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R E P O R T  
T O T H E C O U N C I L O F E U R O P E

The right to conscientious objection in  
the Council of Europe Member States

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18 July 2011



## SUMMARY

The European Court of Human Rights has recently explicitly recognised the right to conscientious objection to military service under the European Convention on Human Rights, and in particular under Article 9 (freedom of thought, conscience and religion). "The exercise of this right is, however, subject to rules and practices that differ greatly from country to country. Experience shows that, unfortunately, the rights of certain objectors are not recognised in law or in practice in their country, although the right to conscientious objection to military service is recognised in many states as a human right." (Council of Europe Directorate General of Human Rights and Legal Affairs).

In this report the European Bureau for Conscientious Objection submits evidence on the state of the human right to conscientious objection both in law and in practice in all the Member States of the Council of Europe. It also includes evidence from other sources on other relevant issues, like the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the compulsory recruitment age, the voluntary recruitment age and the military expenditure.

Among the 47 Council of Europe member states:

- 2, Albania and Georgia, have not yet signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and 2, Estonia and San Marino, have not yet ratified it.
- 5 can or do, in certain circumstances, take recruits aged under 18 into compulsory military service, or training: Austria (option to enrol for military service from the age of 17, with parental approval), Belgium (compulsory recruitment age is 17 in wartime), Estonia (17-year-olds could be liable for call-up), Russian Federation (compulsory recruitment age is 18 with basic military training at 15 or 16) and San Marino (compulsory recruitment age is 16 in time of war or emergency).
- 15 have a voluntary recruitment age under 18: Armenia, Austria, Azerbaijan, Cyprus, Estonia, France, Germany, Hungary, Ireland, Luxembourg, Moldova, Netherlands, Norway, Russian Federation and United Kingdom.
- 4 have no armed forces: Andorra, Iceland, Liechtenstein and Monaco.
- 28 have no conscription: Albania, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Macedonia, Malta, Montenegro, Netherlands, Poland, Portugal, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden and United Kingdom.
- 15 maintain conscription: Armenia, Austria, Azerbaijan, Cyprus, Denmark, Estonia, Finland, Georgia, Greece, Moldova, Norway, Russian Federation, Switzerland, Turkey and Ukraine. Among these 15 countries, 1 does not recognise the right to conscientious objection for conscripts: Turkey; 1 does recognise the right to conscientious objection for conscripts in its constitution but has no law: Azerbaijan; 11 have a law providing for a discriminatory and punitive civilian service: Armenia, Austria, Cyprus, Finland, Georgia, Greece, Moldova, Norway, Russian Federation, Switzerland and Ukraine; and 2 have a law providing for a non-discriminatory and non-punitive civilian service: Denmark and Estonia.



- 4 recognise the right to conscientious objection for professional soldiers: Germany, Netherlands, Switzerland and United Kingdom.
- 7 have in recent years sentenced conscientious objectors to imprisonment: Armenia, Azerbaijan, Finland, Greece, Norway, Turkey and United Kingdom.
- 3 prosecute conscientious objectors repeatedly for their continued refusal to serve in the army: Greece, Norway and Turkey.
- 2 do too little to prevent the ill-treatment of conscientious objectors in detention: Azerbaijan and Turkey.
- 1 has imprisoned persons for speaking in public in favour of the right of conscientious objection: Turkey.
- 5 have military expenditure larger than 3% of their GDP: Armenia, Azerbaijan, Georgia, Greece and Russian Federation.
- 1 levies military exemption taxes: Switzerland.
- Moreover, conscientious objectors who flee their country of origin because of the compulsory military service, or professional soldiers who have developed conscientious objection but cannot obtain release from the military have been refused political asylum in various European countries.

EBCO calls on all the Council of Europe member states to:

- Sign and ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.
- Stop the compulsory recruitment of persons aged under 18 (even in a state of emergency or mobilization or war).
- Stop the voluntary recruitment of persons aged under 18.
- Stop the military training of persons aged under 18.
- End conscription and meanwhile recognise the right to conscientious objection for conscripts, serving conscripts and reservists.\*
- Recognise the right to conscientious objection for professional soldiers.\*
- Stop punishing, prosecuting, imprisoning and ill-treating conscientious objectors (especially repeatedly for their continued refusal to serve in the army).
- Stop punishing, prosecuting, imprisoning and ill-treating persons who speak in public in favour of the right to conscientious objection or criticise the army.
- Give political asylum to persons who seek asylum because of their conscientious objection.
- Abolish military exemption taxes.
- Minimise military expenditure and recognise the right to conscientious objection to military taxes.\*

\*Recognise the right to conscientious objection both on religious and ideological grounds, without any religious or ideological exclusion / discrimination, providing adequate and timely information and without restrictions on accessing it.




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# 1. INTRODUCTION

The European Court of Human Rights has recently explicitly recognised the right to conscientious objection to military service under the European Convention on Human Rights, and in particular under Article 9 (freedom of thought, conscience and religion).<sup>1</sup> "The exercise of this right is, however, subject to rules and practices that differ greatly from country to country. Experience shows that, unfortunately, the rights of certain objectors are not recognised in law or in practice in their country, although the right to conscientious objection to military service is recognised in many states as a human right." (Council of Europe Directorate General of Human Rights and Legal Affairs).<sup>2</sup>

In this report the European Bureau for Conscientious Objection submits evidence on the state of the human right to conscientious objection both in law and in practice in all the Member States of the Council of Europe. It also includes evidence from other sources on other relevant issues, like the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the compulsory recruitment age, the voluntary recruitment age and the military expenditure.

The European Bureau for Conscientious Objection (EBCO) was founded in 1979 as an umbrella organisation for national associations of conscientious objectors, with the aim of promoting collective campaigns for the release of the imprisoned conscientious objectors and lobbying the European governments and institutions for the full recognition of the right to conscientious objection to military service.

EBCO promotes:

- the right to conscientious objection to preparations for, and participation in, war and any other type of military activity as a fundamental human right, on both a national and an international level, at the European Union, the Council of Europe, the United Nations and other international bodies,
- the right to asylum for conscientious objectors coming from countries that do not recognise or that insufficiently recognise their rights in countries having signed the European Convention on Human Rights,
- the signature and ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict,
- the end of conscription, social spending instead of military spending, peace, conflict prevention and conflict resolution, non-violence, antimilitarism, antidiscrimination, human rights and youth rights.

EBCO:

- is involved in drawing up the annual report of the Committee on Civil Liberties of the European Parliament on the application by the Member States of its resolutions on conscientious objection and civilian service, as determined in the "Bandrés Molet & Bindi Resolution" of 1994,
- provides expertise and legal opinions on behalf of the Directorate General of Human Rights and Legal Affairs of the Council of Europe,
- enjoys participatory status with the Council of Europe since 1998 and is a member of the Conference of International Non-Governmental Organisations of the Council of Europe since 2005,
- is a member of the European Youth Forum.



## 2. THE COUNCIL OF EUROPE ON CONSCIENTIOUS OBJECTION

### 2.1 PACE Resolution 337 (1967) on the right of conscientious objection <sup>3</sup>

(Adopted by the Parliamentary Assembly on 26 January 1967, 22<sup>nd</sup> Sitting)

The Assembly,

Having regard to Article 9 of the European Convention on Human Rights which binds member States to respect the individual's freedom of conscience and religion,

Declares:

#### A. Basic Principles

1. Persons liable to conscription for military service who, for reasons of conscience or profound conviction arising from religious, ethical, moral, humanitarian, philosophical or similar motives, refuse to perform armed service shall enjoy a personal right to be released from the obligation to perform such service.
2. This right shall be regarded as deriving logically from the fundamental rights of the individual in democratic Rule of Law States which are guaranteed in Article 9 of the European Convention on Human Rights.

#### B. Procedure

1. Persons liable for military service should be informed, when notified of their call-up or prospective call-up, of the rights they are entitled to exercise.
2. Where the decision regarding the recognition of the right of conscientious objection is taken in the first instance by an administrative authority, the decision-taking body shall be entirely separate from the military authorities and its composition shall guarantee maximum independence and impartiality.
3. Where the decision regarding the recognition of the right of conscientious objection is taken in the first instance by an administrative authority, its decision shall be subject to control by at least one other administrative body, composed likewise in the manner prescribed above, and subsequently to the control of at least one independent judicial body.
4. The legislative authorities should investigate how the exercise of the right claimed can be made more effective by ensuring that objections and judicial appeals have the effect of suspending the armed service call-up order until the decision regarding the claim has been rendered.
5. Applicants should be granted a hearing and should also be entitled to be represented and to call relevant witnesses.

#### C. Alternative Service



1. The period to be served in alternative work shall be at least as long as the period of normal military service.
2. The social and financial equality of recognised conscientious objectors and ordinary conscripts shall be guaranteed.
3. The Governments concerned shall ensure that conscientious objectors are employed in social work or other work of national importance - having regard also to the manifold needs of the developing countries.

## 2.2 PACE Recommendation 478 (1967) on the right of conscientious objection <sup>4</sup>

(Adopted by the Parliamentary Assembly on 26<sup>th</sup> January 1967, 22<sup>nd</sup> Sitting)

The Assembly,

1. Having regard to its Resolution 337 on the right of conscientious objection,
2. Recommends the Committee of Ministers :
  - (a) to instruct the Committee of Experts on Human Rights to formulate proposals to give effect to the principles laid down by the Assembly in its Resolution 337 by means of a Convention or a recommendation to Governments so that the right of conscientious objection may be firmly implanted in all member States of the Council of Europe ;
  - (b) to invite member States to bring their national legislation as closely as possible into line with the principles adopted by the Consultative Assembly.

## 2.3 PACE Recommendation 816 (1977) on the right of conscientious objection to military service <sup>5</sup>

(Adopted by the Parliamentary Assembly on 7 October 1977, 10<sup>th</sup> Sitting)

The Assembly,

1. Wishing to promote legal status for conscientious objectors in Council of Europe member states ;
2. Recalling its Recommendation 478 (1967) and Resolution 337 (1967), on the right of conscientious objection ;
3. Re-asserting the principles stated in Resolution 337 (1967), which form an integral part of this recommendation,
4. Recommends that the Committee of Ministers:





a. urge the governments of member states, in so far as they have not already done so, to bring their legislation into line with the principles adopted by the Assembly ;

b. introduce the right of conscientious objection to military service into the European Convention on Human Rights.

#### APPENDIX

Principles relating to the right of conscientious objection to military service

##### A. Basic principles

1. Persons liable to conscription for military service who, for reasons of conscience or profound conviction arising from religious, ethical, moral, humanitarian, philosophical or similar motives, refuse to perform armed service shall enjoy a personal right to be released from the obligation to perform such service.

2. This right shall be regarded as deriving logically from the fundamental rights of the individual in democratic rule of law states, which are guaranteed in Article 9 of the European Convention on Human Rights.

##### B. Procedure

1. Persons liable for military service should be informed, when notified of their call-up or prospective call-up, of the rights they are entitled to exercise.

2. Where the decision regarding the recognition of the right of conscientious objection is taken in the first instance by an administrative authority, the decision-taking body shall be entirely separate from the military authorities, and its composition shall guarantee maximum independence and impartiality.

3. Where the decision regarding the recognition of the right of conscientious objection is taken in the first instance by an administrative authority, its decision shall be subject to control by at least one other administrative body, composed likewise in the manner prescribed above, and subsequently to the control of at least one independent judicial body.

4. The legislative authorities should investigate how the exercise of the right claimed can be made more effective by ensuring that objections and judicial appeals have the effect of suspending the armed service call-up order until the decision regarding the claim has been rendered.

5. Applicants should also be granted a hearing, and be entitled to be represented and to call relevant witnesses.

##### C. Alternative service

1. The period to be served in alternative work shall be at least as long as the period of normal military service.

2. The social and financial equality of recognised conscientious objectors and ordinary conscripts shall be guaranteed.

3. The governments concerned shall ensure that conscientious objectors are employed in social work or other work of national importance- having regard also to the manifold needs of the developing countries.



## 2.4 CM Recommendation R(87)8 regarding conscientious objection to compulsory military service <sup>6</sup>

(Adopted by the Committee of Ministers on 9 April 1987 at the 406<sup>th</sup> meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Recalling that respect for human rights and fundamental freedoms is the common heritage of member states of the Council of Europe, as is borne out, in particular, by the European Convention on Human Rights;

Considering that it is desirable to take common action for the further realisation of human rights and fundamental freedoms;

Noting that in the majority of member states of the Council of Europe military service is a basic obligation of citizens;

Considering the problems raised by conscientious objection to compulsory military service;

Wishing that conscientious objection to compulsory military service be recognised in all the member states of the Council of Europe and governed by common principles;

Noting that, in some member states where conscientious objection to compulsory military service is not yet recognised, specific measures have been taken with a view to improving the situation of the individuals concerned,

Recommends that the governments of member states, insofar as they have not already done so, bring their national law and practice into line with the following principles and rules:

### A. Basic principle

1 Anyone liable to conscription for military service who, for compelling reasons of conscience, refuses to be involved in the use of arms, shall have the right to be released from the obligation to perform such service, on the conditions set out hereafter. Such persons may be liable to perform alternative service;

### B. Procedure

2 States may lay down a suitable procedure for the examination of applications for conscientious objector status or accept a declaration giving reasons by the person concerned;

3 With a view to the effective application of the principles and rules of this recommendation, persons liable to conscription shall be informed in advance of their rights. For this purpose, the state shall provide them with all relevant information directly or allow private organisations concerned to furnish that information;



4 Applications for conscientious objector status shall be made in ways and within time-limits to be determined having due regard to the requirement that the procedure for the examination of an application should, as a rule, be completed before the individual concerned is actually enlisted in the forces;

5 The examination of applications shall include all the necessary guarantees for a fair procedure;

6 An applicant shall have the right to appeal against the decision at first instance;

7 The appeal authority shall be separate from the military administration and composed so as to ensure its independence;

8 The law may also provide for the possibility of applying for and obtaining conscientious objector status in cases where the requisite conditions for conscientious objection appear during military service or periods of military training after initial service;

#### C. Alternative service

9 Alternative service, if any, shall be in principle civilian and in the public interest. Nevertheless, in addition to civilian service, the state may also provide for unarmed military service, assigning to it only those conscientious objectors whose objections are restricted to the personal use of arms;

10 Alternative service shall not be of a punitive nature. Its duration shall, in comparison to that of military service, remain within reasonable limits;

11 Conscientious objectors performing alternative service shall not have less social and financial rights than persons performing military service. Legislative provisions or regulations which relate to the taking into account of military service for employment, career or pension purposes shall apply to alternative service.

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When this recommendation was adopted:

– in application of Article 10.2.c of the Rules of Procedure for the meetings of the Ministers' Deputies, the Representative of Greece reserved the right of his Government to comply with it or not, and the Representative of Cyprus reserved the right of his Government to comply or not with paragraph 9 of the text;

– in application of Article 10.2.d of the Rules of Procedure for the meetings of the Ministers' Deputies, the Representative of Italy recorded his abstention and in an explanatory statement said that his Government was of the opinion that the text adopted fell short of the suggestions made by the Assembly, and therefore appeared to be deficient;

– in application of Article 10.2.d of the Rules of Procedure for the meetings of the Ministers' Deputies, the Representatives of Switzerland and Turkey recorded their abstentions and in explanatory statements said that their Governments would be unable to comply with the text.

## 2.5 PACE Recommendation 1518 (2001)

on the exercise of the right of conscientious objection to military service in Council of Europe member states <sup>7</sup>

(Adopted by the Standing Committee, acting on behalf of the Parliamentary Assembly of the Council of Europe, on 23 May 2001)



1 The Assembly recalls its Resolution 337 (1967) on the right of conscientious objection and Recommendation 816 (1977) on the right of conscientious objection to military service, and also Recommendation No. R (87) 8 of the Committee of Ministers regarding conscientious objection to compulsory military service. It notes that the exercise of the right of conscientious objection to military service has been an ongoing concern of the Council of Europe for over thirty years.

2 The right of conscientious objection is a fundamental aspect of the right to freedom of thought, conscience and religion enshrined in the Universal Declaration of Human Rights and the European Convention on Human Rights.

3 Most Council of Europe member states have introduced the right of conscientious objection into their constitutions or legislation. There are only five member states where this right is not recognised.

4 The position of conscientious objectors still differs considerably from one country to another, and differences in the law unfortunately result in varying levels of protection. The situation of conscientious objectors is therefore wholly unsatisfactory in member states that have recognised the right of conscientious objection.

