

SUBMISSION

TO THE 135th SESSION OF THE HUMAN RIGHTS COMMITTEE

RUSSIAN FEDERATION

Conscientious objection to military service and related issues

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INTRODUCTION

The issue of conscientious objection to military service in the Russian Federation has been among the issues examined by the Committee in the past. While seemingly overshadowed by other urgent and pressing human rights concerns since 2014-2015, nevertheless, the recent and ongoing Russian invasion and war in Ukraine renders it again an issue which needs to be taken seriously into consideration in the context of the examination of the 8th periodic report of the Russian Federation. This is even though the list of issues in relation to the 8th periodic report of the Russian Federation does not explicitly address the issue of conscientious objection to military service, since it was issued before the recent invasion.

Moreover, the issue of conscientious objection to military service is interrelated with several other issues included in the list of issues¹, such as, for example, the use of legislation concerning combating extremist activity against the freedom of religion of Jehovah's Witnesses, the violations of the right to freedom of association, violations of the Covenant rights of residents of the Autonomous Republic of Crimea and the city of Sevastopol and violation of the right to conscientious objection by forces over which the State party appears to have considerable influence.

BACKGROUND

In 2003, in its concluding observations on the 5th periodic report of the Russian Federation, the Committee stated:

“17. While the Committee welcomes the introduction of the possibility for conscientious objectors to substitute civilian service for military service, it remains concerned that the Alternative Civilian Service Act, which will take effect on 1 January 2004, appears to be punitive in nature by prescribing civil service of a length 1.7 times that of normal military service. Furthermore, the law does not appear to guarantee that the tasks to be performed by conscientious objectors are compatible with their convictions.

The State party should reduce the length of civilian service to that of military service and ensure that its terms are compatible with articles 18 and 26 of the Covenant.”²

In 2009, in its concluding observations on the 6th periodic report of the Russian Federation, the Committee stated:

“23. While welcoming the reduction, in 2008, of the prescribed length of civilian service for conscientious objectors from 42 months to 21 months, the Committee notes with concern that it is still 1.75 times longer than military service, and that the State party maintains the position that the discrimination suffered by conscientious objectors is due to such alternative service amounting to “preferential treatment” (para. 151, CCPR/C/RUS/6). The Committee notes with regret that the conditions for alternative service are punitive in nature, including the requirement to perform such services outside places of permanent residence, the receipt of low salaries, which are below the subsistence level for those who are assigned to work in social organizations, and the restrictions in freedom of movement for the persons concerned. The Committee is also concerned that the assessment of applications, carried out by a draft panel for such service, is under the control of the Ministry of Defence. (arts. 18, 19, 21, 22 and 25)

¹ See the section “FURTHER ISSUES OF CONCERN” in this report.

² CCPR/CO/79/RUS, para. 17.

The State party should recognize fully the right to conscientious objection and ensure that the length and the nature of this alternative to military service do not have a punitive character. The State party should also consider placing the assessment of applications for conscientious objector status entirely under the control of civilian authorities.”³

The issue of conscientious objection to military service did not feature among the issues of the 7th periodic report.

ISSUES OF CONCERN REGARDING CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

a) Non-genuinely civilian character of the alternative civilian service

Already since 2003 the Committee was concerned that “the law does not appear to guarantee that the tasks to be performed by conscientious objectors are compatible with their convictions.”⁴

In recent years there is an increased concern of domestic and international civil society organisations about possible undermining of the civilian character of the alternative civilian service. In its 2020 Annual Report, the European Bureau for Conscientious Objection (EBCO), citing its member organization in Russia *Citizen. Army. Law.*, mentioned that “the command of the Russian Ministry of Defence is taking steps to undermine the very essence of the civilian character of ACS” [Alternative Civilian Service].⁵ In its recent 2021 report, EBCO cites: “The EBCO report 2020 already mentioned the attempts of the military department to organize an alternative civilian service in organizations subordinate to the Ministry of Defence. There are persons doing their ASC in military hospitals as civilian personnel. We consider this contradicts the idea of civil service. There are young people who insist that working for the army, even in a hospital, is unacceptable for them. We advise conscientious objectors to write special letters on this. None of the persons who sent these letters in advance got into organizations subordinate to the Ministry of Defence.”⁶

According to international human rights standards, alternative service must be compatible with the reasons for the conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive nature.⁷

b) Lack of independence and impartiality of the procedure for granting conscientious objector status

The Committee has previously expressed its concerns “that the assessment of applications, carried out by a draft panel for such service, is under the control of the Ministry of Defence” and has recommended that “**The State party should also consider placing the assessment of applications for**

³ CCPR/C/RUS/CO/6, para. 23.

