

## THE RIGHT TO CONSCIENTIOUS OBJECTION IN EUROPE: A Review of the Current Situation Executive Summary

This report gives an overview of conscription and the right to conscientious objection in Europe. The report contains country reports on 47 European countries and assesses how far legislation and practice comply with minimum standards on conscientious objection, as laid down by the Council of Europe and the United Nations.<sup>1</sup>

### The right to conscientious objection

Over the past decades, the right to conscientious objection to military service has developed as a human right. The Council of Europe, the United Nations and the European Parliament have all stressed on numerous occasions that the right to conscientious objection is a fundamental aspect of the freedom of thought, conscience and religion, as laid down in Article 18 of the Universal Declaration of Human Rights and Article 18 of the International Covenant on Civil and Political Rights (ICCPR). Since the 1980s there has been a further definition of the right to conscientious objection at both regional and international level.

The Council of Europe has dealt with the right to conscientious objection for almost 40 years. The Parliamentary Assembly adopted its first resolution supporting the right to conscientious objection in 1967 and it has addressed the issue regularly since then. In 1987, the Committee of Ministers issued Recommendation R(87)8, which invites governments of member states to bring their national legislation and practice in line with the following principle: "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 in the Recommendation. Such persons may be liable to perform alternative service". The Recommendation set out minimum standards on conscientious objection, such as the right to be registered as a conscientious objector at any time, the right for all conscripts to receive information about conscientious objection, the need for a fair, non-discriminatory application procedure, and the need for a genuine civilian alternative service which is not punitive by its nature or duration.

In May 2001, the Parliamentary Assembly recalled these minimum standards by adopting Recommendation 1518/2001, in which member states were again invited to bring their legislation and practice in line with the basic principles laid down in Recommendation R(87)8. Although the right to conscientious objection is legally recognized in most European countries, legislation and practice often do not comply with the minimum standards set out in Recommendations R(87)8 and 1518/2001. This was, in fact, also concluded by a report issued by the Council of Europe Committee on Legal Affairs and Human Rights in 2001.<sup>2</sup>

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<sup>1</sup> Belarus is included in this report, although it is not a member state of the Council of Europe. The five Central Asian states that were formerly part of the Soviet Union (Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan) are not included.

<sup>2</sup> Exercise of the right of conscientious objection to military service in Council of Europe member states, Report Committee on Legal Affairs and Human Rights, Rapporteur: Dick Marty, Doc. 8809 Revised, 4 May 2001

Over the past decades, the European Parliament has also adopted a series of resolutions stating that the right to conscientious objection should be incorporated as a fundamental right in the legal systems of Member States. In 2000, the right to conscientious objection was included in the Charter of Fundamental Rights of the European Union. According to Article 10.2: "The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right".

The representatives of the Organisation for Security and Cooperation in Europe (OSCE) at the Second Conference on the Human Dimension in 1990, agreed on the importance of introducing civilian non-punitive alternative service for conscientious objectors.

Within the United Nations, the right to conscientious objection has been addressed at various levels. In Resolution 1987/46, the United Nations Commission on Human Rights has explicitly recognized the right to conscientious objection as "a legitimate exercise of the freedom of thought, conscience and religion". This resolution has been reaffirmed in subsequent resolutions adopted by the Commission. In 1998, the Commission adopted Resolution 1998/77, in which minimum basic principles concerning the right to conscientious objection are set out, which are similar to the minimum standards that have been detailed by the Council of Europe. The Commission has most recently reaffirmed these minimum standards by adopting Resolution 2002/45. The Commission also called upon the High Commissioner for Human Rights to publish a report on 'best practices'. This report was eventually published in 2004.<sup>3</sup>

Apart from the Commission on Human Rights, the United Nations Human Rights Committee also regularly addresses the right to conscientious objection. The Committee regularly addresses the issue in its final recommendations of States parties' reports submitted under Article 40 of the International Covenant on Civil and Political Rights (ICCPR) and calls upon states to bring their legislation and practice on conscientious objection in line with international standards.