5 The Assembly accordingly recommends that the Committee of Ministers invite those member states that have not yet done so to introduce into their legislation:

- i. the right to be registered as a conscientious objector at any time: before, during or after conscription, or performance of military service;
- ii. the right for permanent members of the armed forces to apply for the granting of conscientious objector status;
- iii. the right for all conscripts to receive information on conscientious objector status and the means of obtaining it;
- iv. genuine alternative service of a clearly civilian nature, which should be neither deterrent nor punitive in character.

6 The Assembly also recommends that the Committee of Ministers incorporate the right of conscientious objection to military service into the European Convention on Human Rights by means of an additional protocol amending Articles 4.3.b and 9.

## 2.6 PACE Recommendation 1742 (2006)

Human rights of members of the armed forces <sup>8</sup>

(Adopted by the Parliamentary Assembly on 11 April 2006, 11th Sitting)

8. The Assembly recalls that the right of conscientious objection is an essential component of the right to freedom of thought, conscience and religion as secured under the Universal Declaration of Human Rights and the European Convention on Human Rights.



9. The Assembly asks member states to ensure genuine and effective protection of the human rights of members of the armed forces, and in particular:

9.7. to introduce into their legislation the right to be registered as a conscientious objector at any time, namely before, during or after military service, as well as the right of career servicemen to be granted the status of conscientious objector;

10. The Assembly recommends that the Committee of Ministers prepare and adopt guidelines in the form of a new recommendation to member states designed to guarantee respect for human rights by and within the armed forces, drawing on the European Convention on Human Rights and the case law of the European Court of Human Rights, the previous recommendations of the Committee of Ministers, the recommendations of the Parliamentary Assembly and those of the Commissioner for Human Rights of the Council of Europe.

Guidelines on the rights of army personnel, whatever their status – conscripts, volunteers or career servicemen – should include at least the rights listed below.

10.1. Members of the armed forces must enjoy the following fundamental rights and freedoms:

10.1.6. the right to freedom of thought, conscience and religion;

10.5. Members of the armed forces must be informed of their rights and receive training to heighten their awareness of human rights.

11. The Assembly further recommends that the Committee of Ministers:

11.1. reconsider its proposal to introduce the right to conscientious objection to military service into the European Convention on Human Rights by means of an additional protocol amending Articles 4.3.b and 9;

## 2.7 CM Recommendation CM/Rec(2010)4 of the Committee of Ministers to member states on human rights of members of the armed forces <sup>9</sup>

(Adopted by the Committee of Ministers on 24 February 2010 at the 1077th meeting of the Ministers' Deputies)

H. Members of the armed forces have the right to freedom of thought, conscience and religion. Any limitations on this right shall comply with the requirements of Article 9, paragraph 2 of the European Convention on Human Rights.

40. Members of the armed forces have the right to freedom of thought, conscience and religion, including the right to change religion or belief at any time. Specific limitations may be placed on the exercise of this right within the constraints of military life. Any restriction should however comply with the requirements of Article 9, paragraph 2, of the Convention. There should be no discrimination between members of the armed forces on the basis of their religion or belief.



41. For the purposes of compulsory military service, conscripts should have the right to be granted conscientious objector status and an alternative service of a civilian nature should be proposed to them.
42. Professional members of the armed forces should be able to leave the armed forces for reasons of conscience.
43. Requests by members of the armed forces to leave the armed forces for reasons of conscience should be examined within a reasonable time. Pending the examination of their requests they should be transferred to non-combat duties, where possible.
44. Any request to leave the armed forces for reasons of conscience should ultimately, where denied, be examined by an independent and impartial body.
45. Members of the armed forces having legally left the armed forces for reasons of conscience should not be subject to discrimination or to any criminal prosecution. No discrimination or prosecution should result from asking to leave the armed forces for reasons of conscience.
46. Members of the armed forces should be informed of the rights mentioned in paragraphs 41 to 45 above and the procedures available to exercise them.

## 2.8 ECHR Judgment on the case of Bayatyan v. Armenia (2011)

Grand Chamber Judgment on Application no. 23459/03 [1](#)

(Adopted by the European Court of Human Rights on 1 June 2011 and issued on 7 July 2011)

110. ... the Court notes that Article 9 does not explicitly refer to a right to conscientious objection. However, it considers that opposition to military service, where it is motivated by a serious and insurmountable conflict between the obligation to serve in the army and a person's conscience or his deeply and genuinely held religious or other beliefs, constitutes a conviction or belief of sufficient cogency, seriousness, cohesion and importance to attract the guarantees of Article 9 (see, *mutatis mutandis*, *Campbell and Cosans v. the United Kingdom*, 25 February 1982, § 36, Series A no. 48, and, by contrast, *Pretty v. the United Kingdom*, no. 2346/02, § 82, ECHR 2002-III). Whether and to what extent objection to military service falls within the ambit of that provision must be assessed in the light of the particular circumstances of the case.

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Article 9 of the European Convention on Human Rights guarantees the right to freedom of thought, conscience and religion.



## THE SITUATION AT NATIONAL LEVEL

### 3.1 Albania



Conscription: No (since 2010).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Not signed. Accession 9 Dec 2008. <sup>10</sup>

Voluntary recruitment age: 18. <sup>11</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 2.1% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) The Optional Protocol is not signed and ratified.
- 2) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Sign and ratify the Optional Protocol.
- 2) Recognise the right to conscientious objection for professional soldiers.

### 3.2 Andorra



Conscription: No (since always).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (7 Sep 2000). Ratified (30 Apr 2001). <sup>10</sup>

Notes: No armed forces. Defence is the responsibility of France and Spain. <sup>11</sup>

### 3.3 Armenia



Conscription: Yes.



Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (24 Sep 2003). Ratified (30 Sep 2005). <sup>10</sup>

Compulsory recruitment age: 18. <sup>11</sup>

Voluntary recruitment age: 18, 16-17 as a cadet. <sup>11</sup>

Duration of compulsory military service: 24 months.

Conscientious objection to military service recognised for conscripts: Yes, since 2003. <sup>13</sup>

Duration of civilian service: 42 months.

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 4.2% of GDP (data 2009). <sup>12</sup>

☒ Remarks:

- 1) The voluntary recruitment age is less than 18 (as a cadet). <sup>11</sup>
- 2) Military training was compulsory for school students aged about 16–18. Boys and girls in weekly classes learned how to handle automatic weapons. In 2006 in one school in a poor suburb of Yerevan, the capital, military training started much earlier. A class of 18 boys and six girls aged 11 and 12, many of whom were orphans, were chosen to pilot military training for pre-adolescents, with the stated aim of improving school discipline. They were taught by a former paratrooper to march, handle automatic weapons and use combat skills. The Ministry of Education and Science reportedly planned to extend the course to 11 other “special schools” with disadvantaged pupils around the country, and to allow children who wanted military careers to transfer to those schools. Military training after secondary-school was provided through officer training at the Vazgen Sarkizyan Military Institute, the Military Aviation Institute, and the Military Medical Faculty of Yerevan Medical University. Cadets could be accepted for military higher education from the year they turned 17. During their studies, they were considered to be military personnel, with all the corresponding rights and duties. <sup>11</sup>
- 3) In June 2011 there were 69 Jehovah’s Witnesses in prison for their conscientious refusal of military service on religious grounds. Their imprisonment sentences varied from 12 to 36 months. <sup>14</sup> In the case of Jehovah's Witness Vahan Bayatyan (Bayatyan v. Armenia, application no. 23459/03), who was sentenced to two and a half years in prison following his refusal of military service on the grounds of conscientious objection, a Chamber of the European Court of Human Rights stated categorically on 27 October 2009 that conscientious objection to military service is not protected under the European Convention on Human Rights, failing to uphold international human rights standards. <sup>15</sup> On 10 May 2010 the case was referred to the Grand Chamber at Mr Bayatyan’s request. On 15 July 2010 written comments on this case were submitted jointly by Amnesty International, Conscience and Peace Tax International, Friends World Committee for Consultation (Quakers), International Commission of Jurists, and War Resisters' International as a Third Party Intervention to the Grand Chamber of the European Court of Human Rights. <sup>16</sup> According to the Grand Chamber judgment which was issued on 7 July 2011 (judgment adopted on 01/06/2011), there had been a violation of Article 9 (freedom of thought, conscience and religion) of the European Convention on Human Rights. Although Article 9 does not explicitly refer to a right to conscientious objection, the





Grand Chamber considered that opposition to military service - where it was motivated by a serious and insurmountable conflict between the obligation to serve in the army and a person's conscience or deeply and genuinely held religious or other beliefs - constituted a conviction or belief of sufficient cogency, seriousness, cohesion and importance to attract the guarantees of Article 9. <sup>1</sup> This ruling was historic because it was the first time that the European Convention on Human Rights has been interpreted so as to recognise explicitly the right to conscientious objection to military service.

- 4) There is no right to conscientious objection for serving conscripts, reservists and professional soldiers.
- 5) The civilian service is under the control of the military and it has extremely punitive duration (75% longer than the military service).

Recommendations:

- 1) Stop the voluntary recruitment of persons aged under 18.
- 2) Stop the military training of school students aged 16-18 and the pilot military training for pre-adolescents aged 11-12.
- 3) Release all imprisoned conscientious objectors. Stop prosecuting conscientious objectors.
- 4) Recognise the right to conscientious objection for serving conscripts, reservists and professional soldiers.
- 5) Make a genuinely civilian service of equal duration to the military one.

### 3.4 Austria



Conscription: Yes.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (6 Sep 2000). Ratified (1 Feb 2002). <sup>10</sup>

Compulsory recruitment age: 18. <sup>11</sup>

Voluntary recruitment age: 17 (training only). <sup>11</sup>

Duration of compulsory military service: 6 months.

Conscientious objection to military service recognised for conscripts: Yes, since 1955. <sup>13</sup>

Duration of civilian service: 9 months.

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 0.9% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) The National Defence Act allowed for voluntary recruitment to the Austrian armed forces at the age of 17 - although the explicit consent of parents or guardians was required. Volunteers under 18 could enter the armed forces for training purposes only, and any deployment overseas of 17-year-olds was prohibited. The Act on Dispatching of Soldiers for Assistance Abroad allowed for voluntary requests for international deployment to be made only at the age of 19. <sup>11</sup>



- 2) The possibility of voluntary recruitment at the age of 17 includes choosing to serve one's compulsory military service early. Section 9, paragraph 2, of the National Defence Act provides that persons who have attained the age of 17 but not yet 18 may do their military service earlier (a) On the basis of a voluntary application with the explicit consent of their parents or other legal guardians; (b) Following the registration procedure; and (c) After ensuring that volunteers are knowledgeable about their duties as recruits. Volunteers under 18 years are only recruited for the purposes of training. Deployment for under-18-year-old recruits outside Austria is not admissible.<sup>17</sup>
- 3) Although the Austrian government stated that there were no schools in the country directly operated by the armed forces, the Militaerrealgymnasium, located in Wiener Neustadt, "offers students from age 14 a higher secondary education with a specialization in natural sciences and a military-led boarding school. The school is supervised by the general school authorities in all relevant aspects. The boarding school is governed by internal rules under the supervision of the Federal Ministry of Defence." Although it was not an exclusive aim, preparation for a military career as an officer was certainly one of the institution's stated purposes. The government stated that the students of the school were not considered to be members of the armed forces, and emphasized that the pursuit of a military career following graduation was not compulsory. In its January 2005 examination of Austria's initial report on implementation of the Optional Protocol, the UN Committee on the Rights of the Child noted that students at the school were referred to as "cadets". The Committee went on to request the following: "With regard to incentives for recruitment, and in light of the fact that a significant proportion of new recruits in the armed forces come from the cadet forces, the Committee requests the State party, in its next report, to include more detailed information and statistics on its military school and the cadet forces ... and on recruitment activities undertaken by the armed forces within the cadet forces." In its report to the Committee, the government stated that training in international law and the rights of the child was being included in the preparation of Austrian soldiers for overseas missions. Austrian peacekeepers were also given particular instruction relevant to the place of their deployment – as in the case of two armed forces personnel whose preparatory training included specific attention to the issue of child soldiers in the Democratic Republic of the Congo. The curriculum of the Militaerrealgymnasium also included instruction in the basics of international humanitarian law.<sup>11</sup>
- 4) There is no right to conscientious objection for serving conscripts and professional soldiers. Applications can be made after completion of military service, but in this case the application needs to be made within three years of the first day of military service. After this period, reservists can no longer make a conscientious objection application.<sup>13</sup>
- 5) The civilian service has punitive duration (50% longer than the military service).
- 6) In 2000, the government greatly reduced the payment of conscientious objectors. Before 2000, conscientious objectors were paid by the government and received approximately the same payment as conscripts in the armed forces. Now, the salaries of conscientious



objectors have to be partially paid for by the employing organisations themselves. The government has set guidelines on appropriate payment, but as these are very low this effectively means that conscientious objectors' salaries have been cut by half. Austrian conscientious objectors' groups have lodged several complaints with the Constitutional Court, which has in fact ruled that the new payment regulations are a violation of the constitutional right of free choice between military and civilian service. As the Constitutional Court did not rule which body is to be responsible for increasing conscientious objectors' salaries, the issue has still not been settled. Consequently, in practice the payment of conscientious objectors remains far below the payment of conscripts in the armed forces. <sup>13</sup>

- 7) The only absolute exceptions from the obligation to military service are for priests, members of holy orders, theological students training for a career in the ministry, or those who following such studies are engaged in pastoral work or spiritual teaching - provided in all cases that they are members of "recognised religions". Notwithstanding their well known position of conscientious objection to military service, the Jehovah's Witnesses, having the status only of a "registered religious community", do not benefit from the complete exemptions granted to members of recognised churches. Two full-time Jehovah's Witness ministers, Philemon Löffelmann and Markus Grützl, have lodged Applications at the European Court of Human Rights over this issue. <sup>18</sup>

Recommendations:

- 1) Stop the voluntary recruitment of persons aged under 18.
- 2) Don't allow conscripts to choose serving their compulsory military service at the age of 17.
- 3) Stop military training and abolish military schools for persons aged under 18.
- 4) Recognise the right to conscientious objection for serving conscripts, all reservists and professional soldiers.
- 5) Make a civilian service of equal duration to the military one.
- 6) Give equivalent payment to conscientious objectors as the conscripts' one.
- 7) Stop the discrimination between the members of the "registered religious communities" and those of the "recognised religions".

### 3.5 Azerbaijan



Conscription: Yes.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (8 Sep 2000). Ratified (3 Jul 2002). <sup>10</sup>

Compulsory recruitment age: 18. <sup>11</sup>

Voluntary recruitment age: 17 (as a cadet school student). <sup>11</sup>



Duration of compulsory military service: 18 months / 12 months for university graduates.

Conscientious objection to military service recognised for conscripts: Yes by a constitutional recognition in 1995 / Not by law yet. <sup>13</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 3.4% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) Under-18s could volunteer to join the armed forces as cadets at military school. NGOs in Azerbaijan reported that in practice 17-year-olds who had graduated from military secondary-schools could go straight into military service. <sup>11</sup>
- 2) Two military secondary-schools admitted pupils after eight years of education. Children could enter the schools at 14 years of age. Graduates were expected to go on to study at military higher-education institutions to become officers, but those who did not could join the army as ordinary soldiers. Three Supreme Military Schools for the army, navy and air force and the Academy of National Security accepted pupils aged 17–19 as cadets who were considered to be members of the armed forces. The schools offered courses based on NATO standards. <sup>11</sup>
- 3) There is no right to conscientious objection.
- 4) Conscientious objectors are prosecuted, imprisoned and ill-treated.

On 4 March 2011 well-known Azerbaijani activist, former parliamentary candidate Bakhtiyar Hajiyev, 29 years old, was arrested for evading obligatory military service and sentenced to one month of pre-trial detention. According to a handwritten letter he managed to have delivered to friends from his place of detention, Hajiyev was beaten, verbally abused, threatened with rape and denied medical attention in early stages of his arrest. In his letter, Hajiyev also announced he was starting a hunger-strike (which has since been called off) and implied that he may be suicidal. Hajiyev had previously asserted to law enforcement and military officials, who have been harassing him since November 2010, that he wished to exercise his right to perform alternative service, in lieu of traditional military service, consistent with Azerbaijan's Constitution.

Conscientious objector Farid Mammadov, 22 years old, as a member of the Jehovah's Witnesses, refuses military service for reasons of conscience. Since he was first called up to military service in 2006, Mammadov repeatedly requested permission to perform alternative civilian service that is not under military control. He was sentenced on 16 July by the Baku Nasimi District to nine months imprisonment Court for evading military service. The Baku Court of Appeal upheld the Nasimi District Court's conviction of Farid Mammadov. The court pronounced judgment on September 8, 2010, and immediately thereafter the 22-year-old was led out of the courtroom in handcuffs and taken to prison to serve a nine-month sentence. On 25 January 2011 Azerbaijan's Supreme Court rejected his appeal.

