of his religious beliefs and conscientious objection violated his rights under article 18 (1) of the Covenant.

In the State party responded that *the criminal offence committed by the author had been determined accurately according to the Criminal Code of Turkmenistan, and that according to article 41 of the Constitution, protection of Turkmenistan was the sacred duty of every citizen and general conscription was compulsory for male citizens of Turkmenistan.*¹¹

In its findings, the Human Rights Committee noted with concern the information provided by the author that, his family home was raided and subjected to mistreatment by police officers. The Committee recalls that any act of pressure, intimidation or reprisal against a person who has submitted a communication, or against his or her relatives constitutes a breach of the State party's obligations under the Optional Protocol to cooperate with the Committee in good faith.

Secondly and after declaring the claims admissible, the Committee had recalled its jurisprudence; its General Comment n. 22 (1993) on freedom of thought, conscience or

⁹ In its Concluding Observations, the UN Committee against Torture expressed concern regarding ongoing physical abuse and psychological pressures by LBK-12 prison staff, including collective punishment, ill-treatment as a "preventive" measure, the use of solitary confinement, and sexual violence and rape by prison officers or inmates. See CAT/C/TKM/CO/1, para. 18.

¹⁰ Art. 14 (7): No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

¹¹ Human rights Committee, CCPR/C/117/D/2219/2012, Ibid., para. 4.



religion¹² and its General Comment n. 32 (2007) on the right to equality before courts and tribunals and to a fair trial.¹³

The absence of any other pertinent or contrary information on file and of the fact that Turkmenistan had not refuted the allegations the Committee found the following violations:

- of Article 7: ill-treatment of the author by the prison guards and special police forces;
- of Article 10 paragraph 1: deplorable prison conditions at the LBK-12 prison in violation of his right to be treated with humanity;
- of Article 14 paragraph 7: repeated punishment of conscientious objectors for not obeying a renewed order to serve in the military may amount to punishment for the same crime;
- of Article 18 paragraph 1: absence in the State of an alternative to compulsory military service and repression of the refusal to be drafted for compulsory military service exercised against persons whose conscience or religion prohibit the use of arms.

Therefore, the Committee concludes that *the State party is obliged, inter alia, to impartially, effectively and thoroughly investigate the author's claims under article 7; to prosecute any person or persons found to be responsible; to expunge the author's criminal record; and to provide him with adequate compensation.*¹⁴

Finally, *the State party is under an obligation to avoid similar violations of the Covenant in the future. In this connection, the Committee reiterates that the State party should revise its legislation in accordance with its obligation under article 2 (2), in particular the Military Service and Military Duty Act, as amended on 25 September 2010, with a view to ensuring the effective guarantee of the right to conscientious objection under article 18 (1) of the Covenant.*¹⁵

Matkarim Aminov¹⁶ and **Dovran Bahramovich Matyakubov**¹⁷ alleged violations of the same articles, and the Committee's conclusions were almost identical, including the finding of a violation of Article 10.1, because of the conditions of detention.

Akmurad Nurjanov¹⁸ claimed the same violations, but the Committee found inadmissible his claim under article 7, as he had not brought forward specific allegations of ill-treatment, claiming only that his imprisonment as a result of his religious beliefs constituted in itself ill-treatment (which would seem to have duplicated the claim under Article 18.1, where the Committee did find a violation).

The "authors" of the last two "communications", **Shadurdy Uchetov**¹⁹ and **Akmurat Halbayewich Yegendurdyew**²⁰ had not been repeatedly imprisoned, so had not claimed a violation of Article 14.7. However the Committee again found violations of Articles 7 and

¹²Human Rights Committee, CCPR/C/21/Rev.1/Add.4, published the 27th September 1993.

¹³Human Rights Committee, CCPR/C/GC/32, published the 23rd August 2007.

¹⁴Human Rights Committee, CCPR/C/117/D/2219/2012, Ibid., para. 10.

¹⁵Ibidem, para. 10.

¹⁶Human Rights Committee, CCPR/C/117/D/2220/2012, published the 27th September 2016.

¹⁷Human Rights Committee, CCPR/C/117/D/2224/2012, published the 26th September 2016.

¹⁸Human Rights Committee, CCPR/C/117/D/2225/2012, published the 19th September 2016.

¹⁹Human Rights Committee, CCPR/C/117/D/2226/2012, published the 26th September 2016.

²⁰Human Rights Committee, CCPR/C/117/D/2227/2012, published the 11st October 2016, parr. 1 and 2.1.



18.1, and once again added Article 10.1 in respect of the evidence brought forward about the conditions of detention.

1.1.3.1.2 Consideration of state reports

The Human Rights Committee has continued to raise the issue of conscientious objection to military service in its consideration of the reports of states party under the International Covenant on Civil and Political Rights.

The 119 session (March 2017)

The Human Rights Committee reviewed the situation of civil and political rights in Bangladesh, Bosnia and Herzegovina, Italy, Serbia, Thailand and Turkmenistan.

In its submission to the second periodic report of **Turkmenistan**, the European Association of Jehovah's Christian Witnesses underlines that *Turkmenistan has consistently prosecuted, imprisoned, and physically mistreated conscientious objectors to military service*. Seventeen such cases have been filed with the Committee by individual Jehovah's Witnesses since 2012.²¹

Moreover, between February and August 2016, seven further Jehovah's Witnesses had been charged under Article 219 (1) of the Turkmen Criminal Code.

In its Concluding Observations, the Committee expressed concern about *the continued failure to recognise the right to conscientious objection to compulsory military service and the repeated prosecution and imprisonment of Jehovah's Witnesses refusing to perform compulsory military service*.

Moreover, the Committee *recommended to revise legislation without undue delay with a view to clearly recognising the right to conscientious objection to military service, provide for alternative service of a civilian nature outside the military sphere and not under military command for conscientious objectors, and halt all prosecutions of individuals who refuse to perform military service on grounds of conscience and release those who are currently serving prison sentences*.²²

The 120th Session (July 2017)

The Human Rights Committee reviewed the implementation of civilian and political rights in Switzerland, Liechtenstein, Honduras, Mongolia and Swaziland.

Switzerland was a missed opportunity, despite NGO submissions, military service issues had not been included on the "List of Issues Prior to Report" and therefore could not be brought up during the Committee's consideration of the State Report.

In its Concluding observations,²³ on the second periodic report of **Honduras**, the Committee recommended the State party to:

²¹ The European Association of Jehovah's Christian Witnesses, Submission to UN Human Rights Committee subsequent to the adoption of the List of Issues on the second periodic report of Turkmenistan, February 2017.

²² Human Rights Committee, CCPR/C/TKM/CO/2, Concluding observations on the second periodic report of Turkmenistan, Published the 20th April 2017, paras. 40-41.

²³ Human Rights Committee, Concluding observations on the second periodic report of Honduras, CCPR/C/HND/CO/2, Published the 22nd August 2017.



- Enhance programmes for the protection of children and youth who refuse to join criminal gangs, including by ensuring the effective implementation of the System for the Promotion and Comprehensive Protection of the Rights of the Child, with sufficient funding for the fulfilment of its objectives;²⁴
- Continue to strengthen the national police with a view to enabling it to take over law enforcement functions from the armed forces. The State party should also pursue the certification process for members of the national police, ensuring that it is carried out in a transparent and impartial manner. In addition, the State party should adopt a legislative framework that guarantees that private security companies operate in keeping with the Covenant; improve State oversight of the activities of these companies; and boost the supervisory function of the Private Security Company Oversight Unit and increase its budget. The State party should exercise effective control over the possession and use of firearms and reduce the number of weapons in circulation, including by adopting relevant laws.²⁵

The 121st Session (November 2017)

Conscientious objection was not an issue in any of the States examined in the 121st Session.

Nevertheless, the Committee did at last have the opportunity to examine the Follow-up Report from the Republic of Korea (South Korea) which it had requested within 12 months of its November 2015²⁶ consideration, including a specific request for information on the implementation of the Committee's recommendations about conscientious objection to military service.

The Committee had expressed concern about:

- The absence of a civilian alternative to military service;
- The fact that conscientious objectors continue to be subjected to criminal punishment; and
- The possibility that personal information of draft evaders may be disclosed online.

It had therefore recommended that the State Party should immediately release all conscientious objectors condemned to a prison sentence and expunge their criminal records. Moreover, it should ensure legal recognition of conscientious objectors and provide an alternative service of civilian nature.

In November 2016, 84 South Korean NGOs presented to the Committee their assessment of the implementation of follow-up recommendations.²⁷

- Release of Conscientious objectors: since the adoption of the Concluding Observation in 2015, no conscientious objector was released except for conscientious objectors who completed their sentences. Republic of Korea continues to impose criminal punishment to conscientious objectors. A total of 315 conscientious objectors were imprisoned since the adoption of the Concluding Observation in 2015.

²⁴ Ibid., para. 19.

²⁵ Ibid., para. 21.

²⁶ Human Rights Committee, Concluding observations on the fourth periodic report of Republic of Korea, CCPR/C/ KOR/CO/4, Published the 3rd December 2015, para. 45.

²⁷ "REPUBLIC OF KOREA: NGO assessment of the implementation of follow-up recommendations – with the support of Centre for Civil and Political Rights (CCPR)", available at www.ohchr.org.



- Disclosure of personal information: the regional military manpower offices had drawn up a preliminary list of draft evaders in their jurisdiction as of Dec 2015. According to the Military Manpower Administration (MMA), persons who are included in the preliminary list will be given a chance to explain their reasons within six months. Validity of their explanation will be deliberated at the Committee on Draft Evasion stashed under each regional military manpower offices. Personal information of draft evaders was expected to be disclosed for the first time on 20th December 2016.
- Legal recognition and alternative service: No meaningful effort to implement the recommendation to introduce an alternative service was made by the Government. A case challenging the current arrangements was still pending in the Constitutional Court. However, there had been movement in the lower courts. A total of nine conscientious objectors had been acquitted at first instance since May 2015. Unprecedentedly the Gwangju District Court of Appeal acquitted three of them on 18th October 2016.

After a reminder dated April 2017, the State itself responded as follows:²⁸

- Release of Conscientious objectors he imprisoned conscientious objectors are currently serving their terms as sentenced by the court through fair and independent trials. Releasing them immediately would hinder the reliability and efficient functioning of the judicial system.²⁹
- Disclosure of personal information: 547 out of a total of 600 evaders had provisionally been determined to be subject. As the Supreme Court maintains its judgement that the reasons for conscientious objectors to refuse military service do not conform to 'justifiable grounds' under the Military Service Act, conscientious objectors are also subject to the disclosure system as evaders of military service.³⁰
- Legal recognition and alternative service The State Party reaffirmed its existing position that it will review the matter of introducing alternative services for conscientious objectors when there is positive change in the security situation on the Korean Peninsula and social consensus regarding the issue is formed.³¹

In November 2017, the Republic of Korea came under further pressure on this issue in the Human Rights Council's Universal Periodic Review process (see Section 1.1.3.4, below).

²⁸ Human Rights Committee, Information received from Republic of Korea on follow-up to the Concluding Observations, CCPR/C/KOR/CO/4/Add.1, Published the 30th July 2017.

²⁹ Ibid., para. 11.

³⁰ Ibid., para. 12.

³¹ Ibid., para 10.



1.1.3.2 Human Rights Council

1.1.3.2.1 Resolutions

Session 34th (February – March 2017)

Resolutions adopted during the 34th session include no references to conscientious objection.

In the Report of the Special Rapporteur on freedom of religion and belief, conscientious objection was identified as a common and recurring limitation on the manifestation of religious principles or concepts of belief.³²

At a side event on the situation of Human Rights in Turkey. Ugur Bilkay, a Kurdish conscientious objector who gained refugee status in Italy, spoke about the story of his conscientious objection and his travels seeking refugee recognition.

Session 35th (June 2017)

At this Session, the Office of the United Nations High Commissioner for Human Rights (OHCHR) presented its **quadrennial analytical report on conscientious objection**.³³

The report is submitted in accordance with Human Rights Council resolution 20/2,³⁴ in which the Council requested the Office of the United Nations High Commissioner for Human Rights to prepare, in consultation with all States, relevant United Nations agencies, programmes and funds, intergovernmental and non-governmental organizations and national human rights institutions, a quadrennial analytical report on conscientious objection to military service, in particular on new developments, best practices and remaining challenges.