⁴ CCPR/CO/79/RUS, para. 17.

⁵ EBCO, *Annual Report Conscientious Objection to Military Service in Europe 2020*, 15 February 2021, p. 46. Available at: https://ebco-beoc.org/sites/ebco-beoc.org/files/attachments/2021-02-15-EBCO_Annual_Report_2020.pdf

⁶ EBCO, *Annual Report Conscientious Objection to Military Service in Europe 2021*, 21 March 2022, p. 53. Available at: https://ebco-beoc.org/sites/ebco-beoc.org/files/attachments/2022-03-21-EBCO_Annual_Report_2021.pdf

⁷ UN Commission on Human Rights, *Conscientious objection to military service*, 22 April 1998, E/CN.4/RES/1998/77, para. 4. Available at: <https://www.refworld.org/docid/3b00f0be10.html>

See also OHCHR, “Conscientious objection to military service”, (one-page document setting out 18 points on conscientious objection to military service), point 15. Available at: <https://www.ohchr.org/sites/default/files/2022-02/conscientious-objection.pdf>

conscientious objector status entirely under the control of civilian authorities.”⁸

However, not only the situation has not been improved but it has been rather deteriorated, especially after an unfortunate judgement of the European Court of Human Rights. This judgement has been criticised by international organizations defending the human right to conscientious objection, including IFOR, for disregarding 53 years of international human rights standards⁹:

The case of Dyagilev v. Russia and the ECtHR judgement

On the September 7th 2020 the Grand Chamber panel of the European Court of Human Rights rejected the request to refer the case of **Dyagilev v. Russia** (no. [49972/16](#)) to the Grand Chamber, thus rendering the judgement of March 10th 2020 final. In this judgement, by majority of four (4) to three (3), the European Court of Human Rights (Third Section), found that there has been no violation of article 9 of the European Convention of Human Rights in the case of conscientious objector (CO) Maksim Andreyevich Dyagilev, whose application for CO status and alternative civilian service had been dismissed by a military recruitment commission, and subsequently by courts.

In this judgement, a small majority of judges found that the military recruitment commission “satisfies the *prima facie* requirement of independence” despite the fact that three out of seven of its members are representatives of the Ministry of Defence.

In this ECtHR judgement there is a disregard of all other relevant international and regional human rights standards set by numerous UN and European institutions for more than half a century.

First of all, in this case the majority of ECtHR judges appear to ignore that “no court and no committee can examine a person’s conscience”, and that “in order to be recognized as a conscientious objector, a declaration setting out the individual’s motives should suffice in order to obtain the status of conscientious objector”, as **European Parliament’s** resolutions have repeatedly stated for over 30 years.¹⁰

Furthermore, the ECtHR disregards the fact that both the **UN Human Rights Council**,¹¹ and its predecessor, the then **UN Commission on Human Rights**,¹² have, since 1998, welcomed the fact that some States accept claims of conscientious objection as valid without inquiry. In this case, not only was Dyagilev’s claim not accepted without inquiry, but as pointed out in the dissenting opinion of 3 judges, the “assessment was based on an overly burdensome standard of proof”.

In this judgement the ECtHR appears to ignore the international and regional human rights standards concerning any applications for conscientious objector status.

⁸ CCPR/C/RUS/CO/6, para. 23.