The Supreme Court upheld a lower courts prosecution of Mushfig Mammedov in a similar case in December 2010. Mushfig Mammedov and Samir Huseynov, also prosecuted for military evasion, have filed a complaint with the European Court of Human Rights.



Conscientious objector Mushfiq Mammadov, 28 years old, was detained on 10 August 2009, and sentenced only one day later, on charges of evading military service. As a member of the Jehovah's Witnesses, Mushfiq Mammadov refuses military service for reasons of conscience. He was reportedly being held in the Kurdakhani isolation center and has not been given a lawyer. He was once detained in 2006 and given a six-month suspended prison term on the same charges.

Samir Huseynov, a 25-years old Jehovah's Witness, was imprisoned for his conscientious objection to military service. The Geranboy District Court in western Azerbaijan sentenced Huseynov on 4 October 2007 to 10 months in prison for evading compulsory military service. He was punished under Article 321.1 of the Criminal Code, which prescribes a penalty of up to two years' imprisonment. When he was called up in summer 2007 he told the military commissariat he was prepared to do a civilian alternative service. Officials refused to give Huseynov a copy of the written verdict within the prescribed period. Huseynov finally signed an appeal on 22 October, which he sent to the appeal court via the prison administration. However, on 5 November the court sent it back on the grounds that it was written in Russian. Huseynov re-wrote it in Azerbaijani and asked the prison administration to send it to the court on 8 November. However, on 26 November the court rejected the appeal as it said it had been received after the deadline for lodging appeals.<sup>19</sup>

Recommendations:

- 1) Stop the voluntary recruitment of persons aged under 18.
- 2) Stop military training and abolish military schools for persons aged under 18.
- 3) Recognise the right to conscientious objection for conscripts, serving conscripts, reservists and professional soldiers.
- 4) Stop prosecuting, imprisoning and ill-treating conscientious objectors.

Notes: The NAGORNO-KARABAKH REPUBLIC (NKR) had its own laws and armed forces, but remained unrecognized internationally. The NKR constitution required citizens to do two years' compulsory military service after 18 years old. The minimum age for voluntary recruitment was also 18. Men could become professional soldiers on completing military service. Women could also sign up voluntarily.<sup>11</sup> There are no legal provisions for conscientious objection.<sup>13</sup>

Conscientious objectors are prosecuted and imprisoned. On 30 June 2010, conscientious objector Armen Mirzoyan, 20 years old, was sentenced to one year imprisonment for "refusal to perform military duties". He was sentenced at Hadrut District Court in the south of Nagorno-Karabakh. As a Baptist, Armen Mirzoyan is opposed to swearing the military oath, or to take up weapons, but he would be willing to serve in the army of Nagorno-Karabakh without taking up weapons. Armen Mirzoyan, was called up in January and transferred to military unit 38401 in Hadrut, where he was threatened by commanders after he refused their pressure to swear the oath. Conscientious objector Areg Hovhanesyan, a Jehovah's Witness, was freed from prison in February 2009 after completing a four-year prison term.<sup>19</sup>

### 3.6 Belgium



Conscription: No (since 1995).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (6 Sep 2000). Ratified (6 May 2002). <sup>10</sup>

Compulsory recruitment age: 17 (in wartime). <sup>11</sup>

Voluntary recruitment age: 18. <sup>11</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.2% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) Conscription into the recruitment reserve is permitted at 17 in wartime. In June 2006 the UN Committee on the Rights of the Child called on the government to "repeal all laws that allow the recruitment of persons under the age of 18 into the armed forces in time of war". <sup>11</sup>
- 2) Individuals who applied successfully to become career non-commissioned officers in the armed forces could from the age of 16 complete their secondary education in a non-commissioned officers' college. Those who applied successfully to become a career officer candidate and wished to attend the Royal Military Academy had first to have completed their secondary education and would generally be 17 or 18 years of age on entering the academy, where courses were at university level. Although there was no specific legislation in place concerning the military status of students under 18 in these institutions (including their status in a time of armed conflict), the government emphasized that, in accordance with a March 2003 act concerning military recruitment, no such mobilization would be possible for those who had not already completed their secondary education. According to the government, "the question of protecting children in armed conflicts is addressed in the training given to all military personnel. It is brought to the attention of all categories of personnel on several occasions during basic and in-service training courses on the law of armed conflict." <sup>11</sup>
- 3) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Stop the compulsory recruitment of persons aged under 18 in wartime.
- 2) Stop military training and abolish military schools for persons aged under 18.
- 3) Recognise the right to conscientious objection for professional soldiers.

### 3.7 Bosnia and Herzegovina





Conscription: No (since 2006).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (7 Sep 2000). Ratified (10 Oct 2003). <sup>10</sup>

Voluntary recruitment age: 18. <sup>11</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.3% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Recognise the right to conscientious objection for professional soldiers.

Notes: The 1995 Dayton Peace Agreements divided the country into two constituent entities: the Federation of Bosnia and Herzegovina and the Republika Srpska. Defence is a complicated issue in Bosnia & Herzegovina. The armed forces consist of the Army of the Federation of BH and the Army of the Republika Srpska. The BiH Presidency has supreme command authority over the armed forces of the BiH. However the two entities maintain control over their armed forces through their own ministry of defence. Consequently, regulations on conscription are different in both entities. <sup>13</sup>

### 3.8 Bulgaria



Conscription: No (since 2008).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (8 Jun 2001). Ratified (12 Feb 2002). <sup>10</sup>

Voluntary recruitment age: 18. <sup>11</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 2.0% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) Applicants to military colleges had to have a high school diploma, but there were no specific age requirements. Secondary-school graduates under the age of 18 could enter military schools until they were old enough to perform military service. In its declaration on ratifying the Optional Protocol in February 2002 Bulgaria stated that "Persons who have not come of age shall be trained at military schools subject to the conclusion of a training agreement to be signed by them with the consent of their parents or guardians. Having come of age, the trainees shall sign a training agreement on a regular military duty." <sup>11</sup>
- 2) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Stop military training and abolish military schools for persons aged under 18.
- 2) Recognise the right to conscientious objection for professional soldiers.



### 3.9 Croatia



Conscription: No (since 2008).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (8 May 2002). Ratified (1 Nov 2002). <sup>10</sup>

Voluntary recruitment age: none. <sup>11</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.8% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) In its Initial Report on the Optional Protocol, Croatia stated that it had "no high schools operated by or under the control of the armed forces within the meaning of article 3, paragraph 5, of the Protocol. Nevertheless, pursuant to article 4 of the Law on the Service in the Armed Forces of the Republic of Croatia (Official Gazette Nos. 33/2002, 58/2002 and 175/2003) a conscript is also a cadet who is defined as a 'person educated at a military school under a contract of education', but the point here is that a person of age is educated at university (faculties) for the requirements of the Croatian Armed Forces." In January 2005 the Ministry of Defence introduced student scholarships at Zagreb University and Split University. Successful candidates would have the status of "cadet", take part in army training and be obliged to stay in the armed forces for at least ten years after graduating. <sup>11</sup>
- 2) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Stop military training and abolish military schools for persons aged under 18.
- 2) Recognise the right to conscientious objection for professional soldiers.

### 3.10 Cyprus



Conscription: Yes.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (1 Jul 2008). Ratified (2 Jul 2010). <sup>10</sup>

Compulsory recruitment age: 18. <sup>11</sup>

Voluntary recruitment age: 17. <sup>11</sup>

Duration of compulsory military service: 24 months.





Conscientious objection to military service recognised for conscripts: Yes, since 1992. <sup>13</sup>

Duration of civilian service: 33 months.

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 2.0% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) The voluntary recruitment age is less than 18.
- 2) There is no right to conscientious objection for serving conscripts and professional soldiers.
- 3) The civilian service is administered by the Ministry of Defence and it has punitive duration (37,5% longer than the military service).

Recommendations:

- 1) Stop the voluntary recruitment of persons aged under 18.
- 2) Recognise the right to conscientious objection for serving conscripts and professional soldiers.
- 3) Make a genuinely civilian service (not under the Ministry of Defence) and of equal duration to the military one.

Notes: Cyprus had been divided since 1974. The northern part, named THE TURKISH REPUBLIC OF NORTHERN CYPRUS, remained occupied by Turkish armed forces and was not recognized internationally as a separate state from the Republic of Cyprus. The Security Council of the UN met on 17 and 18 November 1983 and adopted Resolution 541 which described the attempt to create "TRNC" as "legally invalid", called for the withdrawal of the Declaration of Independence, and asked all countries not to recognise the new republic. A buffer zone patrolled by the UN Peacekeeping Force in Cyprus (UNFICYP) separated the two parts. The compulsory recruitment age is 19 and the voluntary recruitment age is 17. The length of the compulsory military service is 12 or 15 months. <sup>11</sup> <sup>20</sup>

There are no legal provisions for conscientious objection, so conscientious objectors are prosecuted. Turkish-Cypriot conscientious objector Murat Kanatli has declared his conscientious objection since 2009 and stated that he will not join any military training sessions or preparations for war in Cyprus. The antimilitarist activist faces a possible prison sentence if found guilty of draft dodging. Murat Kanatli has completed military service and is considered a reservist in the Turkish Cypriot army. Therefore he must appear at a mandatory military training session once a year until he is 40. However he has been refusing to attend since 2009 for reasons of conscience. Failure to do so usually results in a fine, but refusal to pay the fine or repeated non-attendance can end in imprisonment. <sup>21</sup> The trial of Murat Kanatli started on 14 June 2011, continued on 5 July 2011 and was postponed to 26 July 2011.

### 3.11 Czech Republic



Conscription: No (since 2005).



Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (6 Sep 2000). Ratified (30 Nov 2001). [10](#)

Voluntary recruitment age: 18. [11](#)

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.4% of GDP (data 2009). [12](#)

Remarks:

- 1) There were military secondary-schools and the minimum age for enrolment in them was 15. The government reported to the UN Committee on the Rights of the Child in 2005 that under-18s could enter military secondary-schools, and that they provided four years of general education and "education and training for duties on the warrant officer level, training for a chosen specialization, as well as full secondary vocational and technical education". The government also reported that "Students entering military schools are not soldiers and do not become soldiers in the course of study. This rule would continue to apply in crisis situations: teachers-soldiers would be detailed to other duties and the schools temporarily closed down. Military school graduates do not incur any financial or other obligations towards the armed forces. There is no pressure on the students to apply for regular army jobs." [11](#)
- 2) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Stop military training and abolish military schools for persons aged under 18.
- 2) Recognise the right to conscientious objection for professional soldiers.

### 3.12 Denmark



Conscription: Yes (but balloting is used for the selection of conscripts).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (7 Sep 2000). Ratified (27 Aug 2002). [10](#)

Compulsory recruitment age: 18. [11](#)

Voluntary recruitment age: 18. [11](#)

Duration of compulsory military service: 4 months.

Conscientious objection to military service recognised for conscripts: Yes, since 1917. [13](#)

Duration of civilian service: 4 months.

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.4% of GDP (data 2009). [12](#)

Remarks:

- 1) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Recognise the right to conscientious objection for professional soldiers.



Notes: The National Service Law does not cover the self-governing territories of the FAROE ISLANDS and GREENLAND. If a young man moves to mainland Denmark after living in one of those territories for ten years or more, he is not liable for military service. <sup>13</sup>

### 3.13 Estonia



Conscription: Yes.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (24 Sep 2003). Not ratified. <sup>10</sup>

Compulsory recruitment age: 18 (but 17-year-olds could be liable for call-up). <sup>11</sup>

Voluntary recruitment age: 18, but under-18s could volunteer for the National Defence League which provided weapons training. <sup>11</sup>

Duration of compulsory military service: 8-12 months (depending on the education and position provided by the Defence Forces to the conscript; mostly 8 months).

Conscientious objection to military service recognised for conscripts: Yes, since 1991. <sup>13</sup>

Duration of civilian service: 8-12 months (depending on the educational background).

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 2.3% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) The Optional Protocol is not ratified.
- 2) 17-year-olds could be liable for call-up but active combat duties were reserved for those aged 18 and over. The Defence Force Services Act required all male Estonian citizens to be "liable" for service in the Defence Forces from the age of 16 to 60, during which time they were liable to be registered and conscripted, or to serve in the reserve (Article 3). Boys eligible for the draft had to register at the age of 16, until call-up or release from mandatory military service (Article 7). Between the ages of 18 and 27 they were liable to conscription (Article 46). In practice, any boy aged 17 on 15 September was liable to call-up the following year, even if he had not reached the age of 18. <sup>11</sup>
- 3) Under-18s could volunteer for the National Defence League which provided weapons training. <sup>11</sup>
- 4) There is no right to conscientious objection for serving conscripts, reservists and professional soldiers.
- 5) The civilian service is administered by the Ministry of Defence. Few applications for civilian service have been approved during the last few years (11 of 64 in 2007, 14 of 68 in 2008, 32 of 53 in 2009) while there is lack of clear grounds for accepting or rejecting an application for civilian service. <sup>22</sup>



Recommendations:

- 1) Ratify the Optional Protocol.
- 2) Stop the call-up of persons aged under 18.
- 3) Stop the voluntary recruitment of persons aged under 18.
- 4) Recognise the right to conscientious objection for serving conscripts, reservists and professional soldiers.
- 5) Make a genuinely civilian service (not under the Ministry of Defence) without restrictions on accessing it.

### 3.14 Finland



Conscription: Yes.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (7 Sep 2000). Ratified (10 Apr 2002). <sup>10</sup>

Compulsory recruitment age: 18. <sup>11</sup>

Voluntary recruitment age: 18. <sup>11</sup>

Duration of compulsory military service: 180, 270 or 362 days (6, 9 or 12 months; mostly 6 months).

Conscientious objection to military service recognised for conscripts: Yes, since 1931. <sup>13</sup>

Duration of civilian service: 362 days (12 months).

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.5% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) There is no right to conscientious objection for professional soldiers.
- 2) The civilian service has extremely punitive duration (100% longer than the military service).
- 3) Since the length of substitute service has become twice as long as military service in 1998 (due to the reduced length of military service), the number of total objectors has increased significantly. According to estimates by Aseistakieltäytyjäliitto, approximately 70 conscientious objectors declare themselves total objectors annually. Total objectors are sentenced according to two different laws, depending on whether they first applied for legal recognition as conscientious objector or not. Total objectors who are recognised as conscientious objectors and subsequently refuse to perform substitute service are sentenced according to Article 75 of the Civilian Service Act. According to the article, the maximum sentence is half of the remaining service time. However, if the sentence is less than half the remaining service time, then the total objector can be called up to finish his service after serving the prison sentence. The remainder of his service time is then calculated on the basis that each day in prison equals two days of civilian service. Total objectors who did not apply for conscientious objector status will be sentenced according to the Conscription Act. <sup>23</sup>



On 1st of October 2008 there were 15 total objectors in Finnish jails. Total objector Matti Petteri Pönttiö went to prison on 11 November 2008. Pönttiö broke off his substitute service on 17 April 2008 after about 8 months of service. Loviisa District Court sentenced him to 56 days imprisonment on 26 August 2008.

Sebastian Salminen, a 21-years old total objector from Oulu, went to prison on 6 October 2008. He had been ordered to perform his military service in the Infantry Brigade of Sodankylä. He refused and was sentenced to prison for 195 days by the Oulu district court (Oulun käräjäoikeus) on 27 November 2007. The charge was "refusing conscription". The Helsinki appeal court (Helsingin hovioikeus) shortened the sentence to 178 days on 30 July 2008. The shorter sentence is based on the new Alternative Service Act, which shortened both the duration of substitute service (from 395 days to 362 days) and maximum punishment of total objectors (from 197 days to 181 days).

Juhana Hirvonen, a 27-years old set designer from Helsinki, was imprisoned on 9 October 2008. He refused conscription on July 2007 and was sentenced to prison for 179 days (after appeal).<sup>24</sup>

Recommendations:

- 1) Recognise the right to conscientious objection for professional soldiers.
- 2) Make a civilian service of equal duration to the military one.
- 3) Stop prosecuting and imprisoning total objectors.