The OHCHR received contributions from 18 non-governmental organizations,³⁵ including a copy of EBCOs 2016 Annual Report.

Evidence was also submitted by nineteen States, including Council of Europe members Albania, Azerbaijan, France, Germany, Greece, Hungary, Ireland, Slovenia, Spain, Switzerland, The former Yugoslav Republic of Macedonia and Ukraine.

The OHCHR report outlines the international legal framework, with particular attention paid to developments since 2013 (sect. II), as well as State law and practice, both in terms of best practices (sect. III) and remaining challenges (sect. IV). Lastly, the report contains conclusions and recommendations concerning laws, policies and practices relating to conscientious objection to military service (sect. V).

During the presentation of thematic reports, the Deputy High Commissioner for Human Rights, Ms. Kate Gilmore, stated:

“While there is a growing body of jurisprudence and recommendations from Treaty Bodies, Special Procedures, the Universal Periodic Review and regional human rights

³² Human Rights Council, Report of the Special Rapporteur on freedom of religion and belief, A/HRC/34/50, Published the 17th January 2017, para.42.

³³ Human Rights Council, Conscientious objection to military service, Analytical report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/35/4, published the 1st May 2017.

³⁴ Human Rights Council, Conscientious objection to military service, A/HRC/RES/20/2, para. 2.

³⁵ All of them are available at www.ohchr.org/EN/Issues/RuleOfLaw/Pages/ConscientiousObjection.aspx



courts on this issue, some States do not implement them. Equally regrettably, some States do not recognize or fully implement the right to conscientious objection to military service in practice. To them, I wish to echo the call of the outstanding former Chairperson of the Human Rights Committee, the late honourable Sir Nigel Rodley, who stressed that "the right to refuse to kill must be accepted completely".

During the presentation of the regular periodic update on **Ukraine**, the High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, drew attention to the fact that that *under the Fourth Geneva Convention, an occupying power may not compel persons from the occupied territory to serve in its armed forces*,³⁶ and emphasised his recommendation to the Russian Federation that it end the practice of compelling Crimean residents to serve in the armed forces of the Russian Federation.³⁷

Session 36th (September 2017)

During this session, the Council adopted without a vote the **Resolution on Conscientious objection to military service**,³⁸ proposed by Croatia, Costa Rica and Poland, and co-sponsored by 28 other States, including the following Council of Europe members: Austria, Belgium, Bosnia and Herzegovina, France, Georgia, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Montenegro, Poland, Romania, Serbia, Slovakia, Slovenia, Spain, Switzerland, the former Yugoslav Republic of Macedonia, and the United Kingdom.

The full text of the resolution as adopted is:

"The Human Rights Council,

Bearing in mind that everyone is entitled to all the rights and freedoms set forth in the Universal Declaration of Human Rights without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Reaffirming that it is recognized in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights that everyone has the right to life, liberty and security of person, as well as the right to freedom of thought, conscience and religion and the right not to be discriminated against,

Recalling all previous relevant resolutions and decisions, including Human Rights Council resolutions 20/2 of 5 July 2012 and 24/17 of 27 September 2013 and Commission on Human Rights resolutions 1998/77 of 22 April 1998 and 2004/35 of 19 April 2004, in which the Commission recognized the right of everyone to have conscientious objection to military service as a legitimate exercise of the right to freedom of thought, conscience and religion, as laid down in article 18 of the Universal Declaration of Human Rights, article 18 of the International Covenant on Civil and Political Rights and Human Rights Committee general comment No. 22 (1993) on the right to freedom of thought, conscience and religion,

³⁶ Interactive Dialogue on the regular periodic update on Ukraine, Statement by the High Commissioner to the 35th session of the Human Rights Council, 21 June 2017.

³⁷ Office of the United Nations High Commissioner for Human Rights, Report on the human rights situation in Ukraine (16 February to 15 May 2017), para. 188 letter d).

³⁸ Human Rights Council, Conscientious objection to military service, Resolution A/HRC/RES/36/18, The 3rd October 2017.



1. *Takes note* of the analytical report on conscientious objection to military service presented by the Office of the United Nations High Commissioner for Human Rights to the Human Rights Council at its thirty-fifth session,¹ pursuant to resolution 20/2;
2. *Requests* the Office of the High Commissioner to prepare, in consultation with all States and the relevant intergovernmental organizations, United Nations agencies, funds and programmes, special procedures, treaty bodies, national human rights institutions and non-governmental organizations, a report on different approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, and to present the report to the Human Rights Council at its forty-first session;
3. *Decides* to continue consideration of this matter under the same agenda item in accordance with its annual programme of work.”

The proposed study in two year time, with its emphasis on a concrete implementation issue, namely application procedures, is a very positive development, and EBCO hopes to contribute substantially.

In conjunction with the Council’s consideration of the resolution, **IFOR held a side event** on 21st September entitled “The right to conscientious objection to military service. Testimonials and future perspectives” at which there were presentations by:

- Ms. Atalya Ben-abba, a recently-imprisoned conscientious objector from Israel;
- Ms. Vera Pisareva, an activist of the Russian association *Citizen, Army, Law*;
- Mr. Murat Kanatli, veteran conscientious objector from the Northern part of Cyprus and EBCO Board Member.

1.1.3.2.2 *The monitoring of the situation of human rights in Eritrea*

For the fifth year running, the resolution in the Human Rights Council on **Eritrea**³⁹ included a reference to conscientious objection.

The Human Rights Council expresses *grave* concern at the widespread use of indefinite conscription into national/military service, a system that constitutes forced labour, including in a wide range of economic activities, and the reported forced conscription of children into military service, and regretting that the fear and experience of a lengthy national service causes large numbers of Eritreans to leave the country.⁴⁰

Therefore, the resolution called on Eritrea *to put an end to the system of indefinite national service by demobilizing national service conscripts who have completed their mandatory 18 months of service, as announced by the Government of Eritrea, and by effectively ending the practice of engaging them in forced labour after such a period, to provide for conscientious objection to military service, and to end the compulsory practice of all children undertaking the final year of schooling in a military training camp.*⁴¹

Moreover, in that resolution, the Council extended the mandate of the Special Rapporteur for one year and requested that she follow up on the implementation of the

³⁹ Human Rights Council, Situation of human rights in Eritrea, Resolution A/HRC/RES/35/35, the 6th July 2017.

⁴⁰ Ibid., preamble.

⁴¹ Ibid., par. 8, letter c).



recommendations of the commission of inquiry on human rights in Eritrea contained in its second and last report dated 9 May 2016.⁴²

In her report of June 2017,⁴³ the Special Rapporteur stated that the military/national service continued to be arbitrary, extended and involuntary in nature, amounting to enslavement, in line with the findings of the commission of inquiry.⁴⁴

The Special Rapporteur received reports that the Government had increased the stipends paid to national service conscripts, but she is not in a position to verify the information.⁴⁵

Therefore, the Special Rapporteur asked the State Party to indicate the steps it has taken to:

- Discontinue indefinite military/national service by limiting it to 18 months for all current and future conscripts, as stipulated by the 1995 Proclamation of National Service;⁴⁶
- Put an immediate end to torture and ill-treatment, sexual violence and the enslavement of conscripts;⁴⁷
- Cease the practice of using conscripts, detainees, members of “the People’s Army” and army reserves as forced labour.⁴⁸

1.1.3.2.3 The monitoring of the situation of human rights in the Syrian Arab Republic

In August 2011, the Human Rights Council established an independent international Commission of Inquiry (COI) with a mandate to investigate all alleged violations of international human rights law since March 2011 in the **Syrian Arab Republic**.⁴⁹

From an early stage,⁵⁰ the COI reported the killing of military personnel who refused to execute orders to fire at civilians. Moreover number of conscripts were allegedly killed by security forces because after orders to aim directly at residential areas they chose to fire in the air to avoid civilian casualties.

Before the conflict began, the compulsory service length was 22-24 months, and prospective conscripts would present themselves to local conscription offices to collect their military service papers on reaching the age of 18.

In 2013 the COI reported that the official conscription systems was disintegrating, at the same time that the Government’s need for military personnel had become ever more urgent.

⁴² Human Rights Council, Report of the commission of inquiry on human rights in Eritrea, Resolution A/HRC/32/47, the 9th May 2016.

⁴³ Human Rights Council, Report of the Special Rapporteur on the situation of human rights in Eritrea, Resolution A/HRC/35/39, 24th July 2017

⁴⁴ Ibid., para. 14.

⁴⁵ Ibid., para. 16.

⁴⁶ Ibid., para. 62, letter d).

⁴⁷ Ibid., para. 62, letter e).

⁴⁸ Ibid., para. 62, letter f).

⁴⁹ Human Rights Council, Resolution S-17.1, August 2011, seventeenth special Session.

⁵⁰ Human Rights Council, Report of the of the independent international commission of inquiry on the Syrian Arab Republic, A/HRC/S-17/2/Add.1, 23rd November 2011, p. 11.



As a consequence, with many young men evading official conscription systems, the Government started enlisting young men arrested at checkpoints or during attacks on civilian areas.⁵¹

In February 2017, in its report on the situation of Aleppo city, the COI pointed out that when pro-Government forces recaptured eastern Aleppo city in December 2016, hundreds of men and boys as young as 16 years were separated from their families and forcibly conscripted by the Syrian army.⁵²

For example, residents of al-Firdous district (Aleppo city) insisted that fear inhibited civilians from leaving by way of “humanitarian corridors”, as armed group fighters were “everywhere in the streets”. Forcible conscription was easy.⁵³

Reports of forced conscription continued to emerge; the single largest incident taking place on 11th December 2016 when a group of approximately 200 men aged between 19 and 25 were forcibly recruited after crossing with their families into western Aleppo.⁵⁴

In May 2017, a de-escalation agreement was reached at talks in Astana, Kazakhstan, and It has led to a discernible reduction in hostilities and civilian casualties, even if a lack of effective enforcement mechanisms and an absence of a wider agreement on priorities within the larger political framework among parties render this progress tenuous.

In effect, as stated in its latest report of August 2017, the COI has found that the reconciliation process allowed government forces to categorize populations on the basis of allegiance, by filtering fighting-age males, generally aged 18 to 45 years, into two categories: armed group members and wanted individuals who cannot stay in the locality and risk detention if they do, and those who agree to pledge loyalty to the Government.⁵⁵

The latter group are permitted to stay but are forcibly conscripted into either local units under the umbrella of the National Defence Forces or into a paramilitary force, or sent to front lines as part of the Syrian army after a six-month training period. In Barza, some fighting-age males were reportedly conscripted into a local unit called the “Nation’s Castle” within 15 days.⁵⁶

Also, different armed groups, both pro- and anti- government - have perpetrated the war crime of enlisting and using children below the age of 15 to participate actively in hostilities.

Indeed, the COI continued to receive numerous allegations of children being recruited, placed in training camps and, in some cases, sent into action.

In its latest report, the COI quoted as an example the story of a one 14-year-old boy who joined the Syrian Democratic Forces in Tal Abyad, Ar-Raqqah, without the consent of his parents. He had approached a Syrian Democratic Forces recruitment centre in Tal Abyad voluntarily, was accepted by authorities of the Forces, and was killed in combat in early June in the Ar-Raqqah countryside. Representatives of the Syrian Democratic Forces communicated the news of the boy’s death to his family, but did not allow them to bury him, instead burying him in a cemetery for “martyrs”. Numerous accounts of Daesh

⁵¹ Human Rights Council, Report of the independent international commission of inquiry on the Syrian Arab Republic, A/HRC/22/59, 5th February 2013, p. 83.

⁵² Human Rights Council, Report of the independent international commission of inquiry on the Syrian Arab Republic, A/HRC/34/64, 2nd February 2017, summary.

⁵³ Ibid. A/HRC/34/64, para. 66.

⁵⁴ Ibid. A/HRC/34/64, para. 90.

⁵⁵ Human Rights Council, Report of the independent international commission of inquiry on the Syrian Arab Republic, A/HRC/36/55, 8th August 2017, para 21.

⁵⁶ Ibidem.