### **Conscription in Europe**

As shown by TABLE 2 (page XIII), ten European countries have suspended conscription during the past decade. In recent years Belgium (1995), the Netherlands (1996), France (2001), Spain (2001), Slovenia (2003), Italy, Portugal, the Czech Republic and Hungary (2004) have suspended conscription. In Slovakia the last drafts of conscripts are currently performing military service and in 2005 the armed forces are expected to consist of professional soldiers only.

Some observers therefore claim that the recent trend of abolishing conscription will mean that conscription will soon be history altogether. The changing role of the armed forces following the end of the Cold War would mean that there would no longer be a need for large standing armies manned by mass conscription. This report does not aim to discuss circumstances that may lead to the end of conscription and the arguments given in favour or against conscription. However, it must be stressed that conscription is still enforced in 29 European countries and consequently most European male citizens are still liable to be called up for military

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<sup>3</sup> United Nations Commission on Human Rights, Civil and Political Rights, including the question of conscientious objection to military service, Report of the Office of the High Commissioner for Human Rights, (E/CN.4/2004/55), 16 February 2004.

service. In many of these countries, there are no indications that conscription will be ended in the near future. Some countries, particularly in the former Soviet Union, consider it too expensive to replace conscripts by professional soldiers. But also governments in other parts of Europe, such as Greece, Turkey, Cyprus and Scandinavia, have shown no intention of ending conscription.

By 'conscription' it is usually understood that all men of a certain age must perform compulsory military service. It is important to stress, however, that conscription is usually applied selectively, meaning that not all eligible men are actually called up for military service. In all European countries, the number of eligible conscripts is in fact larger than the number that is considered needed by the armed forces. Many young men are thus legally exempted from military service, for medical, social or other reasons. In many instances, the selection of conscripts does not necessarily take place by legal means. Particularly in countries of the former Soviet Union, conscription is mostly associated with corruption, young men obtaining false documents to obtain exemption for medical reasons or bribing draft officials to avoid being called up for military service.

There are actually striking differences between different European countries concerning the percentage of eligible conscripts that is actually called up for military service. In some countries the majority of eligible conscripts are recruited, for example in Turkey, Greece, Cyprus and Finland where between 70 and 80 per cent of conscripts are called up. By contrast, in the Baltic States, the Russian Federation and the Ukraine, only 10 to 30 per cent of eligible conscripts actually end up performing military service.

### **Legal recognition of the right to conscientious objection in Europe**

By 2005, the right to conscientious objection is legally recognized in most European countries. In 26 out of 29 countries that are currently enforcing conscription, the right to conscientious objection is legally recognized.

Three European countries have not introduced any legislation on conscientious objection: Azerbaijan, Belarus and Turkey. Turkey, although being a member of the Council of Europe since 1949, has no legal provisions on conscientious objection. In Azerbaijan and Belarus, the right to conscientious objection was included in the constitution during the 1990s, but no further legislation on conscientious objection has ever been introduced, although in Azerbaijan, a draft law on conscientious objection is currently under preparation.<sup>4</sup>

In Georgia, the right to conscientious objection was legally recognized in 1997 when the Law on Alternative Service was adopted. However, the Georgian government has never proceeded with the implementation of the law. Consequently, there are no application procedures through which to claim the right to conscientious objection and there is no substitute service available in practice.

Although the right to conscientious objection is legally recognized in 26 countries, in none of these countries does CO legislation comply with all aspects of the relevant recommendations made by the Council of Europe. Moreover, in several other countries, existing legal provisions on conscientious objection have not been fully

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<sup>4</sup> In Azerbaijan, a draft law on conscientious objection was prepared in 2004. The draft law was supposed to be discussed by the Azerbaijan Parliament during 2004, but so far it has not been put on the parliamentary agenda. By February 2005, it is still not known if and when the draft law will be discussed further.

implemented, as will be further discussed in the respective paragraphs on application procedures and substitute service.

