

SUBMISSION

TO THE 130TH SESSION OF THE HUMAN RIGHTS COMMITTEE

GEORGIA

Contribution for the adoption of the List of Issues

Military service, conscientious objection and related issues

IFOR International Secretariat

Postbus 1528 ☒ 3500 BM Utrecht ☒ The Netherlands

+31.30.303.9930

www.ifor.org

This submission was prepared in August 2020, including the latest information available. It focuses on military recruitment and conscientious objection.

Georgia suspended obligatory military service in 2016, but reinstated it the following year, after only one call-up session had been missed.

Although conscientious objection to military service was recognised in 1997, concerns remain about the discrepancy between the duration of alternative service and that of military service, and about the independence of the bodies which assess conscientious objector claims.

This submission also expresses concern about the subjection of children of school age to military, including firearms, training.

The issue in the Human Rights Committee

In its Concluding Observations on Georgia's Second Periodic Report under the International Covenant on Civil and Political Rights (ICCPR), the Human Rights Committee expressed "its concern at the discrimination suffered by conscientious objectors owing to the fact that non-military alternative service lasts for 36 months compared with 18 months for military service", regretted "the lack of clear information on the rules currently governing conscientious objection to military service," and recommended that "The State party should ensure that persons liable for military service who are conscientious objectors can opt for civilian service the duration of which is not discriminatory in relation to military service, in accordance with articles 18 and 26 of the Covenant."¹

Georgia's Third Periodic Report stated that the duration of alternative service was now 24 months². This confirmed during the examination of the Report,³ contrived that conscientious objection appeared neither in the List of Issues nor the Concluding Observations on that Report.

¹ CCPR/CO/74/GEO, 19th April 2002, para. 18.

² CCPR/C/GEO/3, 7th November 2006, para. 138.

³ "substitute civil service lasted 24 months, only six months longer than military service, which lasted 18 months." CCPR/C/SR/2484 (Meeting of 16th October, 2007), para. 47.

GEORGIA's basic information

HISTORY: The former Soviet Republic of Georgia became independent and was admitted to the United Nations in 1991. Secessionists, backed by Russia, set up de facto governments in Abkhazia, on the Black Sea coast, and South Ossetia, in the Caucasus (North Ossetia is an autonomous region of the Russian Federation.)

POPULATION (November 2019, estimated⁴): 4,927,000
Males reaching 18 years old annually (approx.)⁵: 27,591

MILITARY SERVICE: On independence, Georgia inherited the Soviet pattern of conscription into 24 months' military service, with call-ups in the Spring and Autumn of each year. All male citizens liable from the age of 18 to 27.

DURATION OF SERVICE: reduced to 18 months in 1995, and again in 2010 to 12 months (briefly increased to 15 months in 2012).

ARMED FORCES ACTIVE STRENGTH, November 2019⁶: 20,650 (Conscripts 4,350) as a ratio of the number of men reaching "military age"⁷ 74.8% (Conscripts 15.8%).

MILITARY EXPENDITURE 2019⁸: \$316m
Per capita \$79
As % of GDP 2.0%

ARMED CONFLICT: In 2008, Russia invaded in support of the South Ossetian secessionists.

I. Military Service

Georgia inherited the Soviet model of 24 months' obligatory military service for all males aged between 18 and 27, with Spring and Autumn call-ups each year. The duration of military service was reduced in 1995 to 18 months. In 2010, it was further reduced to 12 months (briefly increased in 2012 to 15 months⁹). Exemptions include priests,¹⁰ persons who are the only son in their family, orphans, or who are themselves fathers.¹¹ Students in higher education may postpone until after graduation.

In the late 1990's, the manpower of the armed forces was over 30,000, but numbers were subsequently reduced, partly by a policy of "professionalisation" aimed at obtaining NATO membership.

⁴ *The Military Balance 2020* (International Institute of Strategic Studies, London), which bases its estimate on "demographic statistics taken from the US Census Bureau".

⁵ Calculated from demographic breakdown in *The Military balance 2020*.

⁶ As quoted in *The Military Balance 2019*, op.cit.

⁷ This gives an approximate measure of the proportion of the male population who serve in the armed forces; in the case of conscription, of how universally it is enforced. If military service is of 12 months and all eligible perform it, the ratio would be 100%; if of two years 200%.

⁸ SIPRI (Stockholm International Peace Research Institute) April 2020.

⁹ Democracy and Freedom Watch, "Georgia extends military service to 15 months", 16th February 2012 and "Georgia to end the draft by 2016" 9th January 2013.

¹⁰ Bundesamt für Flüchtlinge (Swiss Federal Refugee Office), *Focus: Georgien - Wehrdienst*, Bern, 22nd November 2000.