(Islamic State) militants recruiting, training and using children in Ar-Raqqah also continue to be received.⁵⁷

Also in its latest resolution on the human rights situation in the Syrian Arab Republic, the Human Rights Council expressed *deep concern that children suffer as a consequence of attacks against civilians, lack of access to education and their recruitment for use as child soldiers*.⁵⁸

1.1.3.3 Universal Periodic Review

26th UPR Session (31 October – 11 November 2016)

The 26th Session completed the second cycle of the UPR eleven States were reviewed (Togo, Syrian Arab Republic, Venezuela, Iceland, Zimbabwe, Lithuania, Uganda, Timor-Leste, Moldova, Haiti, South Sudan).

In the working group report on the **Syrian Arab Republic**,⁵⁹ the recruitment of children by armed forces and groups has been the main concern of five recommendations.⁶⁰ Some of them put the stress on the fact that child soldiers have to be treated as victims and not as criminals.

The Syrian Arab Republic stated that these recommendations were in course of being implemented.

This same issue was raised also during the UPR review of **South Sudan**.

South Sudan received a total of 233 recommendations, 25 of which related to the recruitment of children.⁶¹ In particular, recommendations asked South Sudan to:

- Stop and prevent the use of children as soldiers;
- Work for the social reintegration and demobilisation of child soldiers; and
- Ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC OPAC).

The 12 recommendations which addressed only about recruitment, social reintegration and the ratification of CRC OPAC were accepted by South Sudan or were considered to be under implementation or being implemented.⁶²

⁵⁷ Ibid., A/HRC/36/55, para. 51.

⁵⁸ Human Rights Council, A/HRC/36/20, published the 9th October 2017, para. 53.

⁵⁹ Human Rights Council, Report of the Working Group on the Universal Periodic Review - Syrian Arab Republic, A/HRC/34/5, Published the 27th December 2016.

⁶⁰ Chile (para. 109.183), Mexico (para. 109.184), Portugal (para. 109.185), Singapore (para. 109.186) and Luxembourg (para. 109.187).

⁶¹ Human Rights Council, Report of the Working Group on the Universal Periodic Review - South Sudan, A/HRC/34/13, Published the 28th December 2016. Recommendations of: Madagascar (para. 126.38), Slovenia (para. 126.49), Slovakia (para. 126.50), Ukraine (para. 126.51), Djibouti (para. 126.52), Germany (para. 126.53), Senegal (para. 126.54), Slovakia (para. 126.55), Republic of Korea (para. 127.22), Holy See (para. 127.23), Luxembourg (para. 127.24), Croatia (para. 127.25), Czechia (para. 128.15), Serbia (para. 128.16), Albania (para. 128.17), Uruguay (para. 128.44), Argentina (para. 128.52), Costa Rica (para. 128.53), Australia (para. 128.54), Denmark (para. 128.55), France (para. 128.56), Maldives (para. 128.57), Portugal (para. 128.58), Chile (para. 128.59) and Mexico (para. 128.60).



Ten other recommendations enjoyed the State's support, subject to the availability of the necessary technical assistance and resources to allow full implementation.⁶³

The remaining three recommendations were rejected because South Sudan considered them *in conflict with the national laws, government structures, policies or customs*.⁶⁴

They are as follows:

- Recommendation 128.44 Put an end to all violations of international humanitarian law and human rights committed in the context of the armed conflict and, in particular, take all necessary measures to immediately stop the abduction of children to make them child soldiers, unlawful killings, sexual violence, attacks against civilians, lootings and the destruction of property (Uruguay);
- Recommendation 128.53 Stop the recruitment of child soldiers into both the armed forces and militias (Costa Rica);
- Recommendation 128.54 Immediately cease recruiting child soldiers and ensure their rehabilitation (Australia).

In particular, South Sudan stated as follows:

- Recommendation 128.44: Protection of civilians currently living in the United Nations Mission in South Sudan (UNMISS) Protection of Civilian Sites (PoCs) is the responsibility of United Nations and therefore any security breaches taking place within the PoCs cannot be attributed to South Sudan security personnel because our security personnel cannot have access to the PoCs.
- Recommendations 128.53 and 128.54: South Sudan has commitment to protect children and that is why South Sudan acceded without reservation to the International Convention on the Rights of the Child, 1989 and the Optional Protocol particularly the Optional Protocol on Involvement of Children in Armed Conflict. The SPLA Act, 2008 prohibits recruitment and use of child soldiers. Also the South Sudan Child Act, 2008 prohibits recruitment of any person into the army under the age of 18 years. In line with the national laws, South Sudan signed a Re-Committeemen Action Plan which resulted in identification, demobilisation and reunification of children associated with various militia groups which accepted peace.

In clearer language, it would seem that the rejections were because South Sudan disputed the facts implied in the relevant recommendations.

27th UPR session (May 2017)

After a pause of six months the Third Cycle of the UPR got under way at the 27th session, with the review of 14 States (Bahrain, Ecuador, Tunisia, Morocco, Indonesia, Finland, United Kingdom, India, Brazil, Philippines, Algeria, Poland, Netherlands and South Africa).

Only **Finland** received, from Uruguay, a recommendation about the conscientious objection issue, namely that it *release prisoners detained as conscientious objectors to military*

⁶² Human Rights Council, Report of the Working Group on the Universal Periodic Review, South Sudan, A/HRC/34/13/Add.1, Published the 8th March 2017. Recommendations on paras.: 126.38, from 126.49 to 126.55 and from 127.22 to 127.25.

⁶³ This category includes recommendations: 128.15, 128.16, 128.17, 128.52 and from 128.55 to 128.60.

⁶⁴ Ibid., A/HRC/34/13/Add.1, para. 5 letter (c).



*service and ensure that civilian alternatives to military service are not punitive or discriminatory and remain under civilian control.*⁶⁵

Finland noted this recommendation and stated that *the aim in preparing legislation is to ensure that various service alternatives are as equal as possible. Non-military service authorities will continue to develop the system in cooperation with various authorities.*⁶⁶

28th session (06 - 17 November 2017)

During the 28th session, 14 States had been under review (Czechia, Argentina, Gabon, Ghana, Peru, Guatemala, Switzerland, Republic of Korea, Benin, Pakistan, Zambia, Japan, Ukraine and Sri Lanka).

In relation to the review of the **Republic of Korea**, a dozen countries stated their concerns about the topic and addressed recommendations on the following issues:

- To change the regime which criminalizes the exercise of the right to CO to obligatory military service (Argentina, Germany)
- To recognise conscientious objection to military service and introduce an alternative non-punitive service, with a genuine civil character and of a comparable length (Australia, Canada, Croatia, France, Germany, Mexico; Portugal, Switzerland, USA).
- To release individuals imprisoned or detained solely on the basis of their conscientious objection to military service (Costa Rica, Croatia, Panama).

1.1.3.4 General Assembly

EBCO welcomes the decision of "the Conference to Negotiate a Legally Binding Instrument to Prohibit Nuclear Weapons, Leading Towards Their Total Elimination" which had been set up by the General Assembly two years earlier, to adopt a Treaty on the Prohibition of Nuclear Weapons, and the subsequently, award to ICAN – the International Campaign to Abolish Nuclear Weapons – of the 2017 Nobel Peace Prize.

1.2 DEVELOPMENTS WITHIN COUNCIL OF EUROPE AND CENTRAL ASIAN STATES

Croatia

The Ministry of Defence announced in January 2017 that it was considering reintroducing compulsory military service. which was "suspended" in 2008 A pilot project of conscription in the form of a 4-weeks "security and self-defence training" might take place in 2018 With this "new" conscription, the Ministry of Defence is planning to reach around 30.000 young people each year from 2019 on. As reported by the activists, the government hasn't specified a budget for this plan yet, however willing to introduce this training programme.

⁶⁵ Human Rights Council, Report of the Working Group on the Universal Periodic Review, Finland, A/HRC/36/8, Published the 14th July 2017, para. 100.84.

⁶⁶ Human Rights Council, Report of the Working Group on the Universal Periodic Review, Finland, Addendum, A/HRC/36/8/Add.1, para. 64 (Advance version).



Further details will be clarified in the new “national security strategy” of the government, which is expected to be ready by May 2017.

In response, the Centre for Peace Studies (CMS) in Zagreb launched a nation-wide campaign calling on the Government to withdraw their proposal. Gordan Bosanac from CMS said “we are afraid that activation of compulsory military service in Croatia can have domino effect to the region and will increase militarisation of Balkans.” He reported that according to the current public surveys 54% of the Croatian public is in favour of re-introduction of compulsory military service, while 44% are against it (with 2% undecided). However, unsurprisingly, 51% of youth is against the idea. He said that CMS will continue to campaign to convince more young people to oppose the reintroduction of conscription and to pressurise the government to give up the plans.

Cyprus

Within the part of the island under Government control, we understand that perhaps as many as eight conscientious objectors on non-religious grounds may now have been admitted to alternative civilian service, although this information is not available publicly and only two individual cases are known to EBCO member, the Initiative for Conscientious Objection in Cyprus.

Information on the possibility of making applications is still not widely available; there is a widespread misapprehension that civilian service is available only to Jehovah’s Witnesses; potential applicants have had to draw the authorities’ attention to the exact wording of the 2015 “Law on National Guard” - the first reaction is to offer non-religious objectors only unarmed military service.

Applicants must first pass through a medical examination. If exempted as unfit for military service, they are not obliged to perform civilian service, and indeed have no option to do so. Then they come before the “Special Committee” which is tasked with making a recommendation on the application to the Minister of Defence. This Committee is comprised of two university professors (of philosophy, social or political science, or psychology), a representative of the Law Office of the Republic, and two senior military officers, one from the conscription department, and one from the health department. Their recommendation is not binding on the Minister, but if he rejects it he must justify his decision in writing.

Placements are decided by the authorities. They are within the public services sector, including public utilities, social care and environmental protection. The *total* remuneration is the same as that for military service, but as civilian service is of 19 months, as against 14 months military service, the monthly stipend of €105 is correspondingly lower.

Three military reservists who had developed conscientious objections are currently performing an alternative civilian reserve service. Between ten and twenty others are believed to be currently considering applications.

In the self-styled “**Turkish Republic of North Cyprus**”, on 23rd October 2017 the Petitions Committee delivered its report to the Parliament on the application submitted in 2014 by Murat Kanatli on behalf of the Initiative for Conscientious Objection in Cyprus.

According to the report:

“Regarding the recognition of the right to conscientious objection, the committee has assessed the situation in accordance with the information given by the petitioner and the Security Forces Command. The petitioner attended the Committee meeting and gave information about the practices in other countries concerning conscientious objection.



(...)

The Committee also considered the international law, the Universal Declaration of Human Rights, and the European Convention on Human Rights when making its assessment. The Committee has identified that according to the decisions of the European Court of Human Rights, persons that do not want to perform compulsory military service because of their anti-war beliefs are protected under Article 9 of the European Convention on Human Rights.

The Committee also considered whether Article 74 of the Constitution is an absolute obstacle to the recognition of the right to conscientious objection. In this context, the Constitutional Court has taken decision No. 2/2013 on the matter of conscientious objection. The Constitutional Court ruled that it is possible to create legislation on this as proposed by the Committee of Ministers of the Council of Europe and the European Court of Human Rights by a decision of the Parliament (Legislative Body). In this context, it can be seen that an arrangement can be made taking into account Article 74 of the Constitution.

In light of the information given above, the committee has reached the conclusion that it is a sensitive and important issue due to its connection with the fundamental rights and freedoms guaranteed by the Constitution and that it should be discussed in detail and with all its aspects in a thorough way, together with experts, on the basis of human rights. The committee, understanding the importance of this issue, has decided to recommend to the Prime Ministry to initiate the evaluation and related initiatives in this framework with sensitivity in the light of all the above.”⁶⁷

Meanwhile four cases of objectors to reservist service continue to go through the legal system – those of Murat Kanatli with regard to the years 2010 and 2011 (the case with regard to 2009 now being the subject of an application to the European Court of Human Rights), Hilmi Hami (now sadly deceased), Haluk Selam Tufani and Halil Karapasaoglu. The first three had already been forwarded to the Constitutional Court, and at his hearing on 21st November Halil Karapasaoglu applied that his case be treated likewise.

One encouraging development is that a number of participants in a demonstration in favour of a law recognising conscientious objection were arrested and charged, but the cases against them were subsequently dropped.

Finland

Each year, a number of total objectors, who refuse to perform either military or alternative service, face criminal prosecution and a period either of imprisonment or of house arrest subject to the wearing of an electronic tag. We understand that in 2017 two applications were lodged with the European Court of Human Rights, specifically claiming discrimination, in that unlike other total objectors Jehovah's Witnesses are under no obligation to perform military service and face no punishment.