⁹ “ECtHR judgement on Russian CO case disregards 53 years of international human rights standards”, joint statement by War Resisters’ International (WRI), European Bureau for Conscientious Objection (EBCO), International Fellowship of Reconciliation (IFOR), and Connection e.V., published on October 29th, 2020. Available at: <https://www.ifor.org/news/2020/10/ifor-participates-in-a-public-statement-regarding-ecthr-judgment-on-russian-co-case29?rq=Dyagilev>

¹⁰ European Parliament, Resolution on conscientious objection and alternative service, (A3-15/89), [known as Schmidbauer Resolution], as published in the Official Journal of the European Communities C291, 13 October 1989, para. A (page 123) and para. 4 (page 124). See also: European Parliament, Resolution on conscientious objection, (1-546/82), [known as Macciocchi Resolution], 7 February 1983, as published in the Official Journal of the European Communities C 68, 14 March 1983, para. 3 (page 15).

¹¹ UN Human Rights Council, Resolution 24/17 (A/HRC/RES/24/17), 8 October 2013, para. 7. Available at <http://un-docs.org/A/HRC/RES/24/17>

¹² UN Commission on Human Rights, [Resolution 1998/77](#), Conscientious objection to military service, 22 April 1998, (E/CN.4/RES/1998/77), para. 2.

In **1967** the **Parliamentary Assembly of the Council of Europe**, decided that: “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.”¹³ [emphasis added]

Similarly, the then **UN Special Rapporteur on religious intolerance**, set the relevant standard as long ago as 1986: “The decision concerning their status should be made, when possible, by an impartial tribunal set up for that purpose or by a regular civilian court, with the application of all the legal safeguards provided for in international human rights instruments. There should always be a right to appeal to an independent, civilian judicial body. The decision-making body should be **entirely** separate from the military authorities and the conscientious objector should be granted a hearing and be entitled to legal representation and to call relevant witnesses.”¹⁴ [emphasis added] The same standards continue to be cited today by the **UN Special Rapporteur on freedom of religion or belief** as the role is named now.¹⁵

It is obvious that a military recruitment committee with any representatives of the Ministry of Defence, let alone three (3) out of seven (7) members, is not “**entirely**” separate from the military authorities. Furthermore, insofar it is the military members and not the civilian ones which raise questions of independence and impartiality, as it appears to be accepted by the ECtHR [see *Papavasiliakis v. Greece*, no. [66899/14](#)], a composition which would guarantee “**maximum**” independence and impartiality should have been one with the **minimum** [i.e. zero] participation of military members.

Most importantly, in this case the ECtHR does not take into account the recommendations of the **UN Human Rights Committee** which, in 2009, urged Russia to “consider placing the assessment of applications for conscientious objector status **entirely** under the control of civilian authorities.”¹⁶ [emphasis added]

The **OHCHR** has also adopted a similar standard noting that: “Independent and impartial decision-making bodies should determine whether a conscientious objection to military service is genuinely held in a specific case. Such bodies should be placed under the full control of civilian authorities.”¹⁷

It is worth noting that this ECtHR judgement, which appears to accept a minority of military members in the bodies examining applications for CO status, contradicts its own rationale on whether even a single member may affect the independence and impartiality of a body. For example, in the case of *Canevi and Others v. Turkey*, no. [40395/98](#), which is not related to conscientious objectors, the ECtHR found a violation of Article 6.1 of the European Convention of Human Rights (right to fair trial), because of the participation of a single military member in a tribunal. If even a single (1) military officer affects the impartiality and independence of a tribunal in a case which has nothing to do with

¹³ Council of Europe, Parliamentary Assembly, [Resolution 337 \(1967\)](#), Right of conscientious objection, para. b2.

¹⁴ Report submitted by Mr. Angelo Vidal d Almeida Ribeiro, Special Rapporteur appointed in accordance with Commission on Human Rights resolution 1986/20 of 10 March 1986 (E/CN.4/1992/52), 18 December 1991, para. 185. <http://undocs.org/E/CN.4/1992/52>

¹⁵ Rapporteur’s Digest on Freedom of Religion or Belief, p. 45. <https://www.ohchr.org/Documents/Issues/Religion/RapporteursDigestFreedomReligionBelief.pdf>

¹⁶ UN Human Rights Committee, Concluding observations on the sixth periodic report of the Russian Federation, (CCPR/C/RUS/CO/6), 24 November 2009, para. 23. Available at <http://undocs.org/CCPR/C/RUS/CO/6>

¹⁷ OHCHR, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, 24 May 2019, para. 60, (g). Available at: <http://undocs.org/A/HRC/41/23>

the army, it is absolutely clear that the same would be true when the issue at stake is directly related to the army as it involves a conscientious objector *opposing* the army and the military service.

