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### **A Europe of civil rights explicitly guarantees the freedom of consciences objection**

Article 10 (2) of the EU Charter of Fundamental Rights is an important contribution to civilian conflict resolution!

On the 12th of December 2007, the Charter of Fundamental Rights of the European Union came into effect by a vote of the European Parliament in Strasbourg. Following the festivities, the Chairman of the Parliament's Committee on Constitutional Affairs, MEP Jo Leinen, emphasized the fundamental right to conscientiously object military service. In his opinion, this right expresses an ethically important aspect of the document:

Article 10 of the Charter guarantees freedom of thought, religion and conscience. Its second paragraph furthermore states that the right to conscientious objection is to be recognised.

Considering past wars and human right violations, characteristic for the Europe of the 20<sup>th</sup> century, the continent must see an increase in civilian resolutions to future conflicts. The European Union has rejected war and the use of violence in a number of documents and contracts. It has furthermore created a condition in which fundamental human rights will be implemented and protected.

This protection of fundamental rights, which has long been offered by the European Human Rights Convention, has now been updated and extended by the Charter. The ratification of the Lisbon Treaty (Reform Treaty) is another important step on the EU's way towards progressive standards for fundamental and human rights in all 27 member states.

Since 1967 the Parliamentary Assembly of the Council of Europe - and after 1983 also the European Parliament - have repeatedly dealt with the human right to refuse military service for reasons of conscience. This had become necessary as the refusal of military service is the most obvious expression of people's freedom of conscience in political practice: no other situation relieves the possible conflict between a state and its people's conscience as clearly as this is the case when a citizen faces the obligation to perform armed service but rejects this.

With Article 10, the right to conscientiously object military service has become - for the first time in a European treaty - an integral part of freedom of thought, religion and conscience. And also in the entire field of human rights, it is *the first legally binding codification* recognizing the right to conscientious objection as an integral part of the freedom of conscience.

I am glad that this civilizing progress, meaning that each citizen has the right to refuse military service in accordance with his/her conscience, has reached consensus at a European level. Considering the fact that today 10 member states of the European Union still maintain general conscription, this wasn't necessarily clear. It should also be noted that liberal legal regulations for conscientious objectors do not yet exist in all EU member states: Greece is an often quoted example. But also for the remaining 17 states with all-volunteer armies, the duty arises from the Charter of Fundamental Rights to grant the right to refuse military service. Since each soldier – man or woman – is responsible and continues to be responsible to his or her own conscience, freedom of conscience must also be guaranteed in conflict situations. This possibility is also to be recognized legally and implemented liberally.

Article 10 (2) of the EU Charter leaves the exact wording of such laws to the national level. The scope of interpretation, however, is essentially limited by the precept to maintain the article's fundamental content and by the principle of anti-discrimination. The paragraph's

position in the Charter (Chapter II - Freedoms) furthermore justifies the need for a clearly liberal forming of the right to refuse military service.

This interpretation is supported by a number of recommendations by the Council of Europe, the European Parliament, as well as by the jurisdiction of the European Court of Human Rights. The systematic examination of the human rights standards by the Council of Europe as well as by the European Union will help to initiate, implement and stabilize liberal regulations.

The liberal design of this ethically important right, which encourages a personal attitude of non-aggression, offers a personal basis to civilian conflict resolution. At the same time, this right of personal liberty opens up a form of democratic participation not to be underestimated. It promotes and supports the structure of non-military, civilian alternatives.