An initiative by the Minister of Defence in 2017 proposed a revision of civilian service, to link it more specifically to civil defence and national security issues, even though two surveys in the last ten years had found no need for such a change. It was also proposed that military reservists who develop conscientious objections would be obliged to perform five days civilian service. And the extension of military service to women is again under discussion.

⁶⁷ The full Turkish text can be accessed at 5 Ekim 2017 kararların ikinci kısmı.docx



Georgia

After supposedly abolishing compulsory military service in June 2016 (see Section 2.1), Georgia reinstated it with effect from February 2017.

The new military service is of the same length (12 months), as before but conscripts have days off at the weekend and are now paid the equivalent of \$21 per month, as compared to \$3 previously.⁶⁸

Georgia has for many years had legislation making alternative service available to conscientious objectors, but no details have been traced from recent years of the arrangements or of the number of applications.

However in 2017 a political party named *Girchi* (pine cone), succeeded, after several attempts, in registering the Christian Evangelical Protestant Biblical Freedom Church of Georgia with the Ministry of Justice as a religious organisation, giving it the authority to appoint clergy, who as in most countries are exempt from compulsory military service.⁶⁹ But the overt aim is that such appointments will be used to enable young men to avoid military service. The organisation is at pains to stress that it vets those whom it supports: "He cannot be a fascist nor homophobe or xenophobic. He is obliged to spread the idea of freedom in society,".⁷⁰ They are in fact proposing an effective procedure for recognising conscientious objectors, with the bonus that those who are accepted will be entirely exempted, with no alternative service obligation.

Greece

In October 2017, representatives of the Greek Association of Conscientious Objectors and Amnesty International held a meeting with the Deputy Minister of Defence, Dimitrios Vitsas, and emerged from the meeting enthusiastic that things will change. In particular the Deputy Minister told them that a Draft Law on Military Service with new provisions is to be published for consultation before the end of the year. On the other hand, nothing has changed since representatives of EBCO met with Mr Vitsas following the General Assembly in Athens in November 2016. We are confident that Mr Vitsas, a veteran member of the majority Syriza party, but his hands are to some extent tied by the mechanics of the coalition with a right-wing nationalist and militarist party with which Syriza governs.

In the meeting last year, the Minister assured EBCO that he had issued instructions that the €6,000 "administrative fine" for failure to report for military service should not be charged more than once to the same person. However sources on the ground report that repeated fines continue to be imposed.

On 1st June, 2017, yet another veteran conscientious objector from the days before there was any recognition, was tried in the Military Court of Thessaloniki for his historic "insubordination" since 1990! Panagiotis Makris was one of the pioneer non-religious conscientious objectors in Greece who commenced the struggle for recognition of the right to in the 1980's. His brother Thanassis, along with Mihalīs Maragkakis, had been the earliest conscientious objectors on ideological grounds to be imprisoned. Both had conducted hunger strikes, seeking not only their own release but also the right of everyone

⁶⁸ Agenda.ge news online, "Compulsory military service reintroduced in Georgian Armed Forces", 14th February 2017, Tbilisi, Georgia.

⁶⁹ War Resisters' International, "Georgia: Political party helps men avoid military service", www.wri-irg.org, 7th October 2017.

⁷⁰ BBC News, Political party helps Georgians dodge the draft, www.bbc.com, 23 April 2017



to exercise conscientious objection to military service. In 1998, when alternative civilian service was first introduced, Panagiotis Makris' application was rejected on technical grounds. Liability for military service currently ends at the age of 45, but prosecutions for non-performance can take place for several more years. However, (see EBCO Report 2016) under Article 12, paragraph 8 of Law 4361/2016, all cases relating to periods before 1998, when the first alternative service provisions became available, should have been archived. Makris' trial was in direct contravention of this provision, hence the case against him was dropped, but it should never have been brought.

Earlier, to mark the 30th anniversary of Mihalis Maragkakis' declaration of his refusal to enlist, the Association of Greek Conscientious Objectors (AGCO), called upon new conscientious objectors due to appear before the Conscience Examination Committee to boycott the proceedings. On 12th December 2016, three conscientious objectors responded. When they reported to the Ministry of National Defence they asked to enter together into the room in order to make a joint declaration and collectively present their protest. The President of the Committee, Mr. Theodoros Raptis, member of the State's Legal Council, refused to discuss this request. The objectors were subsequently summoned individually. The first to appear submitted an official stamped document of the Association of Greek Conscientious Objectors with the Call to boycott the Conscience Examination Committee and declared that responding to it he refused to be examined by this problematic committee. The other two, stating that they, too, were responding to the AGCO's call, also submitted their own "Common declaration of conscientious objection and refusal of examination by the Conscience Examination Committee". When he in turn refused to be examined, the Committee refused to accept any oral statement by the third objector but attempted to justify his stance.

It is stressed that although the cases of the 3 conscientious objectors are each one at a different stage, this was not the first time to report to the Committee for none of the 3 of them.

The Association of Greek Conscientious Objectors subsequently released a statement in which it denounced:

"The attempt to isolate and separate the 3 conscientious objectors as an attempt to break their spirit and to negate the collective character of their protest.

The fact that the president of the Conscience Examination Committee, member of the State's Legal Council, stated that nothing of what was said during the successive protest of the 3 conscientious objectors will not be written in the records, although it was obvious that a member of the Committee was keeping records of anything that was said.

The fact that the president of the Conscience Examination Committee tried to prevent some of the conscientious objectors to explain the reasons of their stance or to read their personal declaration.

The fact that the 3rd objector was falsely told that his common declaration with the 2nd one, had been already read before the Committee by that one.

The direct threat of the president to press charges against one of the conscientious objectors when he denounced that in a previous examination of him, after which he had been rejected, the records had been manipulated.

But also the hostile behaviour of the president in general, not only during this, but also during other sessions as well. It is indicative how easily the president throws accusations against the objectors who are examined and their supporters for [allegedly] "committing criminal offences", like in the previous session when he deemed as a criminal offence the certificate submitted by an objector, that he had worked as a volunteer in a cultural center,



because it was not clear in it that the center had been closed down since then. As a result he “kicked out” the examinee, who was later called once again to report to the committee without any explanation about why he has suffered this military-style harassment of being put out twice.

We will not tolerate any manipulation of the records about what was said during the protest of the 3 conscientious objectors. We will not tolerate any arbitrary rejection of the 3 conscientious objectors because of their completely lawful protest. We remind that according to the legislation⁷¹ they didn't even have to report to the Committee, and even if they hadn't report, their applications should have been examined. Nevertheless, these conscientious objectors reported and, to the extent that they were permitted, they explained, orally and in writing, the reasons why they refuse to answer to the Committee's questions. Their stance had been completely lawful, on the contrary what is illegal according to international law is this Conscience Examination Committee.

As it has been analyzed in detailed and documented in the call for boycott, the current procedure of examination, the particular Conscience Examination Committee and the fact that the final decision is taken by the (Deputy) Minister of National Defence, violate all international human rights standards and have been condemned by all the international and domestic institutional human rights bodies.

We call for the 3 conscientious objectors to be recognized as such.”

The campaign for conscientious objection to military expenditure has also been active in Greece. Total objectors staged an occupation of tax offices in a protest against poverty. An event was mounted for the Global Day of Action against Military Spending, and a press release issued on the basis of the annual “SIPRI” report on military expenditure.

Italy

Movimento Nonviolento, an Ebco member, is leading a campaign aiming to create a nonviolent and unarmed Department for civil defence hinge at national government level.

The Department will be a defence instrument, alternative to the military, that does not involve the use of weapons and violence.

In particular, it will have, among others, the following tasks:

1. to defend the Italian Constitution, affirming the civil and social rights set forth therein,
2. to conduct research on peace, disarmament, and to undertake studies aimed at the gradual replacement of armed defence by the nonviolent and unarmed defence.
3. to promote armed conflict prevention, reconciliation, mediation, human rights, international solidarity, inter-religious dialogue and peace education.

In 2015, this campaign, named “Another defence is possible”, collected more than 53,000 signatures that are necessary to lodging the popular initiative draft law on nonviolent and unarmed Department to the parliament.

Currently, the parliamentary process is started and the low Chamber are discussing about this draft law.

⁷¹ Available at www.ebco-beoc.org/node/419#_edn1



Kazakhstan

In 2017, at least six criminal cases or investigations has been launched against Jehovah's Witness young men for refusing compulsory military service.

The six were being investigated under Criminal Code Article 387, Part 1. This punishes "refusing military service" with – for a first offence - a fine of up to 1,000 Monthly Financial Indicators, or corrective labour to the same value, or up to one year of restricted freedom or imprisonment.

Military conscription offices had refused to accept the certificates that each of the six had from the Jehovah's Witness Administrative Centre in Almaty confirming that they were religious ministers.

Kazakhstan provides no alternative to military service on grounds of conscience. However, Military Conscription Offices have accepted the certificates issued to the young men designating them as "religious ministers".⁷²

Police investigators closed the criminal cases against five of the six "for absence of a crime". That of **Abylai Kopzhasarov** was closed on 8 May, **Tlek Zhumagazinov** in Oskemen on 30 July, **Stanislav Stompel** in Almaty on 31 August, **Adilzhan Iskakov** in Semei on 3 September, and **Dmitry Vedyakin** in Oskemen on 19 September.

The Military Conscription Office in Tekeli, Almaty Region, does not appear to have sent the case of the sixth young Jehovah's Witness conscientious objector **Kaken Dostayev** to the police.⁷³

Russian Federation

On 17 July 2017, the Russian Supreme Court upheld its previous decision (of 20th April 2017) to liquidate as extremist the Jehovah's Witness Administrative Centre and 395 Jehovah's Witness grass-root organisations. Moreover, the decision banned their activity and confiscated their property.

The 2002 Federal Law on Combating Extremist Activity⁷⁴ and associated articles of the Criminal and Administrative Codes are regularly used against religious communities and individuals for beliefs and practices which do not violate the human rights of others.

In its last Concluding Observations on the Russian Federation,⁷⁵ the Human Rights Committee repeated its concerns expressed in 2009 that *the vague and open-ended definition of "extremist activity" in the ["Extremism" Law] does not require any element of violence or hatred to be present and that no clear and precise criteria on how materials may be classified as extremist are provided in the law*⁷⁶ and that numerous reports indicate that *the law is increasingly used to curtail freedom of expression, including political dissent, and freedom of religion*.⁷⁷ Therefore, the Committee reiterated its recommendations that Russian Federation *should revise without undue delay the Federal Law on Combating*

⁷² Forum 18, Felix Corley, "KAZAKHSTAN: Criminal cases, and no alternative service", www.forum18.org, 22 September 2017.

⁷³ Forum 18, Felix Corley, "KAZAKHSTAN: Six more arrests for sharing faith" www.forum18.org, 17 November 2017.

⁷⁴ Federal Law No. 114-FZ of 25 July 2002 "On combating extremist activity" (as amended on 27 July 2006, 10 May and 24 July 2007 and 29 April 2008).

⁷⁵ Human Rights Committee, Concluding observations on the seventh periodic report of the Russian Federation, CCPR/C/RUS/CO/7, published 28th April 2015.

⁷⁶ Ibid., para. 20.

⁷⁷ Ibid.



*Extremist Activity [...] ensuring that the definition requires an element of violence or hatred and establishing clear and precise criteria on how materials may be classified as extremist.*⁷⁸

A serious obstacle to citizens applying to the alternative civil service was created in result of the recognizing Jehovah's Witnesses as an extremist organization in Russia.

Before the ban, Jehovah's Witnesses had no problems with the replacement of military service with alternative civil service. About 60-70% of applications for the alternative civil service in Russia were from Jehovah's Witnesses.

Now draft commissions started to refuse applications by the reason that applicants are members of the organization which is extremist and prohibited on the territory of Russia. A considerable number of Jehovah's Witnesses now choose prison for refusal of military service rather than disown their beliefs.

This practice is totally unlawful, because according to the Russian Constitution and the Federal Law on Alternative Civilian Service, military service should be replaced with an alternative civil service in case if a citizen has beliefs or convictions that are inconsistent with performing military service. Membership of a particular religious organisation should not invalidate this.