In conclusion, the ECtHR judgement in the **Dyagilev v. Russia** case contradicts longstanding international and regional human rights standards concerning the recognition of COs, as well as its own broader rationale on independence and impartiality. In any case, the ECtHR may be responsible for the European Convention for Human Rights, but its judgement does not preclude the possibility for Dyagilev himself, as well as other conscientious objectors in a similar position, to seek justice at a different level, such as the UN Human Rights Committee, for violation of a different treaty, the International Covenant on Civil and Political Rights.

This ECtHR ruling, concerning a single case with specific characteristics, adopted by a majority of just one judge, and not examined by the Grand Chamber does not set a general precedent for Russia and cannot annul the growing jurisprudence on the right to conscientious objection to military service.

c) Selective conscientious objection

There is a widespread opinion that the Russian invasion in Ukraine “is a manifest violation of the United Nations Charter and an act of aggression that is a crime under international law”.¹⁸ Furthermore, as the United Nations High Commissioner for Human Rights has repeatedly stated: “the gross violations of international human rights law and serious violations of humanitarian law that have occurred - in particular regarding the principle of distinction and the prohibition of indiscriminate attacks - may amount to war crimes.”¹⁹ And “The vast majority continued to be caused by the use of explosive weapons with wide area effects in populated areas, such as shelling from heavy artillery, including multiple launch rocket systems, and missile and air strikes. According to information, while such incidents could be attributed to both parties to the conflict, most of these casualties appeared attributable to the Russian armed forces and affiliated armed groups. The only way to bring a stop to further violations was to end the hostilities.”²⁰

In light of the above, it is more than probable that an increasing number of people in Russia may develop a selective conscientious objection to military service related with this specific war and invasion in Ukraine. **In fact, the “Movement of Conscientious Objectors”, in Russia, has been collecting cases of Russians who refuse to fight in Ukraine.**²¹

According to international human rights standards, the right to conscientious objection to military service includes selective conscientious objection (see below). Therefore, the Russian Federation should respect the right to conscientious objection of selective conscientious objectors. However, given the treatment even of pacifist conscientious objectors, as described above, IFOR is extremely

¹⁸ See for example: Amnesty International, “Russia/Ukraine: Invasion of Ukraine is an act of aggression and human rights catastrophe”, 1 March 2022. Available at: <https://www.amnesty.org/en/latest/news/2022/03/russia-ukraine-invasion-of-ukraine-is-an-act-of-aggression-and-human-rights-catastrophe/>

¹⁹ OHCHR, “Ensuring accountability for atrocities committed in Ukraine”, 27 April 2022. Available at: <https://www.ohchr.org/en/statements/2022/04/ensuring-accountability-atrocities-committed-ukraine>

²⁰ Human Rights Council, “High Commissioner to Special Session of the Human Rights Council on Ukraine: Many of the Allegations of Violations of International Human Rights and Humanitarian Law in Ukraine May Amount to War Crimes”, press release, 12 May 2022. Available at: <https://www.ohchr.org/en/press-releases/2022/05/high-commissioner-special-session-human-rights-council-ukraine-many>

²¹ <https://stoparmy.org/war>

The cases are compiled in a google document regularly updated, available at: <https://docs.google.com/document/d/e/2PACX-1vRJ5utk-p2qqu-c2ZkJLEEBvC5YVDG71GCDOhpgrS1Menu2HEHFI-7zhGrHbLL-vUc2iGoK72k9t8-Gd/pub>

concerned in this regard.