### 3.15 France



Conscription: No (since 2001).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (6 Sep 2000). Ratified (5 Feb 2003).<sup>10</sup>

Voluntary recruitment age: 17.<sup>11</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 2.5% of GDP (data 2009).<sup>12</sup>

Remarks:

- 1) Article 20(4) of the Law No. 2205-207 on the General Status of Servicemen, which entered into force on 1 July 2005, stated that no one could become part of the armed forces if not "at least 17 years of age or 16 years of age in order to receive general or vocational training as a volunteer in the armed forces or as a pupil in a military school". Foreign Legion recruits had to be aged between 17 and 40. Selected candidates signed a five-year unconditional contract to serve anywhere in the world. They were trained for four months at the Fourth Foreign Regiment in Castelnaudary before being posted. Under-18s had to have the consent of their "legal representatives" to enlist. However, Article 83 of the Law No. 2205-207 offered no legal guarantee regarding the



- verification of age: "the military authorities designated by the Ministry of Defence can, in the absence of the necessary supporting documents, accept the enlistment [of a candidate]". <sup>11</sup>
- 2) Military schools in France included four for the army and one for the navy. Students were admitted to the air force school, the Ecole d'Enseignement Technique de l'Armée de l'Air de Saintes, from the age of 16. There was also a Polytechnic School. Under Law No. 70-631 of July 1970, as amended by Law 94-577 of July 1994, candidates for the Polytechnic School had to be 17 to sit admission examinations and could enter the school during the year in which they turned 18. <sup>11</sup>
  - 3) There is no right to conscientious objection for professional soldiers.
  - 4) Conscription has been replaced by a compulsory one day "rendez-vous citoyen" (national day of preparation for national defence). All young men and women between the ages of 16 and 18 are obliged to participate in this day. On this day, people have civil status and do not have to bear arms or wear a uniform or be subjected to military discipline. Participation in the "rendez-vous citoyen" is a necessary condition for taking part in final examinations or obtaining a diploma in state universities. <sup>13</sup>

Recommendations:

- 1) Stop the voluntary recruitment of persons aged under 18.
- 2) Stop military training and abolish military schools for persons aged under 18.
- 3) Recognise the right to conscientious objection for professional soldiers.
- 4) Recognise the right to conscientious objection for the "rendez-vous citoyen". Participation in the "rendez-vous citoyen" should not be a necessary condition for taking part in final examinations or obtaining a diploma in state universities.

### 3.16 Georgia



Conscription: Yes.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Not signed. Not ratified. Accessed (3 Aug 2010). <sup>10</sup>

Compulsory recruitment age: 18. <sup>11</sup>

Voluntary recruitment age: 18. <sup>11</sup>

Duration of compulsory military service: 18 months.

Conscientious objection to military service recognised for conscripts: Yes, since 1997. <sup>13</sup>

Duration of civilian service: 36 months.

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 5.6% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) The Optional Protocol is not signed and ratified.



- 2) The government strongly supported and fully funded a number of Patriot Camps around the country, which offered ten-day residential programs in gun handling, sport and leadership training for young people (male and female) aged 15–20. Handling guns, including automatic weapons, was taught by military trainers. <sup>11</sup>
- 3) The civilian service has extremely punitive duration (100% longer than the military service).
- 4) There is no right to conscientious objection for serving conscripts, reservists and professional soldiers.

Recommendations:

- 1) Sign and ratify the Optional Protocol.
- 2) Stop military training for persons aged under 18.
- 3) Make a genuinely civilian service of equal duration to the military one.
- 4) Recognise the right to conscientious objection for serving conscripts, reservists and professional soldiers.

Notes: In May 2004 Georgia regained control over the autonomous region of AJARIA without resorting to force. However, most of ABKHAZIA and SOUTH OSSETIA remained unrecognized self-proclaimed republics.

ABKHAZIA's 1995 Law on Universal Military Service set 18 as the minimum age for conscription. Boys were registered with the authorities at the age of 17. There were some reports that boys under the age of 18 had been conscripted illegally into the Abkhazia forces or released on payment of bribes, including in the ethnic Georgian Gali region under the control of Abkhazia. The authorities in Abkhazia denied that an attempt had been made in November 2005 to conscript ethnic Georgians. In the final two grades of school, between the ages of 15 and 17, pupils received "pre-conscription training for civil defence" for two hours a week. However, in many schools the course did not take place because of its obsolete nature and the lack of trained staff, and the Ministry of Education planned to produce a new course. In August 2007 it was reported that a military school in Abkhazia was to be reopened with support from the Russian armed forces. No details of enrolment policy were available. <sup>11</sup> The right to conscientious objection is not legally recognized and there is no possibility of performing a substitute service outside the armed forces. <sup>13</sup>

The army of SOUTH OSSETIA reportedly followed the military regulations of the Russian Federation, with a minimum age of 18 for conscription. The bulk of its security training took place in Russia. Military service was for 18 months. <sup>11</sup> There is no possibility of performing a substitute service outside the armed forces. <sup>13</sup>

### 3.17 Germany



Conscription: No (suspended with effect from 1<sup>st</sup> July 2011).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (6 Sep 2000). Ratified (13 Dec 2004). <sup>10</sup>

Voluntary recruitment age: 17. <sup>11</sup>



Conscientious objection recognised for professional soldiers: Yes. <sup>13</sup>  
Military expenditure: 1.4% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) Voluntary enlistment in the German armed forces was permissible at 17, provided that the individual volunteering had the consent of a parent or guardian. In such cases, a pre-induction medical examination took place six months before the applicant's 17<sup>th</sup> birthday. Volunteers under 18 were enrolled for military training only, and were expressly prohibited from participating in any military operations and from performing any function requiring the use of firearms, including deployment for armed guard duty. However, 17-year-old volunteers could receive firearms training; at the time of their enrolment they received written instructions stating that their use of firearms would be strictly limited to training, and that they would not be involved in any activity that may lead to armed conflict. <sup>11</sup> According to a new article 58 of the conscription law, the local authorities will have to hand over names and addresses of German youth - boys and girls - who will turn 18 in the following year, to the local military authorities (Kreiswehrrersatzamt) at the beginning of the year, for the purpose of "sending information about a service in the Armed Forces". This means that in fact 16-17 year old youth can be contacted by the military, and can (and will) be sent military propaganda. While it is possible to object to this, this will need to happen in the year before the data will be passed on to the military authorities. This means some who turns 18 in May of year x will need to object to his or her data being passed on in year x-2, as the age of 16. <sup>25</sup>
- 2) On Nov. 26, 2008, AWOL US soldier André Shepherd applied for asylum in Germany. His tour of duty in Iraq caused him to acknowledge that he could no longer take part in an illegal war which is contrary to the international laws of human rights. Because he does not fit the American military regulations' definition of a conscientious objector, he decided to go Absent WithOut Leave (AWOL) and apply for asylum in Germany. In his application he pointed to the directive of the European Union, from October 2006. With this directive persons are to be protected who remove themselves from such wars or actions which are against human rights, and then must fear persecution. At the beginning of April 2011, the German Federal Office for Migration and Refugees has denied AWOL U.S. soldier André Shepherd's application for asylum. On April 7 he instructed his attorney to institute legal proceedings against the negative ruling. <sup>26</sup>

Recommendations:

- 1) Stop the voluntary recruitment of persons aged under 18.
- 2) Give political asylum to professional soldiers who develop conscientious objection during military missions abroad.

Notes: Many contract soldiers "Zeitsoldaten" apply for release under the conscientious objection provisions. A parliamentary reply on 30<sup>th</sup> March 2011 (Bundestag: Antwort des Parlamentarischen Staatssekretärs Thomas Kossendey vom 30.03.2011 auf Schriftliche Fragen des Bundestagsabgeordneten Paul Schäfer, Drucksache 17/5422 (Auszug)) revealed that 204 such applications had been lodged in 2008 and 370 in 2010, with a further 96 in the first two months of 2011. Applications are generally successful; there has not been a contested refusal within the last few years. <sup>27</sup>





In 2007 and 2008 several total objectors were called up by the military, and were serving time in military arrest (e.g. Patrick Sander, Jan-Patrick Ehlert, Silvio Walther).<sup>25</sup>

The German army ("Bundeswehr") concludes cooperation treaties with the Federal Ministries of Education since 2009. In this context specialised youth officers of the army get access to schools and teachers training colleges in order to inform about national security and the armed forces. After a long process of public protests and discussions, in Rheinland-Pfalz region a first cooperation treaty between the Ministry of Education and a network of peace organisations will be signed in August 2011.<sup>28</sup>

### 3.18 Greece



Conscription: Yes.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (7 Sep 2000). Ratified (22 Oct 2003).<sup>10</sup>

Compulsory recruitment age: 19.<sup>11</sup>

Voluntary recruitment age: 18.<sup>11</sup>

Duration of compulsory military service: 9 months (for most of the conscripts in land forces) and 12 months (for few soldiers in naval and air forces).

Conscientious objection to military service recognised for conscripts: Yes, since 1997.<sup>13</sup>

Duration of civilian service: 15 months.

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 3.2% of GDP (data 2009).<sup>12</sup>

Remarks:

- 1) There are still some punishments and prosecutions against conscientious objectors and suspended sentences have been handed down. Some conscientious objectors are punished and prosecuted repeatedly for their continued refusal to perform military service. According to a Joint Ministerial Decision of the Minister of National Defence and the Minister of Finance (F.429.1/17/281810/S.394/04 March 2011, FEK 517 B'), a 6000 Euros fine is imposed on the insubordinates and deserters for each charge of insubordination and desertion, in addition to any criminal punishment. According to a decision of the Minister of Finance which will enter in force on 1<sup>st</sup> August 2011, those who owe more than 5000 Euros to the state will be charged with a criminal offense. This also affects conscientious objectors who do not serve the civilian service either because it is punitive or because their application is rejected. This was imposed in June 2011 on an anonymous conscientious objector (details available to EBCO) who had applied for civilian service in May 2003 and had his application rejected in April 2004. In May 2004 he appealed against the



rejective decision to the State Council and he has not yet been informed about the outcome.

On 19 February 2010 E.M., a conscientious objector on ideological grounds, who refused to serve the punitive civilian service in 2007 was sentenced by the Military Court of Athens to 8 months suspended imprisonment on charges of insubordination. He has appealed against the decision.

On February 23, 2011 the trial of Avraam Pouliasis on charges of insubordination was postponed by the Military Court of Athens. Avraam Pouliasis, a conscientious objector on ideological grounds, was called up for military service before 1998, when there was no civilian service, and he refused to serve. Now he is 48 years old, and not liable for conscription any more.

On March 22, 2011 conscientious objector Babis Akrivopoulos was sentenced by the Naval Military Court of Piraeus to 8 months imprisonment suspended for 2 years for insubordination, because he refused to serve the compulsory military service and the discriminatory and punitive substitute civilian service still practiced in Greece.<sup>27</sup>

On 31<sup>st</sup> March 2009, the Appeal Military Court of Athens found conscientious objector Lazaros Petromelidis guilty on two charges of insubordination, and sentenced him to eighteen months imprisonment, which he bought off. This was his 16<sup>th</sup> trial and represented a halving of the three years' imprisonment without suspension handed down in absentia by the Naval Court of Piraeus on 20 May 2008. He had been left at liberty pending the appeal on payment of €7,000 bail. Petromelidis was first prosecuted after he declared his conscientious objection in March 1992, at a time when Greece did not recognize the right to conscientious objection. In 1998 he refused to do the civilian service of 30 months that he was offered, as it was of an extremely punitive duration -- in his case, 7.5 times longer than the military service he would otherwise have had to perform.<sup>29</sup> Since then, he had been regularly receiving call-up papers to serve in the military and had been repeatedly charged with insubordination because of his refusal, as a conscientious objector, to serve in the army. He had been imprisoned three times, in May 1998, April 1999 and September 2002 and had been banned from travelling abroad.<sup>30</sup>

2) There is no right to conscientious objection for professional soldiers.

On 16 February 2011 the Judicial Council of the Appeal Military Court of Athens heard the appeal of Nikolaos Xarhos against the bill of indictment by the Judicial Council of the Naval Court of Piraeus for a second charge of desertion. Nikolaos Xarhos was a professional soldier. In 1989 he took leave and went to Sweden where he was baptized as a Jehovah's Witness. He came back to Greece in November 2006 and was sentenced to 6 years imprisonment for desertion. He appealed against this verdict and was sentenced by the Appeal Military Court of Athens to 3 years imprisonment suspended for 5 years. On 8 August 2010 he was sent a bill of indictment by the Judicial Council of the Naval Court of Piraeus for a second charge of desertion for the period starting from the day of his trial in the appeal military court until June 2007 when his resignation was accepted.<sup>27</sup>

On 18<sup>th</sup> February 2010, the appeal was heard against the third conviction of Giorgos Monastiriotis. Monastiriotis, who had joined the



Greek Navy on a five-year contract, refused, citing conscientious reasons, to follow his unit in May 2003 when the frigate "Navarino" on which he was serving was sent to the Persian Gulf. He is the first Greek professional soldier known to refuse to participate in that war in Iraq on the basis of his conscientious objection and to declare his resignation from the Navy for this reason in May 2003. On 13 September 2004 he was arrested and sentenced to 40 months' imprisonment for desertion by the Naval Court of Piraeus. He was taken immediately to prison in Corinth where he remained imprisoned for 22 days until his temporary release pending his appeal hearing. On 17 January 2005 he was sentenced again by the Naval Court of Piraeus to 5 months' imprisonment for a second desertion charge, because he did not return to his unit after his release. He appealed and was released until his appeal trial. On 15 March 2006 he was fired by the army. On 31 October 2006 he was sentenced by the Appeal Military Court of Athens to 24 months' imprisonment suspended for 3 years for the first desertion charge. On 21 February 2008 he was sentenced again by the Naval Court of Piraeus to 10 months' imprisonment suspended for 3 years for the third and last desertion charge, because he did not return to his unit after his second release. As a result of the latest appeal, the sentence for the last conviction was halved, and again suspended for three years. <sup>29</sup>

- 3) The civilian service provided is discriminatory and punitive. It still remains under the jurisdiction of the Ministry of Defence, including the examination of the applications and the assessment of persons applying to perform civilian service. A lot of applications for civilian service, mainly of the ideological conscientious objectors, are rejected by the Minister of Defence, following the opinion of a problematic committee of the Ministry of Defence which is judging their conscience posing unacceptable questions during an interview. <sup>31</sup> The duration of the civilian service remains punitive in nature; by law it is double longer than the military service, and in the best case it could become 14 months by ministerial decision, while the military service for the vast majority of the conscripts is 9 months. Currently it is 15 months following a ministerial decision (66,7% longer than the military service). Other conditions of civilian service are also problematic: to be served far from the conscientious objector's home area, not in a series of major cities, and without adequate financial support (223,50 euros per month if the institution doesn't provide accommodation and food). Furthermore, there is lack of adequate information on the possibility of applying for recognition as a conscientious objector (nothing written in the call-up papers). The time-limits for the submission of any application for recognition as a conscientious objector are strict, accompanied by all the required documentation which is difficult to be acquired. The definition of conscientious objection is restrictive and there is arbitrary refusal of recognition. Excluded, for no logical reason, is anyone who has ever held a firearms license (applicants have to provide a certificate from the police showing that they have never done so), or been a member of a hunting club, or participated in shooting sports, or been sentenced for crime related to use of guns, ammunition or illegal violence or even is currently prosecuted for such crime (which is anti-constitutional, in violation of the presumption of innocence).



Finally, there were at least five cases in 2009 when conscientious objectors were refused recognition because during the recruitment process, and before their applications could be considered, they had been obliged for administrative reasons, and against their will, to spend a night in barracks, and were therefore deemed to have commenced military service although they had never accepted enlistment in any form.<sup>29</sup>

- 4) Greece has reportedly failed to protect conscientious objectors as refugees.

One refugee case in Greece in 2009 concerned two sisters from Eritrea who had escaped forcible recruitment and abuse in the Eritrean army. Despite the ample evidence to the contrary (UNHCR etc) the tribunal chose to find that there was no known history of forced recruitment in Eritrea and also, despite the fact that their experiences had been shared, to disbelieve the girls because of the similarity of their stories.