Spain

As this report goes to press, the situation in Catalunya remains undecided. EBCO cannot of course take a position on an issue which must be for nationals to decide. But we must applaud the affirmation of those calling for an independent Catalunya that it would be completely demilitarised. Likewise, an independent Scotland would probably declare itself non-nuclear and withdraw from NATO.

In both cases, one suspects that this is the consideration which has caused the national governments to resist secession so strongly.

Sweden

With effect from 1st January 2018, a new system of military service is to be introduced, applying to both men and women.

A response to the heightened level of tension in the Baltic region, this was announced as a reintroduction of conscription, but this description is misleading. Although part of an unwelcome trend, it is clear from the small numbers sought that the new service will be effectively voluntary, at least in the first instance.

The threat however remains that if the perceived security situation subsequently deteriorates the number of recruits sought might increase to the extent that the new military service might become compulsory.

Switzerland

On 19th November 2017 the Federal Council announced a package of proposals explicitly designed to make civilian service – already discriminatory in both length and remuneration as compared with military service – even less attractive and to discourage applications.

⁷⁸ Ibidem.



The official justification was that this was necessary to ensure adequate numbers of recruits for the army, but the Civilian Service Council, CIVIVA, an EBCO member, points out that the figures do not support this; they see the move as motivated by right-wing hostility to conscientious objection and “alternative” service. The number of men performing civilian service increased from 4,670 in 2011 to 6,169 in 2016, but this compares with 17,600 military conscripts annually. The number applying to perform civilian service is between 10% and 15% of the annual pool of potential recruits, over 50% are judged “unfit” and admitted neither to military nor to civilian service (but are required to pay the notorious Military Substitution tax, 3% of their annual income up to the age of 35).

Under the proposals, the length of civilian service would be increased to a single period of at least 13 months, and those performing the service would be housed in barrack-like conditions at the location of their placement. Unlike those performing military service, they would have no guarantee of returning to their previous employment position at the end of this period.

The principle that one might declare a conscientious objection at any time is also to be undermined. The sponsors of the proposals are particularly agitated that 40% of those who perform civilian service have applied only after commencing military service. Such applications would henceforth be subject to a 12-month waiting period. The existing practice of giving credit for time already served in the military would be abolished; the full duration of civilian service.

The Department of the Economy, which is currently responsible for civilian service (although another regressive proposal is that the administration of the scheme will be passed to the Ministry of Defence), has been charged with preparing a draft law, which will come before the National Assembly in the Autumn of 2018. If this is accepted by the Assembly, CIVIVA intends to collect enough signatures to require the changes to be confirmed by referendum before they can come into force. If nevertheless the new system comes into effect, it is probable that it will be challenged in individual cases before the European Court of Human Rights.

EBCO will closely and critically observe the new legislative proposals, especially to monitor that they do not include some of the very alarming suggestions which have been made.

Eight years ago, Switzerland abolished the Committee which examined claims of conscientious objection, replacing it by a “trial by ordeal” system – if you were prepared to serve a 50% greater term, your objection must be genuine! Now there is talk of reinstating the Committee, but not of equalising the lengths of military and civilian service!

It is also being suggested that system whereby the “*civiliste*” found his placement, and presented it to the authorities for approval, will be replaced by one of allocation to placements.

A very sinister suggestion is that those performing civilian service should be required to wear a distinctive armband!

An extension of the system to women is also being mooted.

Tajikistan

Eighteen-year-old Jehovah's Witness conscientious objector to military service **Daniil Islamov** was on 13 October 2017 sentenced to six months of imprisonment.⁷⁹

⁷⁹ Forum 18, Felix Corley, “TAJIKISTAN: One more prisoner of conscience”, www.forum18.org, 20 October 2017.



Judge Alisher Rafikozda, Chair of Qurghonteppa Military Court in the southern Khatlon Region, sentenced him under Criminal Code Article 376, Part 1 ("Evasion by an enlisted serviceman of fulfilment of military service obligations by way of inflicting on oneself injury (self-mutilation) or evasion by simulation of sickness or by other deception).

Islamov was forcibly conscripted in April 2017, despite health problems preventing him doing military service even if he wanted to do it, and has since April been detained in a military unit.

Jehovah's Witnesses have been banned in Tajikistan since 2007, military comments at the time suggesting that the ban might possibly be linked to this pacifist community's conscientious objection to compulsory military service.

Turkey

Turkey has always been of particular concern to EBCO as the one state within the Council of Europe area which has never in law or practice so much as acknowledged the existence of conscientious objection to military service, let alone implemented the right.

Like many other groups in society, conscientious objectors have suffered in the climate of repression since the failed military coup attempt of July 2016. Some have left the country, others live in constant fear of arbitrary arrest.

As well as Jehovah's Witnesses, a number of persons from other religious backgrounds, or none, continue to refuse on principle to perform military service. In the current climate it is impossible to monitor the situation all over the country, and the fact that there are no provisions makes it hard to separate those who refuse on principle from those who evade military service for other reasons. However about a dozen objectors each year contact EBCO's Istanbul-based affiliate for advice.

Currently, objectors are not being imprisoned for refusing military service, instead in the first instance they face fines. There is a suspicion that this change was brought in so that the Council of Europe might get the impression that the situation had ameliorated. However such cases are not closed with a single fine; as long as the refusal persists further fines may be imposed and ultimately imprisonment remains a possibility in law. Objectors continue to appeal, and some petitions have gone to the constitutional court, seeking to establish that the jurisprudence of the European Court of human rights takes priority over domestic interpretations of the law, but so far no courts have found for conscientious objectors.

Although not as a direct result of their refusal of military service, some conscientious objectors are among those who have been arrested on spurious charges of anti-government activity; those who have monitored human rights violations in the Kurdish areas of the country are at particular risk.

On 22nd June 2017, the Turkish government issued a new decree law under the ongoing state of emergency, which allows the immediate conscription of those who were found to be members of, or in relation to, terrorist organisations.

Adding an article to the Military Service law, the decree law numbered 691 says "those who are members or have a relation to terrorist organisations or organisations that participate in actions against the state's national security [...] will be taken under arms [sent to perform military service]."

Some claim that the new law is targeting those state personnel who were previously dismissed from their positions, such as policeman, by previous state of emergency decree



laws. Whereas others emphasise that the vague wording of the law puts any political dissident who hasn't performed his military service yet at risk of forced recruitment.

According to Hulya Ucpinar, human rights lawyer from Turkey and an Executive Committee member of War Resisters' International, military conscription is being used under the new decree law as a tool of intimidation against political dissidents.

Ucpinar says those who were released after arrest under the previous state of emergency decree laws might be the first ones to suffer, but she adds that it is clear that the law targets all political dissidents. The Government might well increase surveillance targeting of conscientious objectors and other draft evaders.

Davut Erkan, lawyer and a member of Conscientious Objection Association (Turkey), observes that in the context of the arbitrary operations of the Government against political dissidents during the state of emergency, any political dissidents can arbitrarily be linked to a terrorist organisation without any proper judicial process, and so face the risk of forced conscription. Declared conscientious objectors who were part of the Kurdish or leftist movements might thus well be affected by this law. The Government might arbitrarily link them to an organisation deemed "terrorist" and subject them to forced recruitment.

The Ministry of Defence has yet to announce the detailed implementing regulations, so the practical effect of the decree remains to be seen. Even so, it might be observed that such measures are clearly of a symbolic political rather than operational military nature. What benefit could the Turkish state hope to achieve if it were to arm real terrorist sympathisers as members of its armed forces? The United Kingdom was careful never to extend conscription to any part of Ireland, where the loyalty of many recruits might be suspect; likewise Israel has never extended its conscription to the fifth of its population classified as "Arab Israelis".

Turkey has never implemented the judgements of the European Court of Human Rights in what the Committee of Ministers has named the "Ulke group" of cases concerning conscientious objectors.

At times the Turkish authorities have assured the Committee of Ministers that one or other of the objectors is no longer facing arrest, but this is far from an acceptance and implementation of the judgements. Moreover, events as recently as November 2017 have indicated that such assurances are political, with no legal significance, and are valid only until the political situation changes.

On 21st November, **Osman ("Ossi") Murat Ulke**, whose case had in 2006 been the very first in which the EctHR had found for a conscientious objector (and had hence given its name to the group of cases) was summoned by the local prosecutor of Bilecik to Izmir police station and ordered to make a statement.

Here is the text of the statement he made:

"I would infer that my being summoned is to testify in the investigation Nr. 2017/2776 by the Prosecutors' Office of Bilecik. I presume the file is based on charges of "desertion" from 1999.

A look in this file and the trials which preceded it should make it clear for any third party that the matter at hand cannot be described as a series of unrelated desertions or insubordination. Nine files of subordination; two files of desertion and two files of alienating the public from military service, all of these cases stem from one single decision of my conscientious objection to military service, by which I still stand. As such, all the investigations and trials have to be seen as parts of one and the same process.



The real starting point of this process can be traced back to 1990, when I first discovered conscientious objection and then in 1992, the date of the first investigation targeted at me for alienating the public from the military on account of an article published by me. In other words, I was summoned today due to a process which lasted 25 to 27 years so far, occupying my whole adult life.

I don't deem it necessary to elaborate once more right now on my reasons to become a conscientious objector. The aforementioned files are filled with my statements over the years.

Instead I'd like to point out how the current situation demonstrates that the government has failed to respect the European Court of Human Rights (ECHR) ruling in the *Ulke v Turkey* case. Moreover, that this investigation is even active and that I'm summoned to make a statement not only contradicts all assurances by the government to enact individual and general measures to settle or at least alleviate the situation, it's an open violation of the very same ruling.

The documents I brought with me clearly show how the government repeatedly assured the Committee of Ministers of the Council of Europe that it is about to implement individual and general measures. In one of these the Minister of Foreign Affairs rightfully underlines in reference to my case that according to Art. 90 of the Constitution the rulings by ECHR supersede national law.

Yet we witness that despite the passing of eleven years none of the general or individual measures have been implemented and the government does not only stall the process by keeping this investigation alive, but even openly violates the verdict.

Three years ago, I applied to the Constitutional Court regarding the unresolved ECHR verdict. I only received news that my application has been processed and a file has been opened. At this point my demand from the Prosecutors' Office in Bilecik is that the investigation is dropped. As for the Constitutional Court, it has to end this unsustainable situation. Obviously, the Executive not only delayed the implementation of the general and individual measures, but never really intended to fulfil them at all.

My only intention with this statement is to shed some light on the current state of affairs. My lawyer will file our legal demands in proper detail and address the Prosecutors' Office of Bilecik and other relevant institutions."

EBCO is following these developments with concern, and proposes to write to the Committee of Ministers of the Council of Europe concerning Turkey's continued disregard of the judgment in this case of the European Court of Human Rights.

Also ominous was that on 1st December 2017 police raided the Istanbul home of **Zeynep Duygu Ağbayır**, the first woman to have made a public declaration of conscientious objection in Turkey, in an event organised by EBCO member VR-DER in Istanbul's Galatasaray Square on 18 May 2013. Ağbayır, a member of "Anti-Capitalist Muslims", was not home at the time, but she went to the police department later, accompanied by her lawyer, in order to make a statement. She was immediately taken into custody

Ağbayır was taken into custody and moved to Ağrı where the investigation against her had been launched. She was interrogated at the prosecutor's office, referred to court and then imprisoned. Details of the charges against her have not been made public.



It is known that Ağbayır had organized aid campaigns for children during two years of her service as a contract teacher in Ağrı.⁸⁰

Turkmenistan

Article 58 of the 2016 Constitution describes defence as a "sacred duty" of everyone and states that military service is compulsory for men.

Military service is compulsory for men between the ages of 18 and 27 and its duration is two years. Its refusal comports a penalty up to two years of imprisonment or corrective labour.

The 2016 Religion Law stated in Article 7 that: "No one has the right on grounds of their religious convictions to refuse to fulfil obligations established by the Constitution and laws of Turkmenistan". This appears to be a reference to compulsory military service.⁸¹

Also in 2016, at least seven conscientious objectors have been convicted and sentenced for refusing to perform compulsory military service on religious grounds (Jehovah's Witnesses).

Five received two-year suspended sentences and the sixth an 18-month suspended sentence. The seventh received a one-year corrective labour sentence, where he lives at home under restrictions and a fifth of his wages are seized.