**TABLE 1: Recognition of the right to conscientious objection in European countries currently enforcing conscription**

Countries where the right to conscientious objection is <b>not</b> legally recognized	Azerbaijan, Belarus, Turkey
Countries where only <b>religious</b> grounds for conscientious objection are legally recognized	Romania, Ukraine
Countries with concerns about <b>discriminatory treatment</b> of non-religious COs in practice	Armenia, Cyprus, Greece, Lithuania, Moldova

### Scope of recognition: restriction of the right to conscientious objection to religious grounds

According to international standards on conscientious objection, the right to conscientious objection should not be restricted to religious reasons, but should include all pacifist and moral reasons against the use of violence. This is stressed in Council of Europe Recommendation R(87)8, which states that: "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". According to the United Nations Commission on Human Rights Resolution 1998/77: "Conscientious objection derives from principles and reasons of conscience, including profound convictions, arising from religious, ethical, humanitarian or similar motives" and the Resolution calls upon states "not to discriminate amongst conscientious objectors on the basis of their particular beliefs".

As shown by the small number of countries appearing in TABLE 1, in most European countries both religious and non-religious grounds for conscientious objection are legally recognized. In fact the recognition of non-religious grounds for conscientious objection has been common practice in many countries for several decades.

Nevertheless, several countries persist in restricting the right to conscientious objection to religious grounds:

- ◆ **Romania and Ukraine** are the clearest examples of discriminatory treatment of COs on the basis of their beliefs. According to the Romanian and Ukrainian CO laws, only members of religious denominations who forbid their members to bear arms may claim the right to conscientious objection. Non-religious COs thus have no legal means to claim their right to conscientious objection.
- ◆ **Armenia** recently adopted a law on conscientious objection in 2004, but the law is not clear on the recognition of non-religious grounds for conscientious objection. As the law entered into force recently, and so far CO applications have only been made on religious grounds, it will need to be monitored closely to see if non-religious grounds for conscientious objection may be recognized.

- ◆ In **Moldova**, legislation allows for the recognition of both religious and non-religious grounds for conscientious objection. In practice, however, COs are required to prove membership of a religious organization that forbids its members to bear arms.
- ◆ In **Cyprus and Lithuania**, legislation seems to allow for the recognition of non-religious COs. The only known CO applications have so far been made on religious grounds. As it is unclear to what extent a functioning application procedure has been set up in practice, it also remains unclear if non-religious grounds for conscientious objection may be accepted in practice.
- ◆ In **Greece**, it appears to be more difficult to obtain CO status on non-religious grounds. CO applications by members of religious COs, in particular Jehovah's Witnesses, are almost automatically accepted, but it appears to be much more difficult to obtain recognition as a CO for secular reasons.

### **Time limits for submitting CO applications**

Council of Europe Recommendation 1518(2001) invites member states to introduce into their legislation "The right to be registered as a conscientious objector at any time before, during or after conscription, or performance of military service". This acknowledges that a conscientious objection may develop over time, also after a person may have participated in military training for some time, which has also been reaffirmed by United Nations Commission on Human Rights Resolution 1998/77.

Most European countries do not respect this and have legal time limits in place for submitting CO applications. As shown by TABLE 3 (page XIV), in 18 out of the 29 countries currently enforcing conscription, CO applications can only be made before starting military service.<sup>5</sup> In only 7 countries can CO applications also be made by serving conscripts and reservists.

### **Application procedure**

According to Council of Europe Recommendation 1518/2001: "The examination of applications shall include all the necessary guarantees for a fair procedure. An applicant shall have the right to appeal against the decision at first instance. The appeal authority shall be separate from the military administration and composed so as to ensure its independence". Similarly, the United Nations Commission on Human Rights has called upon states "to establish independent and impartial decision-making bodies with the task of determining whether a conscientious objection is genuinely held, taking into account the requirement not to discriminate between conscientious objectors on the basis of their particular beliefs" (Resolution 1998/77). Neither the Council of Europe nor the Commission on Human Rights set out further minimum standards on a fair procedure for deciding on CO applications.

In many countries, applications for CO status are individually examined and there may be a personal interview, in which the applicant has to "prove" his motives for conscientious objection. However, as is shown by TABLE 3, 11 countries choose not to conduct an individual examination of the motives of conscientious

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<sup>5</sup> In Macedonia and Bosnia, there are legal time limits for submitting CO applications, but applications that are not submitted within the time limit may reportedly be taken into consideration in practice. The time limits are expected to be discussed soon.

objectors or to a conduct a personal interview with the applicant. In these countries, CO applications are almost automatically accepted, providing they are submitted within the time limits (if applicable). Although the Council of Europe has never addressed the desirability of an individual examination of CO applications, it is interesting to note that the United Nations Commission on Human Rights has in fact welcomed "the fact that some States accept claims of conscientious objection as valid without inquiry" (Resolution 1998/77).