International human rights standards about selective conscientious objection

The **UN General Assembly** has already, since 1978, implicitly recognized one type of selective objection in its resolution 33/165, in which it recognised the right of all persons to refuse service in military or police forces which are used to enforce apartheid, and called upon Member States to grant asylum or safe transit to another State to persons compelled to leave their country of nationality solely because of a conscientious objection to assisting in the enforcement of apartheid through service in military or police forces.²²

As highlighted by the OHCHR, “The **Working Group on Arbitrary Detention** and the **Special Rapporteur on freedom of religion or belief** have also taken up cases of selective conscientious objectors (E/CN.4/2005/6/Add.1, opinion No. 24/2003; A/HRC/23/51, case No. USA 34/2012).”²³ [emphasis added]

As cited by the **UNHCR**: “Conscientious objection to military service refers to an objection to such service which “derives from principles and reasons of conscience, including profound convictions, arising from religious, moral, ethical, humanitarian or similar motives.”²⁴ Such an objection is not confined to **absolute conscientious objectors** [pacifists], that is, those who object to all use of armed force or participation in all wars. It also encompasses those who believe that “the use of force is justified in some circumstances but not in others, and that therefore it is necessary to object in those other cases” [**partial or selective** objection to military service].²⁵ A conscientious objection may develop over time, and thus volunteers may at some stage also raise claims based on conscientious objection, whether absolute or partial.”²⁶

The **OHCHR** has explicitly stated that “States should ensure that the right to object applies both to pacifists and to selective objectors who believe that the use of force is justified in some circumstances but not in others”²⁷ and has included among the minimum criteria for application procedures to comply with international human rights norms and standards, the:

“Recognition of selective conscientious objection

The right to object also applies to selective objectors who believe that the use of force is justified in some circumstances but not in others”.²⁸

²² Available at: <https://undocs.org/pdf?symbol=en/A/RES/33/165>

²³ OHCHR, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, (A/HRC/41/23), 24 May 2019, para. 26. Available at: <https://undocs.org/A/HRC/41/23>

²⁴ See, UN Commission on Human Rights, Resolution 1998/77, “Conscientious Objection to Military Service”, E/CN.4/RES/1998/77, 22 April 1998, available at: <http://www.refworld.org/docid/3b00f0be10.html>. The Commission was replaced by the UN Human Rights Council in 2006.

²⁵ See, UN Conscientious Objection to Military Service, E/CN.4/Sub.2/1983/30/Rev.1, 1985 (the “Eide and Mubanga-Chipoya report”), available at: <http://www.refworld.org/pdfid/5107cd132.pdf>, para. 21. See also, paras. 128-135 regarding persecution in the context of conscientious objection to conflicts which violate basic rules of human conduct.

²⁶ UNHCR, *Guidelines on International Protection No. 10*, HCR/GIP/13/10/Corr. 1, 12 November 2014, p. 1, available at: <https://www.unhcr.org/publications/legal/529efd2e9/guidelines-international-protection-10-claims-refugee-status-related-military.html>

²⁷ Analytical report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/35/4, 1 May 2017, para. 63. Available at: <https://undocs.org/A/HRC/35/4>

²⁸ OHCHR, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, (A/HRC/41/23), 24 May 2019, para. 60(d). Available at: <https://undocs.org/A/HRC/41/23>

d) Punitive duration of alternative service

As cited above, the Committee has already included the issue of the length of alternative service in previous concluding observations.

According to the 2021 Annual Report of the European Bureau for Conscientious Objection, the military service in the Russian Federation is 12 months, while the alternative civilian service is 21 months or 18 months for alternative service in organizations affiliated to armed forces, such as military factories and construction departments.²⁹

Worth noting that according to equivalent concluding observations of the **Committee** for other State parties, an increase of the length of alternative service of 50% compared to that of military service could also be punitive. Specifically, in the case of Austria, where the increase is indeed 50% (9 months of alternative service compared to 6 months of military service)³⁰, the Committee noted that the length of alternative service is longer than that of military service and that it “may be punitively long if not based on reasonable and objective grounds”, referring not only to Article 18 of the ICCPR, concerning freedom of thought, conscience and religion, but also to Article 26 concerning discrimination. And encouraged the State party to ensure that the length of alternative service will not be punitive in nature.³¹

Furthermore, according to the **OHCHR**, “Equalizing the duration of alternative service with military service should be considered a good practice”.³²

The relevant standard of the **European Parliament** is for the length of alternative service to be equal with that of military service.³³

e) Other punitive conditions (insufficient salary, place of service outside places of permanent residence, inadequate housing)

In 2009, the Committee has noted “with regret that the conditions for alternative service are punitive in nature, including the requirement to perform such services outside places of permanent residence, the receipt of low salaries, which are below the subsistence level for those who are assigned to work in social organizations”.³⁴

IFOR is concerned that the situation has not been substantially changed in this regard. Furthermore, the economic impact of the 2022 Russian invasion of Ukraine should be taken into consideration, when examining the issue of salary.