¹¹ Danish Immigration Service, *Report on roving attaché mission to Georgia, 14th to 27th October 2000*, reproduced on the website of the UN High Commissioner for Refugees (www.unhcr.org) under "research/evaluation".

In 2002, an amendment to the Law on Military Service and Conscription instituted three categories of military service - mandatory, contract and career/reserve. “Contract” troops, male or female, could volunteer for an initial period of three years, after which they would have the option of signing up for a long-term military career; the intention being that such volunteers would eventually form two-thirds of military personnel.¹² In 2006, parliament approved a further increase in the number of “contract” personnel, bringing the proportion of conscripts down to 20%.¹³ Another Bill transformed the voluntary reserve force set up in 2002 into an obligation on all men between 27 and 40 to attend 24 (18 if University graduates) days’ military training every two years.¹⁴ Volunteers may be accepted into military reserve service from the age of 18.¹⁵

It was planned to abolish conscription altogether from the end of 2009.¹⁶ However, although the policy of boosting professionalisation by a greater use of contract servicemen (whose initial period of service was increased to four years)¹⁷ was continued, the Russian invasion of South Ossetia in 2008 stopped talk of an imminent end to conscription. The proposal was however revived by in January 2013. As part of a stepwise transition to a fully professional army over four years,¹⁸ the target for the Spring call-up was sharply reduced to 1,650, as compared with a total of 4,347 recruits in the two 2012 call-ups.¹⁹

In July 2016, the Minister of Defence announced the abolition of obligatory military service. As in Ukraine two years earlier, this referred only to conscription into military forces under the Ministry of Defence. The Ministry of Internal Affairs and the Ministry of Corrections continued to conscript, and it is reported that they called up 75% of those eligible.²⁰ And as in Ukraine, only one military call-up did not take place; under a new Government the first new conscripts were called up in February 2017.

Military service is currently 12 months as before, but conscripts have “weekends off” and are paid the equivalent of \$21 per month, as compared to \$3 previously.²¹ The latest estimate is that conscripts’ number approximately 4,350, about 20% of the army’s strength. The reports of non-military conscription imply therefore that among the 5,400 Border Guards, under the control of the Interior Ministry, and the unknown number serving under the Ministry of Corrections there are at least 16,000 conscripts.²²

The conscripts employed by the Ministry of Corrections, in particular, complain that their training is not military and that they are employed as prison guards. Others describe their role as that of “lackeys”.²³ Conscription in Georgia would probably thus come under the ILO definition of forced labour.

¹² Immigration and Refugee Board of Canada, op. cit.

¹³ Institute for War and Peace Reporting, *Caucasus Reporting Service No. 370*, 14th December, 2006 and *No.384*, 22nd March, 2007.

¹⁴ Liklikadze, K. “Georgia creates army reserves”, Institute for War and Peace Reporting, *Caucasus Reporting Service No. 384*, 22nd March 2007.

¹⁵ Replies to the List of Issues on Georgia’s Initial Report under the Optional Protocol to the Convention on the Rights of the Child on children involved in armed conflict. (CRC/C/GEO/OPAC/Q1/Add.1), 17th September 2019, para. 60.

¹⁶ Coalition to Stop the Use of Child Soldiers, *Child Soldiers Global Report 2008*, p. 149.

¹⁷ *The Military Balance 2013*, op. cit., p. 220.

¹⁸ Democracy and Freedom Watch, “Georgia to end the draft by 2016”, 9th January, 2013.

¹⁹ Democracy and Freedom Watch, “Spring recruitment for the military has started”, 8th February, 2013.

²⁰ Agenda.ge news online, “Georgia’s Defence Ministry abolishes compulsory conscription”, Tbilisi, 27th June 2016.

²¹ Agenda.ge news online, “Compulsory military service reintroduced in Georgian Armed Forces”, Tbilisi, 14th February 2017.

²² Figures from *The Military Balance 2020*, op. cit., p. 189.

²³ European Bureau for Conscientious Objection (EBCO), *Annual Report 2018*, Brussels, 18th January 2019, p. 22.

II. Conscientious objection and alternative service

The first recognition of conscientious objection to military service was in the 1997 Law on Alternative Service, effective from January 1998. Under Article 4 "Those conscripts who according to the legislation must perform military service, but refuse to do so because military service of any sort is incompatible with their conscience, may be called up to perform civilian service in times of peace".²⁴ Article 5 specifies appropriate placements.