It is questionable to what extent a fair application procedure and independent, impartial decision-making can be guaranteed if the Ministry of Defence is responsible for the application procedure. After all, the military authorities are primarily responsible for attracting sufficient recruits for the armed forces, so it appears questionable as to whether the Ministry of Defence can be responsible for the application procedure for CO applications.

As shown by TABLE 3, in 10 countries the responsibility for the application procedure does not lie with the Ministry of Defence, but with civilian ministries. Consequently, the military authorities have no significant role in the examination of CO applications. In the remaining 16 countries, the Ministry of Defence is responsible for the application procedure. It is interesting to note that in all countries for which there are concerns about discriminatory treatment of non-religious COs, the Ministry of Defence is responsible for the application procedure.

TABLE 3 also shows that the number of COs varies greatly between countries, from less than 10 annually in the Baltic States to over 150,000 in Germany. In some countries, the number of COs has been relatively stable for years, for example in the Scandinavian countries and Austria. In other countries, particularly Bosnia, Macedonia and Serbia & Montenegro, the number of COs has increased significantly in recent years.

This report does not aim to explain the factors that determine the number of COs in a particular country. Obviously though, the number of COs is connected with the availability of information about the application procedure. If the authorities do not inform conscripts about the application procedure for conscientious objection, and if there are no other peace or human rights organizations that campaign on the issue, it is logical that very few CO applications are made.

In this respect, another element of Recommendation 1518/2001 should be considered, in which states are called upon to ensure "the right for all conscripts to receive information on conscientious objection and the means of obtaining it". The means by which the authorities inform conscripts about conscientious objection has not been structurally discussed in all countries in this report. However, in several countries, such as Bulgaria and Greece, the authorities have been criticized for not informing conscripts about the application procedures for conscientious objection.

### **Duration of substitute service**

The Parliamentary Assembly of the Council of Europe has called on member states to introduce a "genuine alternative service of a clearly civilian nature, which should be neither deterrent nor punitive in character" (Recommendation 1518/2001).

It appears most logical that a substitute service that is neither deterrent nor punitive in character is of the same duration as military service. However, as shown by TABLE 4 (page XV), in almost all European countries substitute service lasts longer than military service. In only three European countries do substitute service and military service have the same duration (Denmark, Germany and Sweden).<sup>6</sup>

Recommendations and resolutions that have been made over the years suggest that, within the Council of Europe, the duration of substitute service is considered to be punitive if it lasts more than one and a half times the length of military service. In addition, the United Nations Human Rights Committee, in its consideration of state reports submitted under the International Covenant on Civil and Political Rights (ICCPR), usually considers a substitute service lasting more than one and a half times the length of military service to be a violation of Articles 18 and 26 of the Covenant. In addition, the European Committee of Social Rights has commented on several occasions that a substitute service lasting longer than one and a half times the length of military service is a violation of Article 1.2 of the European Social Charter as it amounts to a disproportionate violation of the "the right of the worker to earn his living in an occupation freely entered upon", as substitute service keeps COs away from the labour market for an amount of time which is disproportionately longer than conscripts in the armed forces.<sup>7</sup>

Nevertheless, as shown by TABLE 4, in 9 countries the duration of substitute service is more than one and a half times the length of military service:

- ◆ **Finland** has the most punitive length of substitute service of all European countries. Since 1999, the length of substitute service is more than twice the duration of military service. In fact there are many total objectors who refuse to perform substitute service as a protest against the punitive duration of substitute service.
- ◆ In **Greece**, substitute service lasts almost twice as long as military service.
- ◆ In **Russia** and **Armenia** substitute service lasts 1.75 times as long as military service (42 months compared to 24 months) and in Cyprus it is 42 months compared to 26 months' military service.
- ◆ In **Estonia** and **Latvia**, substitute service lasts twice as long as military service.

### **Non-civilian character of substitute service**

According to Recommendation R(87)8: "Alternative service, if any, shall be in principle civilian and in the public interest". The United Nations Commission on Human Rights has called upon states to "provide for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive nature" (Resolution 1998/77).