No conscientious objectors to military service are known currently to be imprisoned. The last known imprisoned conscientious objector, **Ruslan Narkuliyev**, was freed under amnesty in February 2015.⁸²

Ukraine

The 2016 report gave the good news of the release in July of journalist **Ruslan Kotsaba** on appeal after 16 months imprisonment for a video he had uploaded on You Tube in which he criticised the war in the east of the country, and crucially called for opposition to conscription. Sadly, on 1st June 2017 the Supreme Court ("the High Specialised Court of Ukraine for Civil and Criminal Cases) annulled the Appeal Court verdict on the grounds that the code of criminal procedure had not been followed, particularly because the Appeal Court had not conducted a full reinspection of the evidence presented by the public prosecutor. As of November, it was expected that the case would shortly reopened by the court in Ivano-Frankivsk very shortly and that Kotsaba would be taken back into detention.⁸³

United Kingdom

This is an old story, but War Resisters International reshared it early in 2017, and it deserves retelling, showing that even civilians can be conscientious objectors to war:

"In the first days of January 2003, the Royal Navy's flagship aircraft carrier – HMS Ark Royal – docked alongside a naval jetty in Loch Long in the west of Scotland. The deep sea

⁸⁰ Available at www.anfenglish.com/women/first-female-conscientious-objector-in-turkey-imprisoned-23497.

⁸¹ Forum 18, Felix Corley, "TURKMENISTAN: Religious freedom survey", www.forum18.org, 6 January 2017.

⁸² Forum 18, Felix Corley, "TURKMENISTAN: Seven conscientious objectors sentenced in 2016", www.forum18.org, 3 October 2016.

⁸³ Connection e V, available at www.connection-eV.org



lochs that intersect the mountains of the southern Highlands offer some of the most dramatic scenery in the country and, just over an hour from Glasgow, have long been popular with visitors. Beneath the surface, however, it is one of the most heavily militarised parts of western Europe, dotted with training areas, munition testing facilities and the naval base which houses the UK's fleet of nuclear-armed submarines.

A few miles north of the naval base, the Glen Douglas munitions facility is found, a secretive network of hillside bunkers capable of holding 40,000 cubic metres of ammunition. The remote base is served by both a railway line and the jetty at which the aircraft carrier docked, where it was due to stock up on supplies ahead of sailing to the Gulf. Two months before MPs would get the chance to vote on the invasion of Iraq, military preparations were well underway.

As Britain prepares for the impact from the long-delayed Chilcot report, many will remember the protests that took place to avert war taking place. The most famous brought two million people to the streets of London and many more elsewhere. Their failure in stopping the conflict means they've since become the go-to example for anyone looking to prove why protest "doesn't work". But what if the drive to war could quite literally be stopped in its tracks?

For a group of freight train drivers working a remote railway line in Scotland, this was more than a hypothetical point of discussion. Drivers of the West Highland Line refused orders to shift military materials, setting the stage for an unlikely stand-off. Until now, it has largely been forgotten.

The Ministry of Defence contracted freight firm EWS, which was privatised in the mid-90s, to take supplied to the Highlands munitions base by rail. But when the order came through to the EWS depot in Motherwell, the drivers were having none of it. Fully aware that provisions were being made for a war that was still to be sanctioned by the UN (and ultimately never was), and with the tacit backing of rail union ASLEF, the drivers refused to shift the materials.

Their wildcat action proved successful, with panicking rail managers forced to cancel the consignment and transport the munitions by road instead. The uniqueness of the line – a narrow single-track railway that weaves through the western Highlands, and which further north features the Glenfinnan Viaduct of *Harry Potter* fame – meant that only a small number of drivers were trained to drive freight along it. When all of those came on board with the munitions boycott, and another dozen drivers at the depot threatened anti-war action, the game was up. No munitions would be making their way on board Ark Royal, at least by rail.

Far from passing into history or legend, the story has rarely been mentioned since – lost in the build-up to the massive marches that happened a month later. Even at the time, little fuss was made over it, although Labour MP John McDonnell – now shadow chancellor, sponsored a parliamentary motion applauding the "courageous and principled action" by the drivers. Among the 24 other signatories was now Leader of the Opposition Jeremy Corbyn. "This House... believes that the right to conscientious objection extends to all British citizens who refuse to participate or contribute to this threatened war," the short statement concludes.

Those "conscientious objectors" directly involved with the action have shied away from publicity, with the driver who led it declining to be interviewed for this article. "He's been a union member all his life, but not an activist as such, but he decided to take a stand at the time," explains Hugh Bradley, the Motherwell depot's ASLEF branch secretary during the dispute and a member of the union's executive, recalling that it was a primarily a "personal" motivation. "The guys did take a stand and refused to work and they never got



disciplined. But that would have been on the back of the trade union, because management knew that if they'd taken disciplinary action, it would have been all-out war."

In the early 1970s, just a few miles from Motherwell, the employees at a Rolls Royce plant in East Kilbride refused to carry out repairs on warplanes belonging to the Chilean air force. They opted to leave the engines rusting outside the factory rather than return them to Pinochet's right-wing dictatorship which had recently seized power. Their act of solidarity is fondly remembered in both Scotland and Chile to this day.

But generally, this kind of action is rare in the UK partly because it is, in effect, unlawful. "Such action is political action which has no immunity under Britain's employment law," explains Gregor Gall, editor of the *Scottish Left Review* and professor of industrial relations at the University of Bradford. "In other words, it is not part of a trade dispute with the employer, and thus workers are liable to be sacked."

The particular circumstances of the drivers' boycott – involving a small number of specialised workers in a strong union – were enough to protect them, but they were still putting their jobs on the line to resist the "USA's seemingly headlong rush into war", as their union branch motion put it. When the *Guardian* was leaked the story by an ASLEF official, rail managers and military officials denied that the drivers had been making a political stand, insisting a technical fault had caused the job to be cancelled.

"Once a declaration [of war] takes place, the focus for effective action must turn to direct action to halt, impede and disrupt the operation of the mechanics of war," Professor Gall told VICE. "Transportation of combatants and equipment is an obvious strategic point to focus upon, as would be disabling aircraft. But hitting transportation means that civilians can do so without fear of criminal charges, because doing so is only a civil breach of their employment contracts."

The war would begin in late March, setting the anti-war movement off on an ever-dwindling series of marches over the best part of a decade, as chaos in Iraq extended across the region. The release of the Chilcot report into the Iraq War will sparked an onslaught of hand-wringing about why the war proved so disastrous, and what could possibly have been done to avoid it. It could be the case that a small group of reluctant militants at a Motherwell rail depot had more foresight than they've ever been given credit for.⁸⁴

Quote ends. It might however be added that another action which might have impeded the "war effort" was sadly withdrawn.

At the time of the invasion of Iraq, the fire brigade unions were on strike, meaning that fire prevention was passed over to the army. However the moment the invasion was declared they called off their action in order to support the war effort... But that is another story.

⁸⁴ War Resisters' International, CO Update No.93, January – April 2017



2 OVERVIEW OF NATIONAL PROVISIONS

2.1 CONSCRIPTION

In 2012, EBCO's Annual Report optimistically bid farewell to conscription. In the previous twelve months the final conscript had been demobilised in Serbia and in Germany, bringing to 25 the number of states within the Council of Europe area which had suspended or abolished conscription since 1963. None had re-imposed it, and there seemed good reason to suppose that even in those countries where it was formally suspended the habit of relying on a well-trained and equipped professional army would persist.

Sadly, since then things have gone backward. In 2012, Ukraine announced the end of military conscription. As our colleagues in country observed at the time, conscription itself was however not abolished; young men were instead drafted into the troops of the interior ministry, used for internal repression. Then, in the context of the conflict in the east of the country, in the spring of 2014 military conscription was reintroduced and the Government announced a general mobilisation. In March 2015, also in response to a perceived threat from Russia, Lithuania, which had suspended conscription in 2009, followed suit; initially with a temporary scheme which was however in 2016 extended indefinitely.

In July 2016, Georgia's Minister of Defence Ms Tinatin Khidasheli, announced the abolition of compulsory military service. As previously in Ukraine, it transpired that this applied only to military conscription by the Ministry of Defence. Two other Ministries – the Ministry of Internal Affairs and the Ministry of Corrections continued to conscript, and it is reported that they in fact called up 75% of all those eligible.⁸⁵ Moreover, even for the military, the decision was reversed even more quickly than in Ukraine. One of the first announcements by Khidasheli's successor as Minister of Defence was that compulsory military service would be restored, and the first new conscripts were called up in February 2017.

Outside our region, a new Military Service Law in Kuwait specifies that all male citizens who turn 18 on or after 10th May 2018 must register for military service within 60 days. Kuwait had abolished obligatory military service in 2001.

Developments in Sweden, and Croatia, reported in the previous Section, although disturbing, should not, at least at present, be considered a reintroduction of *conscription*. The numbers sought, at least in the first instance, under the Swedish plans are so small that probably enough volunteers can be found to perform this short period of military training. Reports from Croatia are confused, but it is clear that the proposal is controversial, and may not obtain the support of Parliament. Indeed it is by no means clear that even the Lithuanian scheme involves compulsory recruitment. The Military Balance describes the "conscript liability" as "9 months, voluntary".⁸⁶ Whether the new service is compulsory or voluntary, however, Lithuania has seen the most dramatic proportional increase in the size of its armed forces in the past year of all the countries studied, from 10.250 to 17.030.⁸⁷

However, a possible return of conscription is being mooted elsewhere. The Bulgarian Ministry of Defence in 2016 created a register of persons aged between 18 and 32 in order to facilitate the call-up for military training should war or national emergency end the current suspension of conscription. New French President Emmanuel Macron promised

⁸⁵ Agenda.ge news online, "Georgia's Defence Ministry abolishes compulsory conscription", 27th June 2016, Tbilisi, Georgia.

⁸⁶ International Institute for Strategic Studies, London, "The Military Balance 2017, p. 133.

⁸⁷ Ibid, compared with 2016 edition.



during his election campaign to reinstate conscription, for both men and women, although he apparently had in mind only a one month period of basic military training. This is however disturbing taken in conjunction with reports which have reached EBCO that in the revision of the Military Service Law early in 2017 the clauses which formerly government procedures for the recognition of conscientious objectors were deleted. Were a form of conscription to be reintroduced, it is thus no longer axiomatic that it would be accompanied by arrangements for conscientious objectors.

The following table shows the progress which had been made before the recent reverses. 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. Otherwise, in 1960, there was conscription in every country of what is now the Council of Europe area. The date on which the last conscript was demobilised in each country is as follows:

Tab. 2. Years of abolition of conscription in states within the Council of Europe area

Country	Year (ascending order)
UK	1963
Luxembourg	June 1969
Belgium	February 1995
Netherlands	1996
France	2001
Spain	December 2001
Slovenia	September 2003
Czechia ⁸⁸	December 2004
Italy	December 2004
Portugal	December 2004
Slovakia	2004
Hungary	July 2005
Bosnia-Herzegovina	December 2005
Montenegro	July 2006
Romania	December 2006
Bulgaria	2007
Latvia	2007
Macedonia (former Yugoslav Republic of)	2007
Croatia	January 2008
Lithuania	2009

⁸⁸ The Czech Republic changed the conventional short form of its name to Czechia in 2016.



Poland	October 2009
Albania	January 2010
Sweden	July 2010
Serbia	January 2011
Germany	July 2011
Ukraine	2012
Georgia	2016

Note: Conscription into obligatory military service was reinstated in Ukraine from May 2014, in Lithuania from March 2015 and in Georgia from February 2017.

In sixteen member states of the Council of Europe conscription is still enforced. They are Armenia, Austria, Azerbaijan, Cyprus, Denmark, Estonia, Finland, Georgia, Greece, Lithuania, Moldova, Norway, the Russian Federation, Switzerland, Turkey and Ukraine. To this list should be added Belarus, which although not a member lies within the Council of Europe area.

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), Transdniestria (Moldova), and the self-styled "Turkish Republic of Northern Cyprus" and "Peoples Republics" of Donetsk and Luhansk (Ukraine).

2.2 RECOGNITION OF CONSCIENTIOUS OBJECTION

With the solitary exception of Turkey (see Section 1.2 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 Transdniestria (see EBCO Report 2014) and some parts of Kurdish-administered Rojava in Syria.