New regulations introduced in 2001 put the administration of alternative service under the Ministry of Labour, Health and Social Affairs. However, applications are still considered by the relevant regional or municipal Recruitment Commission. No details or statistics relating to their proceedings are made public. Appeals against their decisions, with a suspensive effect, can be made to the Central Recruitment Commission.²⁵

In 2002, a system of "buying-out" of the obligatory military service requirement was instituted in as part of the downsizing of the armed forces (according to one source, formalising a practice which, illicitly, was already widespread). Within the first month of its operation, 124 persons made use of the provision.²⁶

We believe that complete "buying out" is no longer possible, but until the age of 25 up to two deferments of 18 months can be purchased for 2000 lari (approximately \$600) each.²⁷

No challenges to alternative service decisions have come to our attention since 2012, when "In two cases reported by the Jehovah's Witnesses involving alternative service [...], the Ministry of Defense denied initial requests for exemptions, but granted the requests in follow-up appeals. Authorities granted the appeal of one Jehovah's Witness in which the individual was fined for non-fulfilment of military or alternate service, but denied the appeals of three others."²⁸

III. Duration of alternative service

Article 6 of the 1997 Law on Alternative Service set its duration at 36 months.²⁹ This was subsequently reduced in parallel with military service, and now stands at 24 months. This however remains twice as long as that of military service.

In 2008 the Council of Europe's Committee of Social Rights in its "Conclusions" on Georgia under the European Charter of Social Rights stated:

"The Committee would emphasise that the length of service carried out to replace military service [...], during which those concerned are denied the right to earn their living in an occupation freely

²⁴ Stolwijk, M., *The Right to Conscientious Objection in Europe: A Review of the Current Situation*, Quaker Council for European Affairs, Brussels, 2005, p. 30.

²⁵ Initial Report of Georgia under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/GEO/1), 16th November, 2018, para. 10.

²⁶ Immigration and Refugee Board of Canada, op. cit.

²⁷ Law on Military Duty and Military Service, Article 5.

²⁸ United States State Department, Bureau of Democracy, Human Rights and Labor, *International Religious Freedom Report for 2012: Georgia*.

²⁹ Article 6.

entered upon, must be reasonable [...]. The Committee assesses whether the length of alternative service is reasonable by comparing it with the length of military service. For example, where the length of alternative service is over one-and-a-half times that of military service, it considers the situation to be incompatible with Article 1§2 [...].

“Admittedly, recognised conscientious objectors are in a better position than they are in countries that do not grant them special status or where refusal to serve is punishable by imprisonment. But even if the state acknowledges the principle of conscientious objection and institutes alternative service instead, it cannot make the latter longer than is necessary to ensure that refusal to serve on grounds of conscience is genuine and the choice of alternative service is not seen as advantageous rather than a duty. The Committee notes that in Georgia compulsory military service lasts 18 months and alternative service is the same length for citizens with a higher education and 24 months for all others”.³⁰

In terms of the Council of Europe, this was revolutionary. CoE jurisprudence had hitherto held that a 50% discrepancy was reasonable – in contrast to the line taken by the Human Rights Committee as early as 1999, in *Foin v France*.

IV. The Universal Periodic Review

In the First Cycle of the UPR in 2011, Slovenia “took note of the concluding observations of the Human Rights Committee on the issue of conscientious objectors, in particular, the differences between the length of alternative non-military service and military service, and asked what steps had been taken to address that difference”,³¹ and recommended that Georgia should “reduce the length of alternative service for conscientious objectors so that it is the same length as the military service”.³² This “enjoyed the support of Georgia”.

For the Second Cycle, Slovenia submitted an advance question :

“We note that Georgia supported our previous recommendation to equalize the length of alternative service for conscientious objectors with the length of military service, but that there had been no action to implement it. What is the action plan and time frame to fully implement the norm that equalizes the length of alternative service for conscientious objectors with the military service?” This was not answered in the Report of the Working Group, the issue was not raised orally, nor were there any relevant recommendations – an example of how a State can quietly “bury” an issue in the UPR.

In 2017, a political party named “Girchi” (fir cone) succeeded in registering the Christian Evangelical Protestant Biblical Freedom Church of Georgia with the Ministry of Justice as a religious organisation, giving it the authority to appoint clergy, who are exempt from military service.³³ The aim was that such appointments would be used to enable men to avoid military service. Girchi stresses that it vets those whom it supports. “He cannot be a fascist, nor homophobe nor xenophobic. He is obliged to spread the idea of freedom in society.”³⁴ Within a year they had 12,000 “clergy”.

³⁰ Council of Europe, European Committee of Social Rights, *European Social Charter (revised): Conclusions 2008 (GEORGIA): Articles 1, 10, 15, 18 and 20 of the Revised Charter*, November 2008, p. 9.