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<sup>6</sup> When conscription still applied in Italy and Slovenia, substitute service and military service were of equal duration as well.

<sup>7</sup> The Committee made its comments on Greece and Cyprus. Council of Europe, Committee of Social Rights Conclusions XVI-Vol. 1, November 2002. European Committee on Social Rights, Decision on the merits, Complaint 8/2000.

As shown by TABLE 4, in 18 countries substitute service consists of civilian service outside the armed forces. In these countries, substitute service is mostly performed in health and social sector institutions. This has been actual practice in several countries for several decades. In some countries, substitute service may also be performed with non-governmental non-profit organizations and in Germany and Austria, the performance of voluntary work abroad may count as substitute service.

As shown by TABLE 4, in 14 countries the Ministry of Defence is responsible for the organization and administration of substitute service. This may be considered as in contradiction with respective Council of Europe recommendations, as substitute service can hardly be considered as civilian when it is organized by the Ministry of Defence and is consequently connected with the military authorities.

TABLE 4 also indicates that in several countries it remains unclear if a substitute service is available in practice. In some countries where the number of CO applications remains low, it is equally unclear if substitute service is organized in practice. In addition there are some countries where legislation provides for substitute service, but it has clearly not been organized:

- ◆ In **Lithuania**, substitute service is provided for by law since 1997. In practice, however, only an unarmed military service within the armed forces is available.
- ◆ Particular worries about the civilian nature of substitute service exist in the **Russian Federation**. The Law on Alternative Civilian Service entered into force in 2004 and provides for a substitute service outside the armed forces, but according to the law, COs may also be assigned to perform unarmed military service within the armed forces. So far, most COs are in practice assigned to perform substitute service with military institutions. This cannot be considered as a genuinely civilian substitute service, as the work performed is related to the military sector.
- ◆ In **Cyprus**, since 1992 legislation provides for an 'unarmed military service outside the armed forces'. This wording actually leaves ambiguity on the civilian nature of such service. By 2005, it appears that no civilian substitute service has been organized in practice yet.

### **Conscientious objection and draft evasion**

Conscientious objection and draft evasion are interrelated. Draft evasion is usually considered as avoiding call-up for military service by simply not responding to call-up orders, bribing draft officials or (ultimately) fleeing abroad. Although draft evasion may well result from reasons of conscientious objection, a draft evader is usually not considered as a conscientious objector. Within the Council of Europe no minimum standards have been formulated for the treatment of draft evaders. However, it needs to be stressed that in countries where the right to conscientious objection is not or is restrictively recognized, COs are not able to claim their right to conscientious objection. In such cases, particular attention should be paid to the issue of draft evasion. Consequently:

- ◆ In countries where the right to conscientious objection is not legally recognized, draft evasion is the only means by which COs can avoid performing military service (**Azerbaijan, Belarus, Turkey**).
- ◆ In countries where only religious grounds for conscientious objection are legally recognized, draft evasion is the only means by which non-religious COs may avoid military service (**Romania, Ukraine**).
- ◆ Some countries without functioning CO legislation have made informal arrangements for COs, but these arrangements only apply to religious COs / members of religious organizations that forbid their members to bear arms. In recent years, in **Armenia, Azerbaijan and Georgia**, certain religious COs have not been called up for service pending the introduction of a CO law, but these informal provisions did not apply to non-religious COs.

Draft evasion is usually punishable under specific articles of conscription legislation and/or the Criminal Code by fines and imprisonment. Exact figures on prosecution of draft evasion and desertion are usually difficult to obtain. Although the sheer scale of draft evasion obviously makes it impossible for the authorities to monitor and prosecute all cases of draft evasion, evidence suggests that numerous draft evaders are prosecuted and imprisoned. For example, in Armenia, Azerbaijan, Belarus, Georgia, Turkey and the Ukraine, hundreds of draft evaders are believed to have been criminally prosecuted in recent years. These draft evaders mostly remain anonymous for human rights observers and other monitoring agencies. Consequently, it is difficult to assess how many imprisoned draft evaders may be considered as conscientious objectors.