Note also the encouraging news from Northern Cyprus in Section 1.2 of the present Report.



Tab. 3. First Recognition of Conscientious Objection to Military Service in States within the Council of Europe area⁸⁹

Year (ascending order)	Country	Provision
1916	United Kingdom	Military Service Act, 27 th Jan.
1917	Denmark	Alternative Service Act, 13 th Dec.
1920	Sweden	Alternative Service Schemes Act, 21 st May
1922	Netherlands	Constitutional amendment
1922	Norway	Civilian Conscript Workers Act, 24 th March
1931	Finland	Alternative Service Act, 4 th 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, 21 st December
1963	Luxembourg	Act of 23 rd July, Art. 8)
1964	Belgium	Act of 3 rd June
1972	Italy	Act No. 772/1972
1976	Portugal	Constitution, Article 41
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, 9 th Jan.
1992	Czechoslovakia	Civilian Service Act, No.18/1992 – now the Czechia and Slovakia
1992	Georgia	Military Service Act, Art. 12

⁸⁹ Even if Belarus is not in Council of Europe area, when available tables indicate Belarusian information.



Year (ascending order)	Country	Provision
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	Macedonia (FYR)	Defence Act, Art. 8
2003	Armenia	Alternative Service Act



2.3 OBLIGATORY MILITARY SERVICE AND ALTERNATIVE SERVICE

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

Tab. 4. 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
Denmark	4	4	1
Austria	6	9	1.5
Finland	5.5	11.5	2.09
Estonia	8	8	1
Switzerland	260 days	390 days	1.5
Greece	9	15	1.7
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
Russian Federation	12	18	1.5
Georgia	12	24	2
Azerbaijan	18	no alternative civilian service available	
Belarus	18	27	1.5
Cyprus	24	33	1.4
Armenia	24	36	1.5



2.4 CONSCRIPTS AND CONTRACT OR PROFESSIONAL SOLDIERS

Tab. 5. Number and percentage of conscripts⁹⁰

	Total strength of armed forces	Number of conscripts	As % (Ascending order)
Cyprus ⁹¹	12.000	10.700	89.2%
Switzerland	20.950	17.600	84.0%
Finland	22.200	13.650	61.5%
Estonia	6.400	3.200	50.0%
Moldova ⁹²	5.150	2.200	42.7%
Armenia	44.800	18.950	42.0%
Russian Federation ⁹³	831.000	303.230	38.0%
Norway	24.950	8.600	34.5%
Greece	142.950	48.550	33.9%
Georgia ⁹⁴	20.650	4.050	19.6%
Denmark	16.600	1.250 ⁹⁵	7.3%

Swiss figures reflect the number of conscripts serving at any given time. After the initial training period, military service in Switzerland is performed in anything up to seven three-week periods of duty spread over the following ten years. According to Swiss Government figures the 7,600 who began their initial period of military training on 31st October 2016 brought the number of new conscripts enlisted that year to approximately 22,000.

The same applies in **Denmark**, where most conscripts perform a mere four months of military training. The number given here may be multiplied by three, to allow for three call-ups per annum. Even so, the manpower requirements of the military forces are so small that by giving priority to those who volunteer Denmark rarely needs to resort to conscription as such, although the possibility remains.

An alternative way of measuring how militarised a society 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.

⁹⁰ Unless otherwise specified, all figures are the estimates for November 2015 as published by the International Institute for Strategic Studies in "The Military Balance 2016". This source does not give numbers of conscripts serving in the Austrian, Azerbaijani, Belarussian or Ukrainian armed forces.

⁹¹ Republic of Cyprus only. The number of conscripts currently serving in the North is not known.

⁹² Area under Government control only.

⁹³ Number of conscripts is the estimate by "Citizen, Army, Law" dated 2013. ("The Military Balance 2017" does not give conscript numbers from Russian Federation).

⁹⁴ Area under Government control only

⁹⁵ 2015 figure.

**Tab. 6 Armed Forces active strength compared with eligible age group.**⁹⁶

Country	Approximate annual cohort of males reaching 18	Total armed forces active strength	As % (Ascending order)
Greece	51.710	142.950	276.4% (conscripts 91.7%)
Armenia	19.526	44.800	229.4% (conscripts 97.1%)
Cyprus	7.718	15.500 ⁹⁷	200.8%
Russian Federation	654.833	831.000	126.9%
Estonia	5.539	6.400	115.5% (conscripts 57.8%)
Ukraine ⁹⁸	212.208	238.000 ⁹⁹	112.2%
Lithuania	15.982	17.030	106.6%
Belarus	47.850	48.000	100.3%
Azerbaijan	71.078	66.950	94.2%
Bulgaria	34.296	31.300	91.3%
Malta	2.407	1.950	81.0%
Slovenia	9.099	7.250	79.6%
Montenegro	2.580	1.950	75.6%
Norway	33.696	24.950	74.0% (conscripts 25.5%)
Finland	30.789	22.200	72.1% (conscripts 44.3%)
Serbia	40.006	28.150	70.3%
Georgia	29.568	20.650	69.8% (conscripts 13.7%)
Croatia	25.021	15.550	62.1%
Latvia	8.650	5.310	61.4%
Romania	116.640	70.500	60.4%
Italy	297.638	174.500	58.6%
Slovakia	28.319	15.850	56.0%

⁹⁶ Figures derived from those given by the International Institute for Strategic Studies in "The Military Balance 2017"

⁹⁷ Including the forces of the self-styled "Turkish Republic of North Cyprus", but not Turkish or other foreign forces.

⁹⁸ Government armed forces only

⁹⁹ Including approximately 20,000 and 14,000 members of the separatist forces of the self-styled Donetsk and Luhansk Peoples Republics, respectively.



Country	Approximate annual cohort of males reaching 18	Total armed forces active strength	As % (Ascending order)
Macedonia (FYR)	14.280	8.000	56.0%
Sweden	53.357	29.750	55.8%
Portugal	65.004	29.600	55.6%
Spain	233.102	123.200	52.9%
Turkey	674.310	355.200 ¹⁰⁰	52.7%
Hungary	53.325	26.500	49.7%
Poland	200.320	99.300	49.6%
France	414.383	202.950	49.0%
Switzerland	44.167	20.950	47.4% (conscripts 39.8%)
Austria	45.297	2.130	47.1%
Denmark	35.802	16.600	46.4%
Belgium	63.890	29.600	46.3%
Bosnia-Herzegovina	23.172	10.500	45.3%
Czechia	49.999	21.950	44.8%
Germany	403.615	176.800	43.8%
United Kingdom	373.694	152.350	40.8%
Netherlands	102.102	35.410	34.7%
Albania	26.743	8.000	29.9%
Ireland	30.702	9.100	29.6%
Luxembourg	3.492	900	25.8%
Moldova	21.060	5.350 ¹⁰¹	24.5% (conscripts 10.4%)

¹⁰⁰ Estimated following the aftermath of the military coup attempt in July 2016. This figure may not be very reliable.

¹⁰¹ Government armed forces only.



2.5 MILITARY EXPENDITURE

Yet another measure of militarisation is given by military expenditure figures. This table, drawn up on the same basis as that in the previous report, shows the level of military expenditure as reported by the Stockholm International Peace Research Institute (SIPRI) for 2016. The apparent changes from the figures in last year's report should be treated with caution; SIPRI's figures are given in US dollar which are here converted to Euros, so they partly reflect exchange rate fluctuations.¹⁰²

Tab. 7. Military expenditure in states within the Council of Europe area

Country ¹⁰³	Military Expenditure million € 2016	% change from 2015	€ per capita	As% of GDP
Albania	165	+10,8%	56,7	1,2%
Armenia	485	-3,6%	160,2	4,0%
Austria	3.215	+12,8%	375,5	0,7%
Azerbaijan	1.549	-54,4%	156,9	4,0%
Belarus	671	-17,5%	168,7	1,3%
Belgium	4.565	-2,5%	401,6	0,9%
Bosnia-Herzegovina	185	+1,4%	48,6	1,0%
Bulgaria	849	+14,4%	119,8	1,5%
Croatia	780	-8,1%	184,8	1,4%
Cyprus	396	-0,3%	336,8	1,8%
Czechia	2.197	+9,9%	208,4	1,0%
Denmark	3.948	+1,5%	694,0	1,2%
Estonia	564	+9,9%	431,3	2,1%
Finland	3.647	+9,0%	660,5	1,4%
France	62.635	+9,6%	968,9	2,3%
Georgia	354	-3,7%	37,3	2,2%
Germany	46.143	+4,2%	572,3	1,2%
Greece	5.588	-2,2%	512,0	2,6%
Hungary	1.409	+22,6%	143,6	1,0%
Ireland	1.123	+0,4%	238,2	0,3%
Italy	31.386	+17,2%	525,2	1,5%
Latvia	457	+42,3%	233,9	1,5%
Lithuania	715	+34,9%	250,9	1,5%
Luxembourg	331	-3,0%	573,9	0,5%
Macedonia, FYR	119	-1,4%	57,3	1,0%
Malta	65	+3,0%	154,1	0,6%
Moldova	33	+28,6%	8,2	0,4%
Montenegro	75	+3,6%	120,6	1,6%
Netherlands	10.396	+4,3%	612,5	1,2%

¹⁰² Figures in USD are converted in Euros using the 2016 yearly average exchange that is 1 USD/0,89 Euros (source: www.usforex.com and cambi.bancaditalia.it).

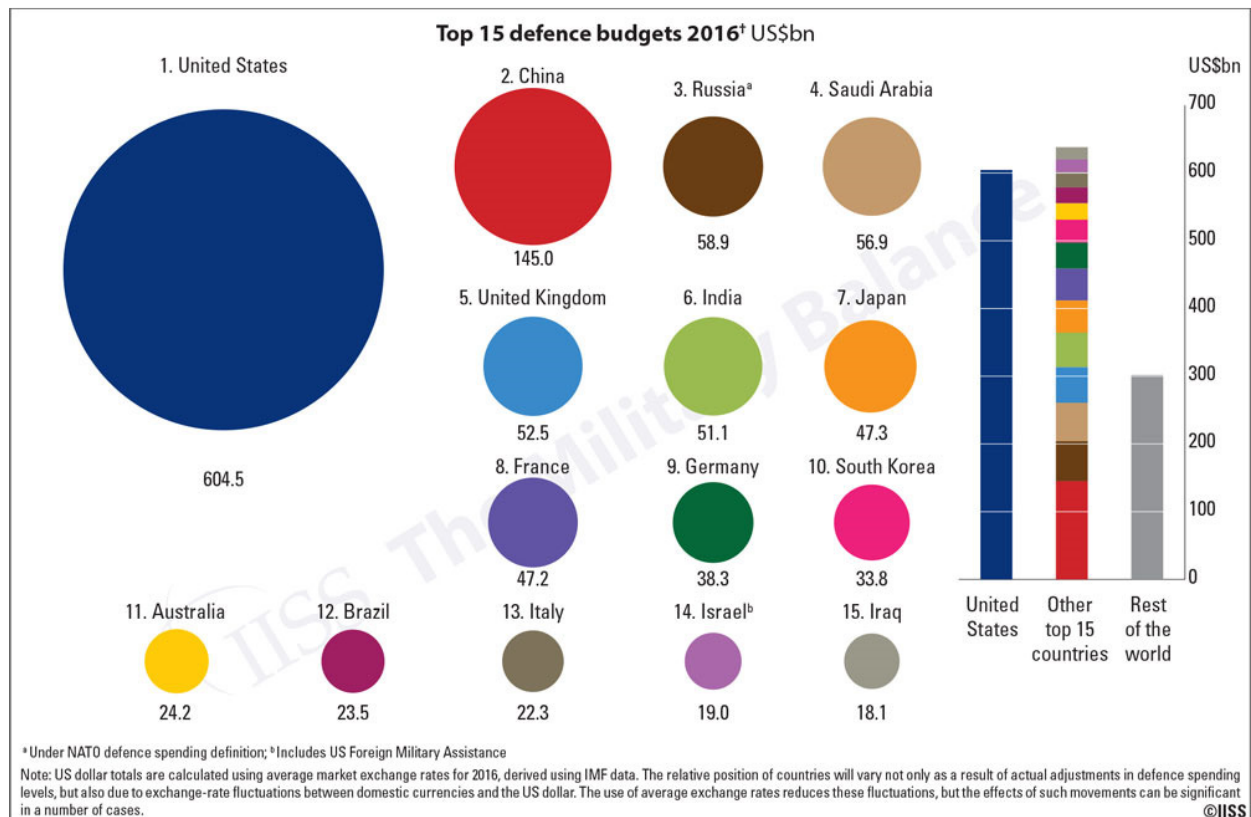
¹⁰³ SIPRI estimates: Georgia, Luxemburg, Macedonia and Serbia.