³¹ A/HRC/17/11 (Meeting of 28th January, 2011), para. 37.

³² A/HRC/17/11, para. 105.63.

³³ War Resisters’ International, “Georgia: Political party helps men avoid military service” www.wri-irg.org, 7th October 2017.

³⁴ BBC News, “Political party helps men dodge the draft” www.bbc.com, 23rd April 2017.

The introduction of mandatory reserve training in 2006 was accompanied by no conscientious objection provisions. Georgia's Fourth Periodic Report under the ICCPR indicated that the constitutionality of this was challenged by the Ombudsman³⁵. Following a ruling from the Constitutional Court, in December 2011 legislation was brought in to create a civilian alternative to reserve military duty. Previously, five Jehovah's Witnesses and four Seventh Day Adventists had been fined 500 lari (approximately \$300) for their refusal. One Jewish conscientious objector had also initially been denied permission to substitute alternative service, but this decision was overturned.³⁶

V. Military training in the education system

In the declaration made in 2010 on accession to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC) Georgia stipulated that the minimum age for recruitment into obligatory military service was 18 years.

In its initial report under the OPAC, Georgia confirmed that “the Law on Military Obligations and Military Service provides the possibility for persons to learn in high military educational institution under 18 as an exception. However, the Law establishes that the person may become the *Junker* (student) of high military educational institution only by the consent of parents.”³⁷ The State also stresses that *Junker* are not considered members of the armed forces.³⁸

In 2010 a “Cadets' Military Lyceum” was established in Kutasi “for boys under the age of 17 years who have completed nine grades of education.” In 2013 this was extended to girls. As of Summer 2019, 143 boys and 42 girls, all aged between 15 and 18 were about to proceed to the second or third year of training.³⁹ Georgia confirmed that cadets went through the basic military training course, including the use of weapons.⁴⁰

In its Concluding Observations on Georgia's Initial Report under the OPAC, the Committee on the Rights of the Child recommends “that the State party take measures to ensure that students below the age of 18 years at higher military educational institutions are exempt from military training that involves the handling of firearms and military discipline.”⁴¹

“While noting the State party's information that the curriculum of the Giorgi Kvinitadze cadets military lyceum [...] is approved by the Ministry of Education and that pupils in that institution are considered civilians and not military service members” the Committee expressed concern “about the State party's information that children in that institution undergo basic military training, including training on firearms with live ammunition at the age of 16 years.”⁴², and recommends that students “are not trained in the use of weapons and live ammunition.”⁴³

³⁵ CCPR/C/GEO/4, 1st November 2012, para. 143.

³⁶ United States State Department, Bureau of Democracy, Human Rights and Labor, *International Religious Freedom Report for 2011: Georgia*.

³⁷ CRC/C/GEO/OPAC/1 op cit (see footnote n. 19), para. 46.

³⁸ Ibid. para. 47.

³⁹ CRC/C/GEO/OPAC/Q1/Add.1, op. cit.), para. 14.

⁴⁰ Ibid, para. 15.

⁴¹ CRC/C/GEO/OPAC/CO, 30th October, 2019, para. 21.

⁴² Ibid, para. 22.

⁴³ Ibid, para. 23.

VI. Abkhazia and South Ossetia

The Georgian government does not enjoy effective control of Abkhazia and South Ossetia, so is not answerable for the human rights situation there. It might however be noted that the de facto administrations in these regions maintain armed forces and both have enforced a form of conscription. Unusually for an internationally-unrecognised administration, the de facto authorities in Abkhazia have considered legislation to introduce provision for conscientious objection,⁴⁴ but details are hard to obtain, and the Jehovah's Witnesses, most likely to wish to avail themselves of such provisions, remain formally banned, expressly because of their refusal of military service.⁴⁵

In Abkhazia, pupils in the final two years of secondary school receive two hours per week "pre-conscription training for civil defence". There have also been some reports of premature conscription of 17-year-olds.⁴⁶

Suggestions for the List of Issues

It is suggested that Georgia be asked:

1. What measures is the State Party taking to equalise the duration of military service and civilian alternative service, as recommended by the Committee in its concluding observations on its third periodic report?
2. What action has the State Party taken to implement recommendation of the Committee on the Rights of the Child, regarding the status of minors enrolled in military training establishments?

⁴⁴ Bundesamt für Flüchtlinge (Swiss Federal Refugee Office), *Focus: Georgien - Wehrdienst*, Bern, 22nd November, 2000.

⁴⁵ United States State Department, Bureau of Democracy, Human Rights and Labor, *International Religious Freedom Report for 2011: Georgia*.

⁴⁶ *Child Soldiers Global Report 2008*, op. cit., p. 149.