### **Conscientious objection after conscription**

Ten European countries have ended conscription during the past decade. It is important to stress that in most of these countries, conscription is in fact suspended. Consequently, conscripts may be called up for military service if this is considered to be necessary by the government. In most of these countries, legislation provides for the re-introduction of conscription during time of war or during time of emergency.

Such provisions also have consequences for the right to conscientious objection. The suspension of conscription usually means that both conscription legislation and legislation on conscientious objection do not apply. Consequently, young men do not have the possibility to claim the right to conscientious objection. However, in the case of conscription being reintroduced, they may be called up for military service, although they have never had the opportunity to become registered as conscientious objectors. In the case of conscription being reintroduced during peacetime, it may be argued that the problem will not become apparent, as the previous legislation on conscientious objection will then also enter into force again. However, in the case of conscription being reintroduced during wartime, there are likely to be fewer safeguards to guarantee the right to conscientious objection. In no country that has recently suspended conscription do there appear to be legal safeguards for this problem.<sup>8</sup>

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<sup>8</sup> In Belgium and the Netherlands, proposals have been discussed to ensure that men may claim the right to conscientious objection during peacetime, so their right is guaranteed in the case of conscription being reintroduced during wartime. However, neither the Dutch nor Belgian governments have been willing to set up such a register.

In addition, analysis of national CO legislation actually shows that in many countries the legal protection of the right to conscientious objection seems to be insufficient during wartime. In many countries, CO laws do not specifically detail the position of COs during wartime or claim that COs may be called up for civil protection duties. In some countries, the right to conscientious objection is legally restricted to peacetime and does not apply in wartime. In Bulgaria, Cyprus, Finland and Greece, legislation specifically recalls that the right to perform substitute service may be suspended during wartime.

### **Right to conscientious objection for professional soldiers**

Council of Europe Recommendation 1518/2001 invites member states to recognize "The right for permanent members of the armed forces to apply for the granting of conscientious objector status". This follows from the notion that conscientious objection may develop over time, also after having performed a period of military training. Consequently, just like serving conscripts and reservists, the right to conscientious objection should also apply to professional soldiers.

Although the Council of Europe has explicitly widened the right to conscientious objection to professional soldiers, it remains a complicated issue. Even in a recent study published by the Council of Europe Committee on Legal Affairs and Human Rights, the right to conscientious objection for professional soldiers appears to be confused with the right to conscientious objection for serving conscripts.<sup>9</sup>

For a better understanding of the right to conscientious objection for professional soldiers, it should be acknowledged that legislation on conscientious objection is usually drawn up within the context of conscription. Consequently, CO laws usually apply to conscripts only and provide no legal basis for the right to conscientious objection for professional soldiers. In addition, certain provisions in CO laws may practically exclude professional soldiers from claiming the right to conscientious objection, such as time limits which do not allow CO applications made by serving conscripts and the exclusion of CO status for those who have a gun licence or have borne arms in the past.

Obviously, the right to conscientious objection for professional soldiers is not explicitly recognized in most European countries. There are only two European countries that have application procedures for professional soldiers who seek discharge from the armed forces because of conscientious objection: Germany and the United Kingdom (although in the latter country the application procedure is not widely known about and is the subject of secrecy). If accepted as conscientious objectors, professional soldiers may be granted honourable discharge from the armed forces.

For other countries, it remains unknown how far the right to conscientious objection for professional soldiers is recognized and no further information on application procedures could be found. There are various factors

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<sup>9</sup> According to the report issued by the Committee on Legal Affairs and Human Rights of the Council of Europe in 2001, Slovenia, Latvia and the Czech Republic are the only countries where "the regular servicemen's right of conscientious objection is recognized". This conclusion is based on information provided by the respective governments of these countries. The validity of this conclusion may be doubted as there is no further evidence that there are legal provisions on conscientious objection for professional soldiers in these countries (see respective country reports). Moreover, Germany and the United Kingdom do have application procedures for professional soldiers for claiming the right to conscientious objection, but this is not acknowledged in the report of the Committee. The 2004 'best practices' report of the United Nations High Commissioner for Human Rights does not specifically address the issue of conscientious objection for professional soldiers.

as to why it is difficult to obtain information on this. Professional soldiers may have limitations on their right to free speech or may be limited in their right to form unions. Further research on the right to conscientious objection for professional soldiers seems needed.