As to the issue of serving outside the place of residence, this is also interrelated with inadequate

²⁹ EBCO, *Annual Report Conscientious Objection to Military Service in Europe 2021*, 21 March 2022, p. 52. Available at: https://ebco-beoc.org/sites/ebco-beoc.org/files/attachments/2022-03-21-EBCO_Annual_Report_2021.pdf

³⁰ UN Human Rights Committee, List of issues in relation to the fifth periodic report of Austria, Addendum, Replies of Austria to the list of issues, (CCPR/C/AUT/Q/5/Add.1), 4 August 2015, para. 139. Available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FAUT%2FQ%2F5%2FAdd.1&Lang=en

³¹ UN Human Rights Committee, Concluding observations on the fifth periodic report of Austria, (CCPR/C/AUT/CO/5), 3 December 2015, paras. 33-34. Available at <http://undocs.org/CCPR/C/AUT/CO/5>

³² OHCHR, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, (A/HRC/41/23), 24 May 2019, para. 60(l). Available at: <https://undocs.org/A/HRC/41/23>

³³ European Parliament, Resolution on respect for human rights in the European Community (annual report of the European Parliament), (A3-0025/93), 11 March 1993, para. 51, as it has been published in the Official Journal of the European Communities C 115, 26 April 1993, [Minutes of the sitting of Thursday, 11 March 1993](#), page 183. Resolution on conscientious objection in the Member States of the Community, (A3-0411/93), 19 January 1994, para. 9, as it has been published in the Official Journal of the European Communities C 44, 14 February 1994, [Minutes of the sitting of Wednesday, 19 January 1994](#), page 105.

³⁴ CCPR/C/RUS/CO/6, para. 23.

conditions of housing. As cited in the 2021 EBCO Annual Report: “In accordance with the law, an employer must provide an employee undergoing alternative civilian service with a free place in a hostel if the service is not in the locality where the person lives. In practice, often the employer cannot provide a place in a hostel and places people directly at work, allocating a room for this. These conditions are often not appropriate. In order to achieve a change in the conditions of service, a person has to file complaints with various authorities. Often, but not always, these complaints give a positive result, but all this takes a long time.”³⁵

FURTHER ISSUES OF CONCERN

a) Persecution of Jehovah’s Witnesses affecting the right to conscientious objection

In the List of Issues, the Committee refers to “the growing number of Jehovah’s Witnesses in the Russian Federation who have been arrested, detained and charged with extremist criminal activity in connection with the exercise of the freedom of religion.”³⁶

In April 2022, on the 5th anniversary of the Russian Supreme Court Ruling, which liquidated some 400 of their legal entities, the Jehovah’s Witnesses issued a press release providing statistics. According to them:

- Russian authorities have jailed over 320 Witnesses, with over 80 still in prison.
- 1,741 homes of Jehovah’s Witnesses have been raided, almost one per day.
- 27 homes raided since the February 24th Ukraine invasion.
- 620 Jehovah’s Witnesses involved in 289 criminal cases.
- 88 total in prison, over 325 have spent some time behind bars.
- 24 convicted and sentenced to prison.
- 64 in pretrial detention facilities awaiting conviction or have been convicted but awaiting results of first appeal.

The systematic persecution has escalated over the past year as prison sentences exponentially increased in frequency and in term length. Several Witnesses have also been tortured or severely beaten either while being interrogated or in prison.³⁷

According to a press release of the Human Rights Without Frontiers in May 2022, there have been 15 Jehovah’s Witnesses sentenced to prison terms since the January 1st 2022.³⁸

This persecution of Jehovah’s Witnesses in Russia is interrelated and affects, *inter alia*, their right to conscientious objection.