Another case which came to attention in 2009 concerned Ridvan Celik, born in Turkey on 2 March 1969, who had refused to serve his compulsory military service for reasons of conscience in September 1991 and was forced to flee Turkey for this reason. He then immediately asked international protection as refugee in Greece, explaining his situation in his application for political asylum to the Ministry of Public Order. However, on 27 January 1992, the Minister of Public Order rejected his application. On 24 August 2000 the Turkish authorities removed his Turkish citizenship. On 18 July 2002 Mr. Celik applied for residence permit in Greece on humanitarian grounds, but on 23 September 2002 he was informed that this application was also rejected. On 19 June 2003 Mr. Celik applied for status of stateless person, according to the provisions of New York Convention (1954). On 6th December 2009 Mr. Celik was arrested in Heraklion (Crete) as one of being in a group of 20 persons on their way to a demonstration on the anniversary of the killing of Alexandros Grigoropoulos by a policeman in Athens. He was the only one of the group whose detention was not temporary; his trial was set for the summer of 2010, but the police in Heraklion issued a deportation decision against him, and on 24<sup>th</sup> December 2009 he was transferred to the Attica Aliens Department. Following an international campaign, including an intervention by EBCO, Ridvan Celik was released on 30<sup>th</sup> December and permitted to lodge a further asylum claim.<sup>29</sup>

A case which is still pending is this of Kusha Bahrami, born in Iran on 22 March 1982. After being expelled from the Najaf Abad University in 2003 because of his public protests against the theocratic state and the violations of women's rights, he was called to perform military service, which is compulsory in Iran and lasts two years, with no right to conscientious objection. Following strong pressure, he finally enlisted in 2004 but he refused to take a gun on ideological grounds. First he was punished to six-hour isolation because he didn't obey the order. Then he was threatened that he would be sent to a military psychiatric clinic in order to cure his "disorder" and make him obey. Some days later he finally escaped. In 2006 he converted to Christianity. On 2 January 2008 the UNCHR in Turkey recognized him as a refugee at 1<sup>st</sup> instance (case number 385-07C00422, registered on 23 February 2007). In April 2008 he asked international protection as refugee in Greece but



not only he was not allowed to apply for political asylum and even to contact UNHCR, but he was arrested immediately, convicted in a trial without lawyer and translator in his language, and he was detained for three months in Evros, in the north-eastern Greece. In May 2008 he was finally allowed to apply for political asylum and in June 2008 his application was rejected. In July 2008 he appealed against the decision rejecting his application and he is still waiting for his appeal hearing.

Recommendations:

- 1) Stop punishing and prosecuting conscientious objectors (especially repeatedly for their continued refusal to serve in the army).
- 2) Recognise the right to conscientious objection for professional soldiers.
- 3) Make a genuinely civilian service (not under the Ministry of Defence) and of equal duration to the military one, without restrictions on accessing it. Give adequate readily available information on the status of conscientious objector and the means of obtaining such status to all those liable to be conscripted to the armed forces.
- 4) Give political asylum to conscientious objectors who flee their country of origin because of the compulsory military service.

Notes: There are also concerns about the violence directed against conscientious objectors. On 24 February 2009 at around 10 pm, an attempt was made to throw a hand grenade through a window into a public meeting against the new armaments plan hosted by the Greek Association of Conscientious Objectors in the Migrants' House at 13A Tsamadou Street in Exarchia, Athens. It was solely through the good fortune that only the outer panel of the window's double glazing broke and the grenade bounced back and exploded in the empty street that there were no injuries; had the grenade exploded in the room there could well have been fatalities. As it was some damage was caused to the pavement and windows in surrounding buildings were broken. It is not known whether the attack was specifically targeted at the Association of Conscientious Objectors; the building known as the Migrants' House, also houses a number of left, feminist, homosexual and immigrant groups. A short time before the attack, the daily Greek language courses for non-native speakers, attended by dozens of immigrants, had been taking place. Also on 12 April 2008, there was a bomb threat telephone call against a public event on conscientious objection organized by the Greek Section of Amnesty International, with the participation of EBCO, on the occasion of the ten-year anniversary of the law on conscientious objection. The latest attack was symptomatic of a general rise in right-wing pro-militarist violence. There are suspicions that the grenade used might have illicitly come from military sources. It is also disturbing that the police have had no success in attempts to trace the perpetrator. Back in 1991, the extreme-right Organisation of Young Noiseless Raiders attempted to put a bomb at the trial of conscientious objector Pavlos Nathanail, a total objector who was prosecuted because he refused to serve his military service.<sup>29</sup>

### 3.19 Hungary





Conscription: No (since 2004).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (11 Mar 2002). Ratified (24 Feb 2010). <sup>10</sup>

Voluntary recruitment age: 17. <sup>11</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.1% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) The minimum voluntary recruitment age was 17 with parental consent. <sup>11</sup>
- 2) Military educational institutions included the Beri Balogh Adam Secondary-school and Dormitory for Home Defence for elementary school students (boys and girls) had students below the age of 17. <sup>11</sup>
- 3) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Stop the voluntary recruitment of persons aged under 18.
- 2) Stop military training and abolish military schools for persons aged under 18.
- 3) Recognise the right to conscientious objection for professional soldiers.

### 3.20 Iceland



Conscription: No (since always).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (7 Sep 2000). Ratified (1 Oct 2001). <sup>10</sup>

Military expenditure: 0.1% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) In June 2006 the Committee on the Rights of the Child expressed its concern that the absence of armed forces in the country itself did not preclude "the possibility of individuals or groups undertaking efforts to recruit children for foreign armed forces or groups". <sup>11</sup>

Recommendations:

- 1) Explicitly criminalize the recruitment of children under the age of 15 into armed forces or armed groups and their direct participation in hostilities. Establish extraterritorial jurisdiction for these crimes when perpetrated by or against an Icelandic citizen or an individual connected in some way with Iceland.

Notes: No regular military forces. Iceland has no standing military force; under a 1951 bilateral agreement - still valid - its defense was provided by the US-manned Icelandic Defense Force (IDF) headquartered at Keflavik; however, all US military forces in Iceland were withdrawn as of October 2006; although wartime defense of Iceland remains a NATO commitment, in April 2007, Iceland



and Norway signed a bilateral agreement providing for Norwegian aerial surveillance and defense of Icelandic airspace.<sup>32</sup>

### 3.21 Ireland



Conscription: No (never).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (7 Sep 2000). Ratified (18 Nov 2002).<sup>10</sup>

Voluntary recruitment age: 17; 16 as apprentices.<sup>11</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 0.6% of GDP (data 2009).<sup>12</sup>

Remarks:

- 1) Defence Forces Regulations and Administrative Instructions stated that enlistment in any branch of the Irish Defence Force could take place at the age of 17. Cadets entering the Permanent Defence Force for year-long intensive training leading to a commission as a junior officer also had to be 17. The Defence Forces Administrative Instructions explicitly barred the overseas service of any member of the armed forces under the age of 18. Following enlistment, most 17-year-old recruits underwent a six-month period of "essential core basic training" before actively assuming military duties in the Permanent Defence Force. Consequently, the government emphasized that "the possibility of a person who has not attained the age of 18 being exposed to any 'hostile' incident is virtually negligible". According to the government, "the only theoretical situation where a person who has not attained the age of 18 could be exposed to 'hostilities' would be where hostilities had broken out and were occurring within the State's own jurisdiction". Mandatory training requirements in the second year of the service meant that the 17-year-olds in the Reserve Defence Force were not permitted to take part in any actual operations until they were at least 18 or 19. Members of the Reserve Defence Force were expressly prohibited from participation in civil power back-up operations and were also prohibited from taking part in any international operations. All those seeking entry to any branch of the Irish Defence Forces who were under 18 were required to have the written consent of their parent or guardian prior to enlistment, and to have had a personal interview.<sup>11</sup>
- 2) Irish military regulations allowed 16-year-olds to be recruited as "apprentices", receiving special training for three or four years at both military and civilian technological colleges. They were completely prohibited from performing any military duties, and would normally be 19 or 20 by the time they completed their studies and gained their qualification. Only then would they assume active military duties including possible deployment abroad.<sup>11</sup>



3) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Stop the voluntary recruitment of persons aged under 18.
- 2) Stop military training and abolish military schools for persons aged under 18.
- 3) Recognise the right to conscientious objection for professional soldiers.

Notes: Article 256 of the Defence Act makes "interfering with recruiting" an offence which is punishable by a fine. [23](#)

### 3.22 Italy



Conscription: No (since 2005).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (6 Sep 2000). Ratified (9 May 2002). [10](#)

Voluntary recruitment age: 18. [11](#)

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.8% of GDP (data 2009). [12](#)

Remarks:

- 1) Italy had three military schools: the Teuliè Military School in Milan, the Nunziatella Military School in Naples and the Francesco Morosini Naval Military School in Venice. Applicants had to be between 15 and 17 years of age and pass an entrance examination. In addition to the normal school curriculum, students received military training, including combat and weapons training. Italy's Initial Report on the Optional Protocol was ambiguous as to whether students enrolled in military schools were considered part of the armed forces. It was particularly unclear regarding the status of students aged 16 and over, who had to sign a three-year contract of "special voluntary recruitment" into the armed forces before they were allowed to continue their studies. Failure to sign the contract resulted in expulsion from the military school, raising questions as to whether the recruitment was genuinely voluntary. Although parents or guardians had to authorize a child's age (as 15 or above) before he could be admitted to a military school, a parent or guardian's informed consent was not required for the contract of "special voluntary recruitment" into the armed forces, signed by military school students at the age of 16. There was no obvious requirement that students had to be fully informed of the duties involved in military service before signing the contract. The Initial Report also said nothing about 16-year-olds providing "reliable proof of age" at the point of signing the contract. Despite this contract of "special voluntary recruitment" into the armed forces, Italy maintained the position that such students were not part of the armed forces. The relevant paragraphs in the Initial Report suggested some confusion between the concept of membership of the armed forces and that of





taking a direct part in hostilities. The Initial Report did not clarify when the three-year contract of voluntary recruitment would begin, and also failed to make it clear whether the students would be considered military recruits during their education at the military school, or on graduation. <sup>11</sup>

2) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Stop military training and abolish military schools for persons aged under 18.
- 2) Recognise the right to conscientious objection for professional soldiers.

### 3.23 Latvia



Conscription: No (since 2007).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (1 Feb 2002). Ratified (19 Dec 2005). <sup>10</sup>

Voluntary recruitment age: 18. <sup>11</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.4% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) The Youth Guard was a voluntary special-interest organization set up and led by the Ministry of Defence. Apart from instilling physical fitness and patriotism, its purpose was to excite young people's interest in military service, and to cultivate motivated personnel for the all-volunteer military service. Membership was open to citizens with a good command of the Latvian language, and training was arranged for two age groups. Juniors, aged 12–15, learned the basics of military training and about the history, structure and functions of the armed forces. Their program included militarized competitions and hiking. A senior group, aged 16–18, underwent a basic course in national defence, similar to the one followed by privates in the army. This included lessons in weaponry and shooting doctrine, drill, tactics, first aid and topography, and training in national security policy and integration in NATO. The course was designed to last three years and awarded an academic diploma that would ensure fast-track entry into the military professions. The Ministry of Defence also ran Youth Guard courses as a voluntary option in the civilian schools' curriculum, for those eligible to take it and with the agreement of specific institutions. Specially trained instructors were provided by the Ministry. <sup>11</sup>
- 2) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Stop military training and abolish military schools for persons aged under 18.
- 2) Recognise the right to conscientious objection for professional soldiers.



### 3.24 Liechtenstein



Conscription: No (since always).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (8 Sep 2000). Ratified (4 Feb 2005). [10](#)

Notes: Liechtenstein has no armed forces, although the 1921 Constitution (amended in 2003) provided the basis for conscription to be introduced in a time of war or other emergency. The defence of the principality was the responsibility of neighbouring Switzerland. [11](#)

### 3.25 Lithuania



Conscription: No (since 2009).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (13 Feb 2002). Ratified (20 Feb 2003). [10](#)

Voluntary recruitment age: 18. [11](#)

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.4% of GDP (data 2009). [12](#)

Remarks:

- 1) The Riflemen's Union, a voluntary state-supported paramilitary organization, provided volunteers under 18 with training in shooting, military history and fitness, for two hours weekly and at summer camp. [11](#)
- 2) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Stop military training and abolish military schools for persons aged under 18.
- 2) Recognise the right to conscientious objection for professional soldiers.

### 3.26 Luxembourg



Conscription: No (since 1967).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (8 Sep 2000). Ratified (4 Aug 2004). <sup>10</sup>

Voluntary recruitment age: 17. <sup>11</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 0.6% of GDP (data 2007). <sup>12</sup>

Remarks:

- 1) 17-year-olds can enter the armed forces with the written consent of parents or a legal guardian. The amended Military Act of 2 August 1997 stipulated that recruitment for peacekeeping operations would be on an exclusively voluntary basis, and limited participation in peacekeeping missions strictly to those who were 18 or older. Under the terms of the Act of 20 December 2002 (which amended the Military Organization Act), volunteer soldiers under 18 were prohibited from participating in any military operation. The prohibition applied to national defence as well as to participation in "operations of collective or common defence or in peacekeeping operations". All of the above provisions were also included in the declaration made by Luxembourg on ratifying the Optional Protocol in August 2004. The declaration stated that full information about military duties would be given to recruits prior to their recruitment into the armed forces, and that all voluntary recruits were permitted to leave the armed forces at any time. <sup>11</sup>
- 2) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Stop the voluntary recruitment of persons aged under 18.
- 2) Recognise the right to conscientious objection for professional soldiers.

### 3.27 Macedonia

(Former Yugoslav Republic Of Macedonia)



Conscription: No (since 2006).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (17 Jul 2001). Ratified (12 Jan 2004). <sup>10</sup>

Voluntary recruitment age: 18. <sup>11</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.7% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) There is no right to conscientious objection for professional soldiers.



Recommendations:

- 1) Recognise the right to conscientious objection for professional soldiers.

### 3.28 Malta



Conscription: No (never).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (7 Sep 2000). Ratified (9 May 2002). [10](#)

Voluntary recruitment age: none. [11](#)

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 0.7% of GDP (data 2009). [12](#)

Remarks:

- 1) In its declaration on ratification of the Optional Protocol in May 2002, the government prohibited the enlistment of anyone under the age of 17 years and 6 months, and ruled out the participation in hostilities of anyone under the age of 18. The Declaration also included the provision that "a person under 18 years may not be enlisted unless consent to the enlistment is given in writing by the father of such person or, if such person is not subject to paternal authority, by the mother or by another person in whose care the person offering to enlist may be". In its November 2005 Initial Report to the UN Committee on the Rights of the Child on implementation of the Optional Protocol, Malta stated that this requirement also applied to persons "under the appropriate minimum age", apparently contradicting the declaration's ban on recruitment of any individual under the age of 17 years and 6 months. In response, the Committee expressed its regret that the government had given "no indication of a minimum age under which it would not be possible to recruit children under any circumstance, i.e. even with parental or other legal guardians' consent". The Committee therefore recommended the enactment of a law establishing an absolute minimum age without exception for voluntary recruitment. [11](#)
- 2) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Establish an absolute minimum age without exception for voluntary recruitment, at least equal to 18 years old.
- 2) Recognise the right to conscientious objection for professional soldiers.

### 3.29 Moldova



Conscription: Yes.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (8 Feb 2002). Ratified (7 Apr 2004). <sup>10</sup>

Compulsory recruitment age: 18. <sup>11</sup>

Voluntary recruitment age: 17 (training only). <sup>11</sup>

Duration of compulsory military service: 12 months / 3 months for university graduates.

Conscientious objection to military service recognised for conscripts: Yes, since 1991. <sup>13</sup>

Duration of civilian service: 24 months.

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 0.5% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) The voluntary recruitment age is less than 18. <sup>11</sup>
- 2) Military education was available to young people who were citizens of Moldova and not doing military service. Under the Law on the Status of People doing Military Service, those who entered a Military Education Institute at 17 were required to sign a military service contract at 18, which they carried out on completing their course of education at 23. Students who were expelled from a military institute for academic or disciplinary shortcomings were to be immediately conscripted, whatever their age (Article 29). <sup>11</sup>
- 3) There is no right to conscientious objection for serving conscripts, reservists and professional soldiers.
- 4) The civilian service is administered by the Ministry of Defence and it has extremely punitive duration (100% longer than the military service).

Recommendations:

- 1) Stop the voluntary recruitment of persons aged under 18.
- 2) Stop military training and abolish military schools for persons aged under 18.
- 3) Recognise the right to conscientious objection for serving conscripts, reservists and professional soldiers.
- 4) Make a genuinely civilian service (not under the Ministry of Defence) and of equal duration to the military one.

Notes: The self-proclaimed state of TRANSJNIESTR had its own laws and structures, but was not internationally recognized. According to Transdnestr's 2005 conscription law, male residents were liable to call-up between 18 and 27 years, and those with a higher education up to the age of 30. Conscription was for 18 months, 12 for men with higher education. Professional contracts were also open to volunteers aged 18 and over, including foreigners. In time of war, soldiers were to be mobilized from the reserve. <sup>11</sup> There are no legal provisions for conscientious objection and substitute service. <sup>13</sup>



### 3.30 Monaco



Conscription: No (since always).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (26 Jun 2000). Ratified (13 Nov 2001). [10](#)

Notes: No armed forces. The Franco-Monegasque Treaty of 17 July 1918 established the responsibility of France for the defence of the territorial integrity of Monaco. [11](#)

### 3.31 Montenegro



Conscription: No (since 2006).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Ratified by succession (2 May 2007). [10](#)

Voluntary recruitment age: 18. [11](#)

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.3% of GDP (data 2009). [12](#)

Remarks:

- 1) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Recognise the right to conscientious objection for professional soldiers.