## Conclusion

By 2005, the right to conscientious objection is legally recognized in most European countries enforcing conscription. This is definitely an improvement compared to the situation 20 years ago. Following the end of the Cold War, most Eastern European countries have recognized the right to conscientious objection. After the end of armed conflict in the former Yugoslavia, most countries in that region have also introduced provisions for conscientious objection in recent years.

However, there is still room for improvement. Many countries in the former Soviet Union are falling behind in implementing CO legislation. Some longstanding members of the Council of Europe, such as Greece, Cyprus and Turkey, persist in harsh treatment of COs. In no European country does legislation and practice comply with all the minimum standards on conscientious objection as laid down by the Council of Europe in its Recommendations R(87)8 and 1518/2001. In fact, the Council of Europe Directorate of Human Rights has stated itself in 2002 that: "Although encouraging progress has been made recently in certain Council of Europe member states, the fact remains that we still have a long way to go".<sup>10</sup>

As shown by this report, legislation and practice on conscientious objection often do not comply with minimum standards that have been laid down by the Council of Europe in Recommendations R(87)8 and Recommendation 1518/2001. Therefore, the Quaker Council of European Affairs calls upon all member states of the Council of Europe to bring their legislation and practice in line with the following principles:

- ◆ The right to conscientious objection should be legally recognized and should apply to all reasons of conscientious objection against the use of violence. Both religious and non-religious grounds for conscientious objection should be recognized, by law and in practice.
- ◆ The right to be registered as a conscientious objector at any time, before, during and after military service. No time limits for submitting CO applications should apply.
- ◆ The application procedure for assessing CO applications needs to be fair, without discriminatory treatment amongst COs. All conscripts have the right to receive information on conscientious objection and the means of obtaining it. The application procedure should be clear. As is already the case in 11 countries, this can be enhanced by CO applications being accepted without further examination or a personal interview in which the applicant needs to explain his reasons for conscientious objection. As is already the case in 10 countries, responsibility for the application procedure should **not** lie with the Ministry of Defence.
- ◆ Substitute service should be genuinely civilian, be performed outside the armed forces and not be

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<sup>10</sup> Directorate General of Human Rights of the Council of Europe: Conscientious objection to military service, June 2002, February 2003 (with corrections).

punitive by its nature and duration. In three countries, the length of substitute service and military service is the same. Substitute service should not be organised by the Ministry of Defence (as is still the case in 14 countries), to ensure that substitute service is not connected with the military authorities in any way.

- ◆ The right to conscientious objection should also apply to professional soldiers. There need to be clear application procedures for professional soldiers who wish to seek discharge from the armed forces because of conscientious objection, and in this case they should be allowed honourable discharge.

**TABLE 2: Conscription in Europe**

<b>Albania</b>	conscription	<b>Liechtenstein</b>	no conscription
<b>Andorra</b>	no conscription	<b>Lithuania</b>	conscription
<b>Armenia</b>	conscription	<b>Luxembourg</b>	no conscription since 1967
<b>Austria</b>	conscription	<b>Macedonia</b>	conscription
<b>Azerbaijan</b>	conscription	<b>Malta</b>	no conscription
<b>Belarus</b>	conscription	<b>Moldova</b>	conscription
<b>Belgium</b>	no conscription since 1995	<b>Monaco</b>	no conscription
<b>Bosnia &amp; Herzegovina</b>	conscription	<b>Netherlands</b>	no conscription since 1996
<b>Bulgaria</b>	conscription	<b>Norway</b>	conscription
<b>Croatia</b>	conscription	<b>Poland</b>	conscription
<b>Cyprus</b>	conscription	<b>Portugal</b>	no conscription since 2004
<b>Czech Republic</b>	no conscription since 2004	<b>Romania</b>	conscription
<b>Denmark</b>	conscription	<b>Russian Federation</b>	conscription
<b>Estonia</b>	conscription	<b>San Marino</b>	no conscription
<b>Finland</b>	conscription	<b>Serbia &amp; Montenegro</b>	no conscription since 2003
<b>France</b>	no conscription since 2001	<b>Slovakia</b>	conscription will end in 2005
<b>Georgia</b>	conscription	<b>Slovenia</b>	no conscription since 2004
<b>Germany</b>	conscription	<b>Spain</b>	no conscription since 2001
<b>Greece</b>	conscription	<b>Sweden</b>	conscription
<b>Hungary</b>	no conscription since 2004	<b>Switzerland</b>	conscription
<b>Iceland</b>	no conscription	<b>Turkey</b>	conscription
<b>Ireland</b>	no conscription	<b>Ukraine</b>	conscription
<b>Italy</b>	no conscription since 2004	<b>United Kingdom</b>	no conscription since 1960
<b>Latvia</b>	conscription		