According to the 2020 EBCO Annual Report, citing its member organization in Russia *Citizen. Army. Law*: “Believers of Jehovah’s Witnesses increasingly began to face denials of their right to conscientious objection in connection with the decision of the Supreme Court of the Russian Federation of April 20, 2017 No. AKPI17-238 on the liquidation of a religious organization of Jehovah’s Witnesses

³⁵ EBCO, *Annual Report Conscientious Objection to Military Service in Europe 2021*, 21 March 2022, p. 53. Available at: https://ebco-beoc.org/sites/ebco-beoc.org/files/attachments/2022-03-21-EBCO_Annual_Report_2021.pdf

³⁶ CCPR/C/RUS/Q/8, para. 18.

³⁷ <https://www.europeantimes.news/2022/04/russia-5th-anniversary-of-the-ban-of-jehovahs-witnesses-statistics-about-the-repression/>

³⁸ HRWF, “15 Jehovah’s Witnesses sentenced to prison terms since 1 January”, 25.05.2022. Available at: <https://hrwf.eu/wp-content/uploads/2022/05/Russia-2022.pdf#%5B%7B%22num%22%3A20%2C%22gen%22%3A0%7D%2C%7B%22name%22%3A%22XYZ%22%7D%2C62%2C280%2C0%5D>

in Russia and recognition of their activities as extremist. After this decision, believers of Jehovah's Witnesses are deprived of the opportunity to provide a reference from a religious organization and, on this basis, draft commissions refuse them to replace their military service with ACS [alternative civilian service], recognizing their applications as unfounded. In other cases, draft commissions refuse to replace military service with ACS, stating that the activities of Jehovah's Witnesses are prohibited, referring to the above-mentioned decision of the Supreme Court. In one of these cases, we filed a complaint with the ECtHR (application no. 25929/29, *Vidyayev v. Russia*).³⁹

b) Violations of the freedom of association affecting organisations defending the rights of conscripts and conscientious objectors

Concerning the violations of the right to freedom of association, (para. 20 of the List of Issues), IFOR would like to highlight the particular aspect of organisations defending the rights of conscripts and conscientious objectors.

According to the 2021 EBCO Annual Report,⁴⁰ EBCO's member organisation in Russia *Citizen. Army. Law* has been declared as a foreign agent⁴¹ and has almost ceased its activities. The organisation is closely connected with the country's oldest human rights group *Memorial* which was ordered to be closed by the Prosecutor General's Office and the Supreme Court.⁴²

The work of NGO *Soldiers' Mothers*⁴³ is also under suppression. The Federal Security Service FSB published on October 1st 2021, a list of information that are not classified as secret information, but if reaching foreign states and citizens, and "can harm Russian Federation", those who collected and disseminated this information may be prosecuted. Such information includes e.g. information about the moral and psychological state in military units, information about the state of health of military personnel in military units, information about violations of the law in military units.⁴⁴ This is exactly what *Soldiers' Mothers* have been doing until the list appeared.⁴⁵

The organization returned to the way they started in the 1990's and their work concentrates on guidance. For example, if the parents of a conscript apply, the organization's employees can suggest what applications they should write, and where. They cannot make any more publications about violations in the army or write appeals to official structures about the violations.

c) Illegal conscription in Russian-occupied territories

In relation to the violations of the Covenant rights of residents of the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, (para. 22 of the List of Issues), IFOR would also like to draw the attention to the issue of illegal conscription.

According to the reply of the Secretariat of the Ukrainian Parliament Commissioner for Human Rights to the Questionnaire about EBCO's 2021 Annual Report⁴⁶:

"... It should be noted that the temporary occupation of the Autonomous Republic of Crimea and the city of Sevastopol began on February 20, 2014. The temporarily occupied peninsula is an integral

³⁹ EBCO, *Annual Report Conscientious Objection to Military Service in Europe 2020*, 15 February 2021, pp. 45-46. Available at: https://ebco-beoc.org/sites/ebco-beoc.org/files/attachments/2021-02-15-EBCO_Annual_Report_2020.pdf

⁴⁰ EBCO, *Annual Report Conscientious Objection to Military Service in Europe 2021*, 21 March 2022, pp. 52-53. Available at: https://ebco-beoc.org/sites/ebco-beoc.org/files/attachments/2022-03-21-EBCO_Annual_Report_2021.pdf