### 3.32 Netherlands



Conscription: No (since 1996).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (7 Sep 2000). Ratified (24 Sep 2009). [10](#)

Voluntary recruitment age: 17. [11](#)

Conscientious objection recognised for professional soldiers: Yes, since 1994.



Military expenditure: 1.5% of GDP (data 2009). [12](#)

Remarks:

- 1) Under the Military Personnel Law the current minimum age for voluntary recruitment to the armed forces was 17. Seventeen-year-old recruits were required to have the consent of a parent or guardian before enlistment, and were excluded from all active combat operations or direct involvement in hostilities. There were also restrictions on the use of weapons by 17-year-old volunteers. [11](#)

Recommendations:

- 1) Stop the voluntary recruitment of persons aged under 18.

Notes: It is believed that the Netherlands provisions have on occasion permitted the release of "professional" soldiers. [22](#) In 2007 the appeal court in Arnhem acquitted a soldier who refused to deploy to Afghanistan, after he had initially been sentenced to two months imprisonment. There was also a second case of refusal, which led to a prosecution. However, a second person has also been finally acquitted in December 2007. [23](#)

### 3.33 Norway



Conscription: Yes.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (13 Jun 2000). Ratified (23 Sep 2003). [10](#)

Compulsory recruitment age: 18. [11](#)

Voluntary recruitment age: 18, but the Home Guard Youth was open to volunteers from the age of 16. [11](#)

Duration of compulsory military service: 12 months, in practice shortened to 8 to 9 months. A small number of conscripts serve in the National Guards for 6 months, but have to do an annual two weeks' reservist training up to the age of 44. Conscripts who have performed regular military service also have reservist obligations up to the age of 44, but are in practice seldom called up for reservist training. [13](#)

Conscientious objection to military service recognised for conscripts: Yes, since 1922. [13](#)

Duration of civilian service: 13 months.

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.6% of GDP (data 2009). [12](#)

Remarks:

- 1) The Home Guard Youth was an entirely voluntary organization for young persons, providing "outdoor recreation and other physical and sporting activities with a military element", to be pursued in the young person's free time and without any liability for enrolment in the armed forces. The Home Guard Youth was open to volunteers from the age of 16. [11](#)
- 2) There is no right to conscientious objection for professional soldiers.



- 3) The civilian service has punitive duration (8,3% longer than the military service).
- 4) Each year, between 100 and 200 conscripts refuse to perform both military and substitute service. They are usually sentenced to "enforced completion of the service", which means that they are forced to perform a substitute service consisting of regular substitute service duties. This is mainly relevant for Jehovah's Witnesses. They do not want to apply for substitute service but they will comply with doing substitute service if they are sentenced to perform it. Approximately 150 Jehovah's Witnesses per year are sentenced to enforced service. Total objectors who do not comply with the sentence of enforced substitute service are usually sentenced to a fine and three months' imprisonment under Article 35 of the Military Penal Law for "unauthorized absence from military service". The Military Penal Law envisages a renewed call-up after release and a repeated three months' imprisonment. In practice, the second sentence is often pardoned. <sup>13</sup>

Recommendations:

- 1) Stop military training and abolish military schools for persons aged under 18 (regarding the Home Guard Youth).
- 2) Recognise the right to conscientious objection for professional soldiers.
- 3) Make a civilian service of equal duration to the military one.
- 4) Stop prosecuting total objectors (especially repeatedly for their continued refusal to serve in the army).

Notes: The government has set a maximum on the number of COs that can be employed per year at 1,490. As the number of recognized COs is higher, this means that a considerable number of COs cannot start their substitute service. Consequently, between 500 and 1,000 COs per year are not called up for substitute service and are in practice exempt from serving altogether. <sup>13</sup>

### 3.34 Poland



Conscription: No (since 2009).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (13 Feb 2002). Ratified (7 Apr 2005). <sup>10</sup>

Voluntary recruitment age: 18. <sup>11</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.8% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) The military education system comprised one military academy, two civil-military academies, two officer high schools and eight schools for non-commissioned officers (NCOs) following reorganization in 2001 and 2002. There were also six technical training centres for NCOs and junior military specialists. <sup>11</sup>
- 2) There is no right to conscientious objection for professional soldiers.



 Recommendations:

- 1) Stop military training and abolish military schools for persons aged under 18.
- 2) Recognise the right to conscientious objection for professional soldiers.

### 3.35 Portugal



Conscription: No (since 2004).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (6 Sep 2000). Ratified (19 Aug 2003). [10](#)

Voluntary recruitment age: 18. [11](#)

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 2.1% of GDP (data 2009). [12](#)

 Remarks:

- 1) Individuals seeking to become career officers in the Portuguese armed forces could attend one of three military academies (for the army, navy and air force) that granted university degrees. Applicants had to have completed their secondary education, and those under 18 required parental consent. Postgraduate education was offered by the Instituto de Estudos Superiores Militares, which took students from all three armed forces. [11](#)
- 2) There is no right to conscientious objection for professional soldiers.

 Recommendations:

- 1) Stop military training and abolish military schools for persons aged under 18.
- 2) Recognise the right to conscientious objection for professional soldiers.

### 3.36 Romania



Conscription: No (since 2007).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (6 Sep 2000). Ratified (10 Nov 2001). [10](#)

Voluntary recruitment age: 18. [11](#)

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.4% of GDP (data 2009). [12](#)

 Remarks:



- 1) Young people between the ages of 15 and 20 could volunteer for pre-military training, which aimed to provide “knowledge and orientation in the military and technical field” and to cultivate “ethical and civic values”. Military high schools were open to both male and female students. Postgraduate education for all military personnel, male or female, could be undertaken at the National Defence University as well as at various civilian universities. <sup>11</sup>
  - 2) There is no right to conscientious objection for professional soldiers.
- Recommendations:
- 1) Stop military training and abolish military schools for persons aged under 18.
  - 2) Recognise the right to conscientious objection for professional soldiers.

### 3.37 Russian Federation



Conscription: Yes.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (15 Feb 2001). Ratified (24 Sep 2008). <sup>10</sup>

Compulsory recruitment age: 18 (with basic military training at 15 or 16). <sup>11</sup>

Voluntary recruitment age: 18 (16 at military education institutes). <sup>11</sup>

Duration of compulsory military service: 12 months.

Conscientious objection to military service recognised for conscripts: Yes, since 1993. <sup>13</sup>

Duration of civilian service: up to 21 months (for common servicemen), 18 months for those graduated with higher education or performing their service in organizations under the jurisdiction of the Ministry of Defence. <sup>33</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 4.3% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) Prior to enrolment boys had to undergo training in the basics of military service in their final year at school, when they were 15 or 16 (Article 13 of the Law on Military Obligations and Military Service). Sixteen-year-olds who had already left school were supposed to attend training sessions at centres in their neighbourhood. <sup>11</sup>
- 2) Under the Law on Contractual Military Service, military service contracts were open to volunteers from the age of 18, including non-citizens (Article 34). Candidates had to have completed at least one year’s study at a Military Educational Institute that offered professional training in military subjects to boys and girls from the age of 16. Students at these institutes were regarded as being on military service (Article 35). <sup>11</sup>
- 3) The Law on Military Obligations and Military Service provided for state-run military education establishments for boys (Article 19). Suvorov military colleges, Nakhimov naval-military colleges and musical military



colleges for orchestra players provided a general education with extra military options for boys aged 7–16. They prepared pupils for entry to Military Education Institutes and a life in the military. Cadet Schools provided boys of 12–15 with vocational training for jobs in specific branches of the armed forces. Entry to these institutions was competitive, but automatic for applicants who were orphans or children otherwise deprived of parental care. Cadet School was regarded as beneficial for these children because it guaranteed them a social context and later a job. There appeared to be no procedure for finding out if a child genuinely wanted to attend Cadet School or for an informed adult to represent his best interests. There was also no legal means for reversing the decision to attend Cadet School or the undertaking to do vocational military work on graduation. Cadet Schools offered a very limited curriculum, hard physical drill, little relaxation and military discipline from an early age. By 2007 nearly half the military districts had Cadet Corps and publicized them on a website. <sup>11</sup>

- 4) The Law on Defence states: "The creation and existence of other military formations or arms and military technology, in which military service is foreseen, is not envisaged by Federal laws and is forbidden and punishable by law." In practice numerous armed groups continued to operate in Chechnya and the north Caucasus. They included groups closely linked to the security forces and a range of non-state groups. Under-18s were reportedly recruited into opposition separatist forces in the Chechen Republic and other parts of the north Caucasus. <sup>11</sup>
- 5) There is no right to conscientious objection for serving conscripts, reservists and professional soldiers. The Law on Alternative Civilian Service contains a strict time limit for submitting CO applications. Applications must be made at least six months before receipt of call-up papers (Article 11.1). As conscripts usually receive their call-up papers at the age of 18, they are only 17 years and six months old when they need to submit a CO application if they wish to do so. Consequently, conscripts are, in fact, still minors at the time when they are eligible to make a CO application. CO applications cannot be made by serving conscripts and reservists. According to Article 3.1: "Substitute service is only granted to those who are not in military service". The Law on Alternative Civilian service only applies to conscripts and the legal time limits further exclude professional soldiers from claiming the right to conscientious objection. <sup>13</sup>
- 6) The civilian service is extremely punitive in length (75% longer than the military service) and in nature, including the requirement to perform such service outside places of permanent residence, the receipt of low salaries, and the restrictions in freedom of movement. Also, the assessment of applications is problematic and it is carried out by a draft panel for such service, is under the control of the Ministry of Defence.

Recommendations:

- 1) Stop the basic military training of persons aged under 18.
- 2) Stop the voluntary recruitment of persons aged under 18.
- 3) Stop military training and abolish military schools for persons aged under 18.



- 4) Stop both government-linked armed groups and non-governmental armed groups.
- 5) Recognise the right to conscientious objection for serving conscripts, reservists and professional soldiers.
- 6) Make a genuinely civilian service (not under the Ministry of Defence) of non punitive length (equal duration to the military one) and nature.

### 3.38 San Marino



Conscription: No (never).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (5 Jun 2000). Not ratified. [10](#)

Compulsory recruitment age in time of war or emergency: 16. [11](#)

Voluntary recruitment age: 18. [11](#)

Conscientious objection recognised for professional soldiers: No.

Remarks:

- 1) The Optional Protocol is not ratified.
- 2) Law Number 15 of 26 January 1990 on the Regulation and Discipline of Military Corps and their Officers stipulated that all citizens between the ages of 16 and 60 could be recruited in a time of war or other national emergency. [11](#)
- 3) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Ratify the Optional Protocol.
- 2) Stop the compulsory recruitment of persons aged under 18 in time of war or emergency.
- 3) Recognise the right to conscientious objection for professional soldiers.

Notes: The armed forces are made up of the gendarmerie and the Corpi Militari Volontari, a voluntary military force performing ceremonial duties and limited police assistance. [13](#)

### 3.39 Serbia



Conscription: No (since 2011).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (8 Oct 2001). Ratified (31 Jan 2003). [10](#)



Voluntary recruitment age: 18. <sup>11</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 2.3% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) The Ministry of Defence provided military education at a military gymnasium and a military academy. <sup>11</sup>
- 2) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Stop military training and abolish military schools for persons aged under 18.
- 2) Recognise the right to conscientious objection for professional soldiers.

Notes: On 17 February 2008, the Kosovo Assembly declared KOSOVO independent.

On 23 March 2010, the National Assembly of Serbia passed a new Amnesty Law, which will allow many Serbian expatriates to return to Serbia without fear of being arrested. According to the law, all citizens who have avoided military duty or service, or wilfully left the Serbian Army from 18 April 2006 until the new law comes into force, will be granted amnesty. The law covers the following offences of the Penal Code of Serbia: Article 394 (Evasion of Military Service), Article 395 (Evasion of Registration and Inspection), Article 396 (Failure to Provide Material Resources), Article 397 (Evasion by Self-disablement and Deceit) and Article 399 (Absence Without Leave and Desertion). According to the law, offences committed since 18 April 2006 until the day the new law comes into force fall under the amnesty. In the event that criminal proceedings have already been started, they will be stopped. Serbian Justice Minister Snezana Malovic told parliament: "We have about 40,000 conscripts living abroad and annually about 5,000 are seeking to postpone or avoid service". "Most such conscripts are in constant fear of arrest whenever they come to Serbia". <sup>27</sup>

### 3.40 Slovak Republic



Conscription: No (since 2005).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (30 Nov 2001). Ratified (7 Jul 2006). <sup>10</sup>

Voluntary recruitment age: 18. <sup>11</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.4% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Recognise the right to conscientious objection for professional soldiers.



### 3.41 Slovenia



Conscription: No (since 2003).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (8 Sep 2000). Ratified (23 Sep 2004). [10](#)

Voluntary recruitment age: 18. [11](#)

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.6% of GDP (data 2009). [12](#)

Remarks:

- 1) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Recognise the right to conscientious objection for professional soldiers.

### 3.42 Spain



Conscription: No (since 2001).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (6 Sep 2000). Ratified (8 Mar 2002). [10](#)

Voluntary recruitment age: 18. [11](#)

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.1% of GDP (data 2009). [12](#)

Remarks:

- 1) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Recognise the right to conscientious objection for professional soldiers.

### 3.43 Sweden



Conscription: No (since 2010).



Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (8 Jun 2000). Ratified (20 Feb 2003). <sup>10</sup>

Voluntary recruitment age: 18. <sup>11</sup>

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 1.2% of GDP (data 2009). <sup>12</sup>

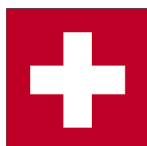
Remarks:

- 1) All residents of Sweden between the ages of 16 and 70 were liable for compulsory military, civilian or national service under the terms of the 1994 National Total Defence Service Act. Compulsory military service was performed in the armed forces and compulsory civilian service in support of the civilian dimension of the Total Defence, defined as "the protection of Swedish society in times of crisis or war". The obligation to compulsory national service applied only in a time of officially declared emergency preparedness. Compulsory military and civilian service was limited to those who were 18 years old or older, and compulsory national service was restricted to those who had reached the age of 16. As part of the Total Defence, 16-year-olds were prohibited from performing any tasks that could constitute an aspect of military defence. <sup>11</sup>
- 2) Sweden's Armed Forces held voluntary youth courses aimed at informing young people between the ages of 15 and 20 about the Total Defence and career opportunities. Young people under the age of 18 at the time of application had to have the permission of a parent or guardian to participate in these activities. While 15-year-olds were permitted to participate in firearms training, training with automatic weapons was restricted to those aged 17 or above. <sup>11</sup>
- 3) There is no right to conscientious objection for professional soldiers.

Recommendations:

- 1) Stop the recruitment of persons aged under 18 for the compulsory national service.
- 2) Stop military training for persons aged under 18.
- 3) Recognise the right to conscientious objection for professional soldiers.

### 3.44 Switzerland



Conscription: Yes.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (7 Sep 2000). Ratified (26 Jun 2002). <sup>10</sup>

Compulsory recruitment age: 19. <sup>11</sup>

Voluntary recruitment age: 18. <sup>11</sup>

Duration of compulsory military service: min. 260 days. The length of basic military training is 21 weeks, and 18 weeks in some exceptional circumstances. Women who volunteer for basic military training have the same obligations as



male conscripts once they have been accepted. After basic military training, all men have reservist duties of up to 21 days yearly up to the age of 34, and up to 50 for officers. Reservist duties consist of 6 or 7 refresher training periods generally of 17 to 21 days each. The total length of military service thus amounts to 260 days and up to 600 days for officers. 20-30% of the recruits in basic training are obliged/forced to do officer training. Reservist duties also include home maintenance of equipment, a rifle and ammunition and the obligation to absolve shooting courses yearly. It is also possible to apply to serve the total of military service as one service ("Durchdiener"). In this case, the total length of military service is 300 days for conscripts, and more for non-commissioned officers and officers. This applies also to women who volunteer for military service. <sup>34 35</sup>

Conscientious objection to military service recognised for conscripts: Yes, since 1996. <sup>35</sup>

Duration of civilian service: min. 390 days (non-commissioned officers or officers often serve longer, see next). According to article 8 of the Law on Civilian Service, substitute service is 1.5 times longer than military service. For conscientious objectors who were non-commissioned officers or officers during their time as conscripts, substitute service lasts between 1.1 and 1.3 times longer than the remaining military service. After completion of substitute service, conscientious objectors are liable for 'extraordinary civilian service'. Conscientious objectors may only be called up for extraordinary civilian service during time of war or emergency. <sup>34 35</sup>

Conscientious objection recognised for professional soldiers: Yes. <sup>35</sup>

Military expenditure: 0.8% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) The civilian service has punitive duration (50% longer than the military service).
- 2) According to the Law on Military Exemption Tax, all those not fulfilling their military duties are in principle liable to a military exemption tax. According to article 2 of the law, this applies to all those liable to military service living in Switzerland or abroad who for more than six months of a given tax year have - for whatever reason - not been attached to a military or reserve unit, or who have failed to attend when summoned to perform their military service. However, article 4 defines a range of exemptions, for handicapped people, and especially for Swiss citizens living abroad. Conscripted citizens leaving the country to live abroad are obliged to pay exemption taxes during the first 3 years abroad. According to article 13, the military exemption tax is rated at 3% of taxable income, and a minimum of 200 Swiss Franks (increased to 400 Swiss Franks from 2010). For handicapped people who are not exempt according to article 4 the tax is reduced to 50%. Non-payment of the military exemption tax can be punished with a fine of 200 Swiss Franks and seizure of wages to recover the tax debt. The Law on Military Exemption Tax does not provide for a conscientious objection. As only those fit for military service can apply for conscientious objection and perform a substitute service, those with a conscientious objection who are unfit for military service are liable to the payment of military exemption tax. Also conscientious objectors who in a certain tax year fail to serve in substitute service have to pay the military exemption tax. In April 2009, the European Court of Human Rights decided on the case of a Swiss complaining about





discrimination for being obliged to pay the military exemption tax in spite of being willing to serve military service, but not being allowed to due to health reasons. In this case, the ECtHR declared the Swiss exemption tax a violation of article 14 in conjunction with article 8 of the European Convention of Human Rights, "finding that the applicant had been the victim of discriminatory treatment as there had been no reasonable justification for the distinction made by the Swiss authorities between, in particular, persons who were unfit for service and not liable to the tax in question and those who were unfit for service but were nevertheless obliged to pay the tax". [34](#) [35](#)

Recommendations:

- 1) Make a civilian service of equal duration to the military one.
- 2) Abolish the Military Exemption Tax.