**TABLE 3: Application procedures**

Member state	Legal time limits for applications	Personal interview	Responsible ministry	Number of COs per year (approx.)
Albania	not known	yes	Defence	4
Armenia	only before call-up	yes	Defence	20
Austria	only before call-up	no	Interior	6,000-10,000
Azerbaijan	N/A	N/A	N/A	N/A
Belarus	N/A	N/A	N/A	N/A
Bosnia Federation	only before call-up	no	Justice	3,000
Bosnia Rep. Srpska	only before call-up	no	Defence	20
Bulgaria	only before call- up	yes	Welfare	50
Croatia	no time limits	no	Justice	10,000
Cyprus	only before call- up	yes	Defence	10
Denmark	no time limits	no	Interior	600-900
Estonia	only before call- up	yes	Defence	less than 50
Finland	no time limits	no	Defence	2,000-2,500
Georgia	Law exists, but not being implemented		Defence	-
Germany	no time limits	no	Youth & Welfare	170,000
Greece	only before call- up	yes	Defence	150
Latvia	only before call- up	not known	Defence	0-10
Lithuania	only before call-up	not known	Defence	0-10
Macedonia	only before call-up	no	Defence	1,000
Moldova	only before call-up	yes	Defence	3,000
Norway	no time limits	no	Justice	2,000-2,500
Poland	only before call-up	yes	local government	4,000
Romania	only before call-up	no	Defence	not known
Russian Federation	only before call-up	yes	Defence	1,500
Serbia & Montenegro	only before call-up	no	Defence	9,000
Slovakia	only before call-up	not known	Defence	not known
Sweden	no time limits	no	Defence	1,500-2,000
Switzerland	no time limits	yes	Economic Affairs	2,400
Turkey	N/A	N/A	N/A	N/A
Ukraine	only before call-up	no	Labour	1,500

**TABLE 4: Substitute service**

Member state	Length of military service	Length of substitute service	Ministry responsible for substitute service	Substitute service outside the armed forces available in practice
Albania	12	12	Defence and Labour & Social Affairs	Unclear if available
Armenia	24	42	Defence	Unclear if available
Austria	8	12	Interior	Yes
Azerbaijan	18	N/A	N/A	No substitute service
Belarus	18	N/A	N/A	No substitute service
Bosnia Federation	4	6	Defence and Justice	Yes
Bosnia Rep. Srpska	4	10	Defence	Yes
Bulgaria	9	13.5	Welfare & Labour	Yes
Croatia	6	8	Labour & Social Affairs	Yes
Cyprus	26	42	Defence	Unclear if available
Denmark	9	9	Interior	Yes
Estonia	8	16	Not known	Not available in practice
Finland	6	13	Labour	Yes
Georgia	18	N/A	N/A	No substitute service
Germany	9	9	Social Affairs	Yes
Greece	12	23	Defence	Yes
Latvia	12	24	Defence	Unclear if available
Lithuania	12	18	Defence	Not available in practice
Macedonia	6	10	Defence	Yes
Moldova	12	Unclear	Not known	Unclear if available
Norway	12	13	Justice	Yes
Poland	11	18	Labour	Yes
Romania	8	12	Defence	Yes
Russian Federation	24	42	Defence	Not necessarily civilian
Serbia & Montenegro	9	13	Defence	Yes
Slovakia	6	9	Defence	Yes
Sweden	7.5	7.5	Defence	Yes
Switzerland	260 days	390 days	Economic Affairs	Yes
Turkey	15	N/A	N/A	No substitute service
Ukraine	18	27	Labour & Social Policy	Yes