Country ¹⁰³	Military Expenditure million € 2016	% change from 2015	€ per capita	As% of GDP
Norway	6.739	+1,7%	1.278,7	1,6%
Poland	10.495	-10,7%	272,0	2,0%
Portugal	4.230	+2,2%	410,7	1,8%
Romania	3.107	+11,4%	160,5	1,5%
Russian Federation	77.804	+4,3%	542,8	5,3%
Serbia	798	-1,9%	90,6	1,9%
Slovak Rep.	1.163	+6,4%	214,4	1,1%
Slovenia	454	-0,7%	219,6	0,9%
Spain	16.734	+5,6%	363,5	1,2%
Sweden	5.977	-1,1%	607,0	1,0%
Switzerland	5.258	-1,9%	627,9	0,7%
United Kingdom	54.216	-13,0%	832,9	1,9%
Ukraine ¹⁰⁴	3.846	-5,5%	86,3	3,8%

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

Chart 1. Top 15 defence budget in 2016 (US dollar)¹⁰⁵



¹⁰⁴ Highly uncertain data.

¹⁰⁵ Source: IISS, "The Military Balance 2017".



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.

Tab. 8. 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". ¹⁰⁶
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)
Macedonia (FYR)	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 17 th birthday in military schools
Poland	18*
Portugal	18
Romania	18
Russian Federation	18 but from the age of 16 in military schools
Serbia	18

¹⁰⁶ It is believed that the general recruitment age may now have been raised to 20.



Country	Age
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

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 European armed forces who develop conscientious objections. Following the advisory opinion of the European Court of Justice delivered in February 2016 the asylum case of former US Servicemen André Shephard is still before the German Appeals Court.



3 CONSCIENTIOUS OBJECTORS AS REFUGEES

Asylum continues to be a growing issue for conscientious objectors and others fleeing to Europe to escape embroilment in the armed conflicts in Ukraine, Syria (see Section 1.1.3.2.3), and Turkey, forcible recruitment in Eritrea (see Section 1.1.3.2.2), and imprisonment in the Republic of Korea.

Algeria

Given what is known about the conscription system in Algeria, it is remarkable that there have been only rare reports of Algerian conscientious objectors trying to avoid military service.

Some decades ago, Jean van der Lierde assisted one to obtain asylum. Since then EBCO has received only intermittent communications about conscripts in Algeria.

However in 2017 EBCO has joined with Amnesty International and Connection e V. in supporting an Algerian conscientious objector who has now been admitted to the refugee recognition procedure in Germany.

Eritrea

The United Nations High Commissioner for Refugees estimates that in 2016, 69,600 Eritreans became refugees, something like 1.2% of the population, and flows into neighbouring countries have continued at a similar rate throughout 2017. Many hope to seek asylum in Europe, but the number who manage to arrive has been dramatically cut by the fierce policing of the EU's Mediterranean border. Many are stranded in neighbouring Ethiopia and Sudan, both repressive countries which are themselves major sources of refugees. Others have penetrated as far as the coasts of Libya or Egypt, where they live in deplorable conditions while they increasingly hopelessly seek an opportunity to make the sea crossing.

The largest single reason why Eritreans in such numbers choose to flee across the borders - despite the well-documented "shoot to kill" policy of the border guards - is fear of arbitrary forced recruitment into military service, which is officially obligatory for both men and women and in practice of indefinite duration. Conditions for women in the Eritrean armed forces are particularly abusive. Anyone who is returned having escaped Eritrea faces at the very least the prospect of military service, but also excessive cruel punishment.

A further punishment faced by Eritreans abroad is a 2% tax on their earnings, established on the basis of two Government Proclamations of dubious clarity or legality in the 1990's. Non payment of the tax can result in the withdrawal of consular services and punishment, including cruel, inhuman or degrading treatment, of family members still in Eritrea. The tax is collected by Eritrean Embassy officials in the countries concerned, as part of a system of surveillance and intimidation. There may be discrimination in the way it is levied; it may be waived for those who are seen as loyal supporters of the Government., with those regarded as loyal supporters.

A Dutch academic study¹⁰⁷ in 2017 found that the methods of collecting the tax in European countries could be tantamount to a violation of national sovereignty; the study

¹⁰⁷ Source: DSP-groep Amsterdam, Tilburg School of Humanities, Department of Culture Studies, "The 2% Tax for Eritreans in the diaspora: Facts figures and experiences in seven European countries.", 30th August, 2017.



was also influential in producing the recommendation to the Eritrean authorities on the subject in the European Parliament resolution of July 2017.

Russia

We hear that a blogger who has criticised Russia's military intervention in Ukraine has been granted asylum by the Ukrainian authorities.

Syria

Reports have come through of some conscientious objectors from Syria who have received asylum protection in Germany.

Zain Mohammed, a 23-year-old Sunni Syrian from Aleppo, fled to Germany to escape military service. "Young men in Syria have a big problem. Even if you are 40 years old, you can be taken away and asked to fight with the army," he says. "I did not want to work in the army because I did not want to use weapons and shoot someone who hadn't hurt me in any way." His explicit conscientious objection meant that the German authorities had little hesitation in awarding him refugee status.

Likewise, Zuhair Halaa, a 28-years-old dentist from Damascus, was recognised as a refugee almost as soon as he arrived in Germany in 2015. While he was studying, he had been legally entitled to postpone conscription. As the end of his studies approached, however, he had realised that with the deteriorating situation even if he enrolled in a Masters course he would not escape the danger of forced recruitment in the street.

Many other Syrians who fled to Germany, have not been so lucky, receiving only "subsidiary protection" - a temporary visa for up to three years that limited their ability to work and also did not let them fetch their families from Syria.

Several Syrian men whose asylum requests have been rejected in Germany have appealed against the decision in local courts. The latest appeal was made by a group of three Syrian men from the city of Homs. They travelled to Germany in late 2015 and applied for asylum. However, their applications were rejected on the grounds that the German Federal Office for Migration and Refugees did not see any evidence of possible political persecution if the men went back to their countries.

The court of Kassel, which decided the appeal, dismissed the reasons for rejection, saying that the current situation in Syria meant that the returnees would face arrest and torture upon their return to the country, especially since they were from rebel-held areas or areas formerly under the control of people opposed to President Bashar al-Assad. The judges also said that *conflict had intensified in the country and that in the eyes of the Syrian state, leaving the country without authorisation and applying for asylum in a western country would be seen as critical of the regime.*¹⁰⁸

Turkey

Although some have been accepted, Turkish asylum seekers who quote their conscientious objection to military service have generally had a difficult time. EBCO is not aware that any have been accepted in 2017.

¹⁰⁸ Available at www.dw.com/en/syrian-refugees-escaping-military-conscription-face-uncertain-fate-upon-return/a-39159953.



However as a result of the repression following the 2016 coup attempt, Turkish asylum seekers in general have had a favourable hearing. Far from being conscientious objectors, some of those who have benefited have been military personnel. Turkish officers attached to NATO units have been granted asylum in Germany and Belgium on the grounds that on return to Turkey they would be in danger of unjustified arrest and probable ill-treatment because of their (actual or alleged) Gulenist sympathies.

Very good news is that one of the asylum seekers to benefit from the more favourable climate is veteran conscientious objector **Halil Savda**, who on October 26th 2017 was granted asylum in Cyprus.

Savda was no longer at risk of persecution for his refusal of military service, regarding which he had successfully taken a case to the European Court of Human Rights¹⁰⁹. After that, he had been found by the Turkish Army to be "unfit for military service", and all outstanding charges against him had been withdrawn. Nevertheless he remained a prominent critic of militarism and in 2016 registered a further success at the European Court of Human Rights in the case of *Savda v Turkey (No. 2)* (see Section 1.1.1.1 of this report). Meanwhile he continued to publish articles critical of the government and of the militarist system.

On a visit to Cyprus in Summer 2017 he received news which led him to believe that on return to Turkey he would probably again be arrested and imprisoned on charges under Article 318 "alienating the people from the military". He therefore decided to apply for asylum. His application was lodged on 24th August and remarkably was accepted on 26th October. The finding that there was a severe risk of persecution and mistreatment were he to be returned to Turkey, and that he therefore qualified under Cyprus' Refugee Law and Article 1.2 of the 1951 Convention

It helped that his case had already received wide media coverage - nevertheless after the treatment of Onur Erdem - it was most encouraging that a Turkish antimilitarist should without question be granted asylum in Cyprus.

On the occasion of EBCO's General Assembly in Cyprus at the beginning of November, EBCO members held a private meeting with Savda at which he revealed that asylum applications from a number of recent Kurdish arrivals from Turkey were currently under consideration, and that earlier arrivals who had been waiting in some cases as long as six years were now having their asylum applications actively processed

This represents a welcome change in the Cypriot authorities' reaction to asylum seekers from Turkey. It will be remembered (EBCO Report 2013) that a previous Turkish conscientious objector who sought asylum in Cyprus, Onur Erden, not only had his application rejected, but was sent straight back to Istanbul, where he was immediately arrested as a deserter.

Sadly, Erden was in March 2017 again sentenced to 12 months in prison for his historic "desertion", a sentence which was reduced to 10 months by the court. An appeal to the Military Supreme Court is currently pending.¹¹⁰

¹⁰⁹ Case of Savda v. Turkey No. 42730/05, Decision of the 12nd of June 2012.

¹¹⁰ Bianet, 23rd March 2017



Ukraine

We have become aware of favourable decisions by Italian Courts since 2016 regarding appeals against the initial rejection by territorial commissions of applications for protection from three men who were avoiding military service in Ukraine.

All three would if returned to Ukraine not have had access to the very limited conscientious objection procedures and would thus face between two and five years of imprisonment under articles 408 and 409 of the Ukrainian Penal Code.

Two of the men have been granted asylum¹¹¹ and the third subsidiary protection,¹¹² on the basis that, as they would on return, with no access to the conscientious objection procedures, they would be subject to persecution.

The Perugia Civil Court based its decision on the finding that the applicant would have been forced to commit war crimes if returned to Ukraine. Quoting Amnesty International reports, the Court observed that the ongoing war in Ukraine is a civil war in which most of the victims are civilians.

¹¹¹ Civil Court of Bologna, Decision No. (classified) of the 14th October 2016, available at www.meltingpot.org/Diserta-la-chiamata-alle-armi-Status-di-rifugiato-all.html; Civil Court of Perugia, Decision No. (classified) of the 26th May 2017, available at www.meltingpot.org/Ucraina-Disobbedisce-alla-coscrizione-di-guerra-Status-di.html. , Project "Melting Pot Europa", www.meltingpot.org.

¹¹² Civil Court of Napoli, Decision No. (Classified) of June 2016. Available at www.meltingpot.org/Ucraina-Diritto-alla-protezione-sussidiaria-poiche-nel.html , Project "Melting Pot Europa", www.meltingpot.org.



4 NEW PUBLICATIONS

Two significant publications which have been mentioned in the relevant sections above are:

1) United Nations Human Rights Council, Conscientious objection to military service, Analytical report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/35/4, published 1st May 2017 (see Section 1.1.3.2.1)

This analytical report provides an excellent overview of the current state of law and practice relating to conscientious objection to military service worldwide.

And, regarding the specific case of Eritrea (see Section 3):

2) DSP-groep Amsterdam, Tilburg School of Humanities, Department of Culture Studies, "The 2% Tax for Eritreans in the diaspora: Facts figures and experiences in seven European countries."¹¹³

A further detailed account of the Eritrean situation which was published in 2017 is the 215 page book "the Eritrean National Service: servitude for "the common good" and the youth exodus. (James Currey, Woodbridge, UK)" written by Gaim Kibreab.

¹¹³ Available at www.dsp-groep.nl/wp-content/uploads/The-2-Tax-for-Eritreans-in-the-diaspora_30-august-1.pdf



5. 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 we will accompany it with a set of targeted recommendations.

Meanwhile we repeat our 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 and provide 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.