Notes: On 10 December 2010, the Swiss parliament passed amendments to the regulations for substitute service from 11 September 1996, with the stated objective to reduce the number of CO applications. The main changes are:

- Until recently, it was possible to download the CO application form from the website of the relevant administration. However, according to the new article 23 para 1, the application form has to be requested.
- In addition, the applicant will need to confirm in writing after four weeks that he still wants to pursue his application. In case such a confirmation does not happen, the application will not be dealt with (article 26 para 4).
- Soldiers in Basic Training who apply for conscientious objection have to undergo an assessment of their conscience by military officials and psychologists, and are put under pressure to withdraw their conscientious objection application ("Gespräch Zivildienstgesuch, GZG)
- Substitute service, which in Switzerland can be served in several periods, can only be served in up to two areas of service.
- Compensation for conscientious objectors in substitute service for food, housing, transport etc is vastly reduced by almost 50%.

In its press release from 1 February 2011, the substitute service administration writes: "The amended regulations, passed at the end of 2010, aim to increase a trend in the reduction of CO applications by introducing a number of restrictions for applicants and people in substitute service". [34](#) [35](#)

### 3.45 Turkey



Conscription: Yes.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (8 Sep 2000). Ratified (4 May 2004). [10](#)

Compulsory recruitment age: 19. [11](#)

Voluntary recruitment age: 18. [11](#)

Duration of compulsory military service: 15 months / 6 months for university graduates / 12 months if they become reserve officers.



Conscientious objection to military service recognised for conscripts: No (the only country in the Council of Europe).

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 2.7% of GDP (data 2009).<sup>12</sup>

Remarks:

- 1) In a state of emergency or partial mobilization, individuals aged 15 and over were apparently liable for service in civil defence forces. The National Defence Service Law 3634 stated that "in cases of general or partial mobilization and in preparation of mobilization under a state of emergency, children under the age of 15 ... shall not be held liable".<sup>11</sup>
- 2) Students at military schools and the NCO preparatory school were not liable for compulsory military service or considered members of the armed forces. Admission to military high schools and preparatory schools for NCOs was voluntary and required parental consent. The minimum entrance age was 13 years, and students could leave at any time. Basic military training and skills were not provided in these schools unless students wanted to become "professional soldiers", in which case they received education on "military courtesy rules, elementary military general culture etc". It was not apparent from the Law on Military Academies whether under-18s were legally prohibited from admission. The Naval Academy had not stated minimum entrance age but candidates could not be over 19 or admitted more than 12 months after leaving secondary-school. Although school leavers could potentially be aged only 17, the Turkish Military Academy's stated objectives implied that candidates had to be over 18. The Academy said that its objectives were to educate and train commissioned officers who had "necessary military qualities with developed leadership qualities" or "a BS degree on the scientific branches determined in accordance with the needs of related Service", and to provide postgraduate education related to service needs. Information from the Air Force Academy referred to undergraduate and postgraduate education but made no reference to age. War colleges for all branches of the armed forces were open to graduates who had completed their minimum two-year tactical- level command and staff duties, and a National Security College provided senior officer training.<sup>11</sup>
- 3) There is no right to conscientious objection.
- 4) Conscientious objectors are prosecuted and imprisoned and in several cases they face repeated imprisonment. Conscientious objectors may be punished under Article 63 of the Turkish Military Penal Code for avoiding military service. Conscientious objectors who attract media attention or publish articles about their refusal to perform military service may also be punished to between six months' and two years' imprisonment under Article 318 of the Turkish Criminal Code for "alienating the people from the armed forces". Those who are convicted for draft evasion must still complete their term of military service. Repeated offenders may thus be sentenced again. Prison sentences for repeated offenders may not be commuted into fines. Those convicted to less than six months' imprisonment usually serve their prison sentence in military prisons; those convicted to over six months' imprisonment are imprisoned in regular prisons. After serving their prison sentence, they still need to perform the remaining term of their military service.<sup>36</sup>



Inan Suver, who had first declared his conscientious objection in a letter to the military authorities in 2009, was detained in Istanbul on 5 August 2010 and transferred to the military prison in Izmir on 23 August. On 24 August, he appeared in front of the Aegean Armed Forces Command Court. The Court confirmed the charges of "infringement of leave" and ordered that he remain in pre-trial detention. Suver restated his conscientious objection during the hearing. Suver has been convicted and imprisoned on charges of "desertion" on at least three previous occasions. He has reported that while serving his prison sentence for desertion at Şirinyer Military Prison in İzmir he was severely beaten by prison guards. His outstanding sentences from the three previous convictions totalled 35 months. On 21 April, 2011 Süver escaped from the Manisa Saruhanlı Open Prison. One day later, he was arrested in Izmir and taken to the Buca Prison (Izmir). Süver started a hunger strike after he was arrested in Izmir. On 3 May, he was given a 20-day isolation punishment because he insisted on continuing the hunger strike and was transferred to the E Type Closed Prison in Manisa (western Turkey). Suver had begun and abandoned hunger strikes on two previous occasions during his imprisonments. Süver's father Yasin Süver met his son at the Manisa E Type Closed Prison on 4 May and afterwards reported that İnan was in very poor health. <sup>27</sup>

Among Jehovah's Witnesses imprisoned in Turkey is Baris Görmez, 33 years old, the subject of the interim directive from the European Court of Human Rights. Ignoring the interim directive, on January 26, 2011, the military court in Isparta sentenced Görmez back to the military prison where he has been since November 5, 2007. The court made this decision after conferring with the Republic of Turkey Ministry of Justice. Ahmet Yorulmaz, a spokesperson for Jehovah's Witnesses in Turkey stated "As soon as he finishes one prison term, Barış is sentenced to another because his Bible-trained conscience does not allow him to wear a military uniform or bear arms." Görmez has consistently stated that he would be willing to perform alternative civilian service if this option was available. Even before arriving at prison, cruel attempts were made by the military police to coerce Barış Görmez to change his religious beliefs and take up arms. He was hit, kicked, and stepped on while the soles of his feet were beaten with a club. <sup>37</sup>

Enver Aydemir, 37 years old, was sentenced to ten months imprisonment by Eskişehir military court on 30 March 2010, on charges of desertion. Aydemir refuses military service based on his religious beliefs as a Muslim. He refuses to be part of a secularist military. He was first called up to serve in a gendarmerie unit in the north-western Turkish province of Bilecik. He was brought to his unit by force. After declaring his conscientious objection, Aydemir was arrested on 24 July 2007, and sent to Eskişehir military prison, where he spent several months in pre-trial detention. On 4 October 2007, he was released by the court, and ordered to again report to his unit in Bilecik. However Aydemir did not follow this order. He was again arrested on 24 December 2009, after a routine police check in Istanbul revealed an outstanding arrest warrant, and after several days was again transferred to the military prison in Eskişehir. While in prison, he faced



further disciplinary punishment for refusing to wear the prison uniform and disobeying orders. Following sentencing on 30 March 2010, Aydemir was formally released in recognition of the time he had already spent in prison, but was taken to the Bilecik 2<sup>nd</sup> Gendarmerie Private Education Unit, where he was again ordered to complete his military service. It was reported that he was then returned to Eskişehir military prison, to await a new trial on charges of disobeying orders. On his next appearance before the military court he was sent to a hospital in Ankara for a mental-health evaluation. Hospital staff declared him "anti-social" before even giving him a proper medical examination, he said. When he was in the hospital, Aydemir said, "I just hung around in the garden." While doctors declared him unfit for military service, they also warned other patients to steer clear of him, he added. He was eventually released at the beginning of September 2010. <sup>27</sup>

- 5) Public statements in favour of the right to conscientious objection have led to convictions. Article 318 of the Turkish Criminal Code for "alienating the people from the military" is used to stifle discussion of conscientious objection. In January 2011, this was used by the Eskişehir Public Prosecutor's Office to file an indictment against five people – conscientious objector Halil Savda, director Mehmet Atak, writer Fatih Tezcan, Enver Aydemir's father, Ahmet Aydemir, and his lawyer Davut Erkan in Eskişehir regarding a press release issued during the court case against Enver Aydemir at Eskişehir military court in January 2010. In the statement they had underlined that no one is born a soldier but a baby, making reference to the popular Turkish motto "Every Turk is born a soldier". They added that they go to Ordu only for hazelnuts (Ordu is a city in the Black Sea region of Turkey famous for its hazelnuts, and the word "ordu" in Turkish also means army). The Eskişehir public prosecutor claimed in his indictment that these statements are intended to "alienate the people from the military", which stipulates imprisonment from six months to two years for people who are found guilty of this act. If members of the media are found guilty of such discouragement, the punishment is increased by half. In a separate case, on 3 March 2011 the Court of Appeal upheld the sentence of five months' imprisonment received by Halil Savda from the Sultanahmet 1<sup>st</sup> Court of First Instance in Istanbul on 2 June 2008 under the same Article 318, regarding a statement of solidarity with two Israeli conscientious objectors which had appeared in the press on 1<sup>st</sup> August 2006. <sup>36</sup>

Recommendations:

- 1) Stop the recruitment of persons aged under 18 for service in civil defence forces in a state of emergency or mobilization.
- 2) Stop military training and abolish military schools for persons aged under 18.
- 3) Recognise the right to conscientious objection for conscripts, serving conscripts, reservists and professional soldiers.
- 4) Stop prosecuting (especially repeatedly for their continued refusal to serve in the army), imprisoning and ill-treating conscientious objectors.
- 5) Abolish Article 318 of the Turkish Criminal Code for "alienating the people from the armed forces".

Notes: The government continued to organize, arm and pay the Village Guards, a civil defence force numbering 60,000 and mainly concentrated in the south-



east as part of its security operations there. It was not known whether there were under-18s in these paramilitary forces. It was not known how many PKK fighters were under 18. Recruitment of under-18s of both sexes had been reported in 2003. The PKK was believed to have used children in its forces since 1994. <sup>11</sup>

### 3.46 Ukraine



Conscription: Yes.

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (7 Sep 2000). Ratified (11 Jul 2005). <sup>10</sup>

Compulsory recruitment age: 18. <sup>11</sup>

Voluntary recruitment age: 19. <sup>11</sup>

Duration of compulsory military service: 18 months in the navy / 12 months in the army and air force / 9 months for university graduates / 3 months for junior commanders.

Conscientious objection to military service recognised for conscripts: Yes, since 1992. <sup>13</sup>

Duration of civilian service: 27 months and 18 months for those who have completed higher education.

Conscientious objection recognised for professional soldiers: No.

Military expenditure: 2.9% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) Young people could enrol for training in a higher military education institution between the ages of 17 and 21. Potential officers could enrol between the ages of 18 and 23. In 2005 the Ministry of Defence announced the closure of 23 higher military schools by 2009, among them the Mikolaiv Military Motor College and the Vasilkiv Air Force College. All higher military education for ground troops was in future to be concentrated in one national university at Lviv. Among reasons given for the closures were falling enrolments and students' need for vocational skills which they could transfer to civilian life. At least one secondary-school offered two years' intensive military preparation from the age of 15, specifically for orphans and the children of military personnel. The orphans' secondary-school in the Crimean town of Alushta reported that in 2004, 90 per cent of its former students had gone on to a career in the armed forces. <sup>11</sup>
- 2) The civilian service has punitive duration (50% longer than the military service).
- 3) A list of ten minority religious groups whose members were eligible to apply had been specified in a 1999 government decree. Objectors from Jewish or majority faiths, or who were not religious, had no alternative to compulsory military service. <sup>11</sup>



- 4) There is no right to conscientious objection for serving conscripts, reservists and professional soldiers.
- Recommendations:
- 1) Stop military training and abolish military schools for persons aged under 18.
  - 2) Make a civilian service of equal duration to the military one.
  - 3) Recognise the right to conscientious objection to all applicants, both on ideological and religious grounds, and not just to the ten minority religious groups.
  - 4) Recognise the right to conscientious objection for serving conscripts, reservists and professional soldiers.

### 3.47 United Kingdom



Conscription: No (since 1960).

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: Signed (7 Sep 2000). Ratified (24 Jun 2003). <sup>10</sup>

Voluntary recruitment age: 16. <sup>11</sup>

Conscientious objection recognised for professional soldiers: Yes.

Military expenditure: 2.7% of GDP (data 2009). <sup>12</sup>

Remarks:

- 1) The voluntary recruitment age is less than 18. Actually there is no statutory minimum age for recruitment. The Armed Forces Act of November 2006, while providing for the drawing up of regulations regarding enlistment and terms and conditions of enlistment and service by the Defence Council, failed to include a statutory minimum age for enlistment. In practice, enlistment for "non-officers" was not permitted until the age of 16, although application could be made up to five months previously in the case of the army and up to three months previously for the navy and the air force. Officers could be recruited into the navy from the age of 17, into the air force from 17 and a half, and into the army from 17 years and 9 months. The minimum enlistment age to the army's Brigade of Gurkhas was 17 and a half on 31 January of the year following enlistment. Entry into the Territorial Army, which operated on a part-time basis, was from age 17 for both soldiers and officers. All three services required parental or guardian consent for those enlisting below the age of 18. In ratifying the Optional Protocol, the government stated that safeguards to protect under-18s were maintained by informing the potential recruit about the nature of military duties, ensuring that the decision to enlist was voluntary, and obtaining free and informed parental consent. Doubts about the effectiveness of some of these safeguards were expressed, particularly in relation to the army. Reports by the Adult Learning Inspectorate (ALI) on armed services training published in 2005 and



2007 spoke of recruitment practices being "overzealous" and contributing to a "very high drop-out rate" and of recruitment procedures and materials which "sometimes mislead", with some recruits reporting that they had been steered into trades for which they were unsuited or had little interest, but where shortages existed. In the case of all three services, recruits, regardless of age, were not permitted to leave during the first 28 days of duty. They could then exercise "discharge as of right" and leave within the first six months. After the expiration of the "discharge as of right" period, under-18 recruits to the army had no legal right to be transferred to the reserve until the age of 22, for which 12 months' notice had to be given. The normal procedure was for all new recruits to enlist for a 22-year "open engagement". Those ending their (regular) service before the completion of this period were required to serve in the army reserve for the balance of the 22 years or for a period of six years, whichever was less. Armed forces personnel under the age of 18 years and 3 months could also apply for discretionary permission to leave before their eighteenth birthday if they were "genuinely unhappy". The government itself acknowledged that this did not offer "discharge as of right". Terms of service for all three services were complicated and potentially confusing for new recruits, especially those under 18 with low educational attainment. Those undertaking specialist employment training in all three services were required to waive their right to give 12 months' notice to terminate their contracts after the minimum required period of service, which could mean the deferment of their ability to transfer to the reserve. Set against this, recruitment literature aimed at school leavers stressed opportunities for gaining educational and vocational qualifications without referring explicitly to the resulting obligation to remain in the services for longer periods. In concluding that recruitment to the army should remain open to 16- and 17-year-olds, the Deepcut Review highlighted the benefits to some young people of training opportunities offered by the armed forces, commenting on the lack of opportunity for less educationally inclined 16-year-olds in the UK. In 2005 ALI commented that the "early drop-out is very high, varying from about 15 per cent for the Royal Air Force to 47 per cent in the Royal Marines", with more than a third of all entrants dropping out during the initial training period in the army. The primary target group for the armed forces' promotional activity was children and adolescents. A National Audit Office report published in November 2006 noted that the services were "developing their youth strategies in order to raise awareness at an earlier age to secure similar levels of recruitment from a smaller target population". There were concerns that those non-officer recruits who were of low educational attainment and from poor communities were joining as a last resort and for other negative reasons, including the lack of civilian career options in their particular communities. The Ministry of Defence Armed Forces Youth Policy, aiming to promote the reputation of the armed forces and improve recruitment, had a particular focus on young people at risk of social exclusion. The MoD and the Youth Justice Board for England and Wales in late 2004 launched a joint pilot program of courses which did not involve military training, but offered challenging outdoor activities and development of teamwork, leadership and self-