⁴¹ <https://minjust.gov.ru/ru/events/48667/>

⁴² <https://www.bbc.com/news/world-europe-59808624>

⁴³ <https://soldiersmothers.ru>

⁴⁴ <https://www.rferl.org/a/russia-foreign-agents-topics/31487969.html>

⁴⁵ <https://www.rferl.org/a/russia-soldiers-mothers-ngo-persecution/31495904.html>

⁴⁶ Official e-mail received by EBCO on 27/01/2022

part of the territory of Ukraine, which is covered by the Constitution and laws of Ukraine and international agreements approved by the Parliament of Ukraine. According to Article 51 of the Convention relative to the Protection of Civilian Persons in Time of War (IV Geneva Convention of 1949), the occupying power has no right to coerce protected persons to serve in its armed or auxiliary forces. At the same time, the Russian occupant continues to recruit residents of the temporarily occupied territory of the Autonomous Republic of Crimea to the Armed Forces of the Russian Federation in violation of the provisions of the IV Geneva Convention. Thus, the 14th conscription campaign, finished in 2021, called for more than 3 thousand Crimeans (a total of more than 35 thousand people since 2015). The Crimean Human Rights Group recorded 4 new criminal cases against Crimean residents under Article 328 of the Criminal Code of the Russian Federation (Refusal to perform military service in the Armed Forces of the Russian Federation) and 7 new sentences under Article 328 of the Criminal Code of the Russian Federation only in November. A total of 275 criminal cases for refusal to perform military service in the Armed Forces of the Russian Federation and their transference to the "courts" of Crimea have been recorded during the entire period of occupation. Convictions have already been handed down to 266 of them, 9 more are under consideration. Thus, in addition to violation of the provisions of the Convention relative to the Protection of Civilian Persons in Time of War, there is a systematic violation of the human right to conscientious objection, enshrined in Article 18 of the International Covenant on Civil and Political Rights and Article 18 of the Universal Declaration of Human Rights, on the territory of the temporarily occupied peninsula.”⁴⁷

d) Violations of the right to conscientious objection by forces over which the State party appears to have considerable influence

In relation to “involvement in armed conflict situations (art. 2)”, cited in para. 2 of the List of Issues, also in connection with the Committee’s previous recommendation (CCPR/C/RUS/CO/7, para. 6), IFOR further notes that according to the EBCO 2021 Annual Report: “In 2021, leaders of non-recognized Russia-backed separatist Donetsk and Luhansk People’s Republics issued decrees on conscription without any exceptions for conscientious objectors to military service.”⁴⁸

⁴⁷ EBCO, *Annual Report Conscientious Objection to Military Service in Europe 2021*, 21 March 2022, p. 67. Available at: https://ebco-beoc.org/sites/ebco-beoc.org/files/attachments/2022-03-21-EBCO_Annual_Report_2021.pdf

⁴⁸ EBCO, *Annual Report Conscientious Objection to Military Service in Europe 2021*, 21 March 2022, p. 68. Available at: https://ebco-beoc.org/sites/ebco-beoc.org/files/attachments/2022-03-21-EBCO_Annual_Report_2021.pdf

RECOMMENDATIONS

1. The State party should **fully recognize the right to conscientious objection**, including selective conscientious objection, and ensure that the **alternative to military service is of genuinely civilian character, available to all conscientious objectors, and is not punitive or discriminatory in terms of its nature, conditions, cost or duration**.

The State party should also place the assessment of applications for conscientious objector status entirely **under the control of civilian authorities**, outside the sphere of the Ministry of Defence.

2. The State party should immediately end the **persecution of Jehovah's Witnesses**, respect their **right to freedom of thought, conscience and religion**, including the right to conscientious objection, as well their **right to freedom of association**, and provide full reparations.

3. The State party should repeal or revise the legislation unduly restricting the right to freedom of association and fully respect the **organisations defending the rights of conscripts and conscientious objectors**.

4. The State party should immediately cease **conscription in all occupied territories**.

The State party should ensure that armed groups and proclaimed authorities to which already it exercises influence, fully respect the right to conscientious objection to military service.

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