- esteem. Those successfully completing the program were to be referred to local cadet forces, which were not part of the armed forces but were sponsored by the MoD and said to be at the core of the Youth Policy. Boys and girls aged between ten and 18 could join either the combined cadet force (CCF) units based in schools or cadet forces for the separate services linked to an establishment of one of the regular or reserve armed forces. The most recent Army Continuous Attitude Survey showed that 22 per cent of serving soldiers and 50 per cent of serving officers had been part of a cadet organization. <sup>11</sup>
- 2) In the case of the army, most 16-year-olds were enlisted through “junior entry” and then underwent phase 1 training of between 14 weeks and a year for a general introduction to military life, including drill. They were then sent to phase 2 establishments, where they were trained and lived alongside older trainees for technical and professional training. Phase 2 training could last between a few weeks and up to a year for more specialist training. Those recruited at 17, but also some aged 16 (all generally referred to as “single entry” recruits), were trained by the Army Training Regiment alongside adult recruits at a number of other establishments. Recruits to the army with specific qualifications could also enlist as apprentices in the Technical Corps between the ages of 16 and 17, training in a range of trades over a period of a year or more. Enlistment as an apprentice was on the same terms as for ordinary recruits, with a commitment to serve a minimum of four years from the age of 18. Students were paid during training. Periods of training for under-18s in the navy and air force varied according to chosen career paths. There were no schools operated by or under the control of the armed forces, but the Defence Sixth Form College in Leicestershire, specifically aimed at recruiting and training engineers for the armed forces, was established by the MoD and was overseen by the Defence Academy. While there was no legal obligation to join the armed forces on completing their studies, parents of students who did not do so were required to repay a contribution towards teaching costs. <sup>11</sup>
  - 3) No legal provisions govern the release of professional members of the armed forces on grounds of conscientious objection, but separate regulations within the three services (Army, Navy, and Air Force) govern the procedures which may allow a conscientious objector to be discharged on compassionate grounds. If the application is rejected within the service, there is a right of appeal to the Secretary of State for Defence through the independent Advisory Committee on Conscientious Objection (ACCO). The procedures are swathed in mystery: the regulations themselves are not a public document and statistics on applications are not routinely made public. However following a “Freedom of Information” request in January 2011, the Ministry of Defence stated that there had in total been nine CO applications between 2001 and 2010, of which six were successful. ACCO itself was convened for the first time this century in December 2010, to adjudicate on the case of 24-year-old LMA (Leading Medical Assistant) Michael Lyons. In the summer of 2010 Lyons, who had hitherto served in the submarine branch, although mainly on shore, had been detailed for posting to Afghanistan. During pre-posting briefings he had been disturbed to learn, as he explained to ACCO,





"that even going out as a medic with all good intention, if you're at a patrol base or forward operating base, it's likely you'll have to use your weapon and will have to turn civilians away who are in need of medical aid." This had led him to do some further research as a result of which he came to the conclusion in Afghanistan he would be obliged to do things which were contrary to his conscience and that he therefore had no choice but to apply for release from the Navy as a conscientious objector. His Commanding Officer supported his application, expressing the view that he was "immature and naive" but there was no doubt that his conscientious objection was genuine. A chaplain however expressed the view that the objections as stated were political in nature, and it appears that this view was accepted first by the Navy authorities then by ACCO. In mid September 2010, he was notified that his application for conscientious objection had been rejected. He prepared an appeal to the Advisory Committee on Conscientious Objection (ACCO), but meanwhile he was sent to an advanced rifle training course, again in preparation for his deployment to Afghanistan. At the earliest opportunity, however, Lyons has meanwhile applied for early release through normal channels, giving the minimum twelve months notice. Quite apart from the nature of the rejection, a particularly disturbing aspect of this case is that while his appeal to the ACCO was pending, Lyons was, as part of pre-mission training, detailed to a range for firearms training. He attended, but asked in view of his pending conscientious objection appeal to be excused participation. After some hours of consultation the decision was taken to order him to proceed to the armoury, take a weapon and proceed to the range. When he refused, he was arrested and charged with "wilful disobedience of a lawful order". At a preliminary hearing on 20 May 2011, his counsel argued that the case should be stayed, the order in the circumstances not having been lawful.<sup>27</sup> Lyons argued that the order to commence weapon training had been unlawful, as he was still appealing the rejection of his conscientious objection application, and he should have been assigned to non-combatant duties. A military court in Portsmouth, however, found him guilty of disobeying a lawful order and sentenced him to seven months' detention on 5 July 2011, following a two-day trial. In December 2010, the Advisory Committee on Conscientious Objection heard Michael Lyons appeal, and decided to advise Minister of Defence Liam Fox to uphold the original decision, and to reject Lyons claim of conscientious objection. Until today - more than six months later - Michael Lyons has not officially been informed of the decision.<sup>38</sup>

British Afghanistan war resister Joe Glenton, 28 years old, was sentenced to nine months imprisonment on charges of absence without leave (AWOL) on 5 March 2010. Lance Corporal Joe Glenton left his unit in 2007, traumatised by a seven month deployment to Afghanistan. While still in the military, he had asked for medical attention because of post-traumatic stress disorder (PTSD) resulting from his deployment to Afghanistan, but his request had been refused brusquely. He had no choice but to leave his unit and was discovered to be absent on 11 June 2007, when he was due to return to Dalton Barracks in Abingdon. He handed himself in on 16 June 2009, two years and six days later, after speaking at an anti-war rally in London.



Based on his own experience in Afghanistan, Joe Glenton wrote a letter to the British Defence Minister: "The war in Afghanistan is not reducing the terrorist risk. Far from improving Afghan lives it is bringing death and devastation to their country. Britain has no business there." He was among the first Afghanistan refuseniks to go public. The military responded harshly to his public statements, threatening him with up to ten years' imprisonment. In November 2009, he was arrested and charged with five counts of "disobeying a lawful order" for speaking at the anti-war demonstration in London on 24 October 2009, and for expressing his opposition to the war in Afghanistan to the media. In December 2009 he was released on bail, under the condition that he would not speak in public. At a preliminary court hearing in February 2010 the charge of disobeying lawful orders was dropped, and the desertion charge was reduced to absence without leave. On March 5, 2010 Joe Glenton was sentenced to nine months imprisonment regardless of having been diagnosed with PTSD acquired by his tour of duty in Afghanistan. In April 2010 the High Court in London refused the appeal that he lodged and confirmed the sentence of nine months for having gone AWOL. On 11 July 2010 Joe Glenton was released.<sup>39</sup>

Recommendations:

- 1) Stop the voluntary recruitment of persons aged under 18.
- 2) Stop military training and abolish military schools for persons aged under 18.
- 3) Stop prosecuting and imprisoning conscientious objectors.



### 3. OVERVIEW OF CONCLUSIONS

Council of Europe Member State	Conscription	Optional Protocol to the CRC	Recruitment age		Conscientious objection recognised for		Duration of service (months)		Military expenditure (% of GDP)
			Compulsory	Voluntary	Conscripts	Professional soldiers	Military	Civilian	
Albania	No (2010)	Accessed	-	18	-	No	-	-	2.1
Andorra	No (no army)	Ratified	-	-	-	-	-	-	-
Armenia	Yes	Ratified	18	18, 16-17	Yes (2003)	No	24	42	4.2
Austria	Yes	Ratified	18	17	Yes (1955)	No	6	9	0.9
Azerbaijan	Yes	Ratified	18	17	Yes (1995)	No	18/12	-	3.4
Belgium	No (1995)	Ratified	17 (war)	18	-	No	-	-	1.2
Bosnia and Herzegovina	No (2006)	Ratified	-	18	-	No	-	-	1.3
Bulgaria	No (2008)	Ratified	-	18	-	No	-	-	2.0
Croatia	No (2008)	Ratified	-	-	-	No	-	-	1.8
Cyprus	Yes	Ratified	18	17	Yes (1992)	No	24	33	2.0
Czech Republic	No (2005)	Ratified	-	18	-	No	-	-	1.4
Denmark	Yes	Ratified	18	18	Yes (1917)	No	4	4	1.4
Estonia	Yes	Signed	18, 17	18, <18	Yes (1991)	No	8-12	8-12	2.3
Finland	Yes	Ratified	18	18	Yes (1931)	No	6/9/12	12	1.5
France	No (2001)	Ratified	-	17	-	No	-	-	2.5
Georgia	Yes	Accessed	18	18	Yes (1997)	No	18	36	5.6
Germany	No (2011)	Ratified	-	17	-	Yes	-	-	1.4
Greece	Yes	Ratified	19	18	Yes (1997)	No	9/12	15	3.2
Hungary	No (2004)	Ratified	-	17	-	No	-	-	1.1
Iceland	No (no army)	Ratified	-	-	-	-	-	-	0.1
Ireland	No (never)	Ratified	-	17, 16	-	No	-	-	0.6
Italy	No (2005)	Ratified	-	18	-	No	-	-	1.8
Latvia	No (2007)	Ratified	-	18	-	No	-	-	1.4

European Bureau for Conscientious Objection



Liechtenstein	No (no army)	Ratified	-	-	-	-	-	-	-
Lithuania	No (2009)	Ratified	-	18	-	No	-	-	1.4
Luxembourg	No (1967)	Ratified	-	17	-	No	-	-	0.6
Macedonia	No (2006)	Ratified	-	18	-	No	-	-	1.7
Malta	No (never)	Ratified	-	-	-	No	-	-	0.7
Moldova	Yes	Ratified	18	17	Yes (1991)	No	12/3	24	0.5
Monaco	No (no army)	Ratified	-	-	-	-	-	-	-
Montenegro	No (2006)	Ratified	-	18	-	No	-	-	1.3
Netherlands	No (1996)	Ratified	-	17	-	Yes (1994)	-	-	1.5
Norway	Yes	Ratified	18	18, 16	Yes (1922)	No	12/8-9/6	13	1.6
Poland	No (2009)	Ratified	-	18	-	No	-	-	1.8
Portugal	No (2004)	Ratified	-	18	-	No	-	-	2.1
Romania	No (2007)	Ratified	-	18	-	No	-	-	1.4
Russian Federation	Yes	Ratified	18, 15-16	18, 16	Yes (1993)	No	12	21	4.3
San Marino	No (never)	Signed	16 (emergency)	18	-	No	-	-	-
Serbia	No (2011)	Ratified	-	18	-	No	-	-	2.3
Slovak Republic	No (2005)	Ratified	-	18	-	No	-	-	1.4
Slovenia	No (2003)	Ratified	-	18	-	No	-	-	1.6
Spain	No (2001)	Ratified	-	18	-	No	-	-	1.1
Sweden	No (2010)	Ratified	-	18	-	No	-	-	1.2
Switzerland	Yes	Ratified	19	18	Yes (1996)	Yes	8,6	13	0.8
Turkey	Yes	Ratified	19	18	No	No	15/6/12	-	2.7
Ukraine	Yes	Ratified	18	19	Yes (1992)	No	18/12/9/3	27/18	2.9
United Kingdom	No (1960)	Ratified	-	16	-	Yes	-	-	2.7



Among the 47 Council of Europe member states:

- 2, Albania and Georgia, have not yet signed the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and 2, Estonia and San Marino, have not yet ratified it.
- 5 can or do, in certain circumstances, take recruits aged under 18 into compulsory military service, or training: Austria (option to enrol for military service from the age of 17, with parental approval), Belgium (compulsory recruitment age is 17 in wartime), Estonia (17-year-olds could be liable for call-up), Russian Federation (compulsory recruitment age is 18 with basic military training at 15 or 16) and San Marino (compulsory recruitment age is 16 in time of war or emergency).
- 15 have a voluntary recruitment age under 18: Armenia, Austria, Azerbaijan, Cyprus, Estonia, France, Germany, Hungary, Ireland, Luxembourg, Moldova, Netherlands, Norway, Russian Federation and United Kingdom.
- 4 have no armed forces: Andorra, Iceland, Liechtenstein and Monaco.
- 28 have no conscription: Albania, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Macedonia, Malta, Montenegro, Netherlands, Poland, Portugal, Romania, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden and United Kingdom.
- 15 maintain conscription: Armenia, Austria, Azerbaijan, Cyprus, Denmark, Estonia, Finland, Georgia, Greece, Moldova, Norway, Russian Federation, Switzerland, Turkey and Ukraine. Among these 15 countries, 1 does not recognise the right to conscientious objection for conscripts: Turkey; 1 does recognise the right to conscientious objection for conscripts in its constitution but has no law: Azerbaijan; 11 have a law providing for a discriminatory and punitive civilian service: Armenia, Austria, Cyprus, Finland, Georgia, Greece, Moldova, Norway, Russian Federation, Switzerland and Ukraine; and 2 have a law providing for a non-discriminatory and non-punitive civilian service: Denmark and Estonia.
- 4 recognise the right to conscientious objection for professional soldiers: Germany, Netherlands, Switzerland and United Kingdom.
- 7 have in recent years sentenced conscientious objectors to imprisonment: Armenia, Azerbaijan, Finland, Greece, Norway, Turkey and United Kingdom.
- 3 prosecute conscientious objectors repeatedly for their continued refusal to serve in the army: Greece, Norway and Turkey.
- 2 do too little to prevent the ill-treatment of conscientious objectors in detention: Azerbaijan and Turkey.
- 1 has imprisoned persons for speaking in public in favour of the right of conscientious objection: Turkey.
- 5 have military expenditure larger than 3% of their GDP: Armenia, Azerbaijan, Georgia, Greece and Russian Federation.
- 1 levies military exemption taxes: Switzerland.
- Moreover, conscientious objectors who flee their country of origin because of the compulsory military service, or professional soldiers who have developed conscientious objection but cannot obtain release from the military have been refused political asylum in various European countries.



## 4. OVERVIEW OF RECOMMENDATIONS

EBCO calls on all the Council of Europe member states to:

- Sign and ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.
- Stop the compulsory recruitment of persons aged under 18 (even in a state of emergency or mobilization or war).
- Stop the voluntary recruitment of persons aged under 18.
- Stop the military training of persons aged under 18.
- End conscription and meanwhile recognise the right to conscientious objection for conscripts, serving conscripts and reservists.\*
- Recognise the right to conscientious objection for professional soldiers.\*
- Stop punishing, prosecuting, imprisoning and ill-treating conscientious objectors (especially repeatedly for their continued refusal to serve in the army).
- Stop punishing, prosecuting, imprisoning and ill-treating persons who speak in public in favour of the right to conscientious objection or criticise the army.
- Give political asylum to persons who seek asylum because of their conscientious objection.
- Abolish military exemption taxes.
- Minimise military expenditure and recognise the right to conscientious objection to military taxes.\*

\*Recognise the right to conscientious objection both on religious and ideological grounds, without any religious or ideological exclusion / discrimination, providing adequate and timely information and without restrictions on accessing it.



## FOOTNOTES

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<sup>1</sup> Grand Chamber Judgment on Application no. 23459/03 on the case of Bayatyan v. Armenia, Council of Europe, European Court of Human Rights, 7 July 2011, <http://cmiskp.echr.coe.int/tkp197/view.asp?item=7&portal=hbkm&action=html&highlight=&sessionid=73355936&skin=hudoc-en>.

<sup>2</sup> Conscientious objection to compulsory military service, Council of Europe, Directorate General of Human Rights, first impression June 2002, latest impression December 2007, [http://www.coe.int/t/dghl/standardsetting/hrpolicy/other\\_committees/DH-DEV-FA\\_docs/ConscientiousObjection\\_en.pdf](http://www.coe.int/t/dghl/standardsetting/hrpolicy/other_committees/DH-DEV-FA_docs/ConscientiousObjection_en.pdf).

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