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The Right to Conscientious Objection to Military Service in selected member states of the Organisation for Security and Cooperation in Europe

**Report to the
OSCE Supplementary Meeting on Freedom of Religion or Belief
17-18 July 2003, Hofburg, Vienna**

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Introduction

The right to conscientious objection is derived from Article 18 of the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, and seen as a manifestation of the freedom of religion and belief. The then CSCE stressed the right to conscientious objection in paragraph 18 of the Document of the Copenhagen meeting of the Conference on the Human Dimension in June 1990. The UN Commission on Human Rights stressed the right to conscientious objection in several resolutions, most recently Resolution 1998/77, 2000/34, 2002/45. The Council of Europe also stresses the right to conscientious objection, especially in resolution 337 (1967) and recommendations 1518 (2001), R (87) 8, and 816 (1977).

In its resolution 1998/77, the UN Commission on Human Rights "(...) *Draws attention to the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to 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*" and *"calls upon States that do not have such a system to establish independent and impartial decision-making bodies with the task of determining whether a conscientious objection is genuinely held in a specific case, taking account of the requirement not to discriminate between conscientious objectors on the basis of the nature of their particular beliefs;*

4. Reminds States with a system of compulsory military service, where such provision has not already been made, of its recommendation that they 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".

The Commission also *"affirms the importance of the availability of information about the right to conscientious objection to military service, and the means of acquiring conscientious objector status, to all persons affected by military service"*.

In this report, War Resisters' International draws attention to the situation regarding the right to conscientious objection in a number of OSCE member states. Unfortunately, most of the states covered in this report do not meet the standards set by the UN Commission on Human Rights.

War Resisters' International is especially concerned about

- the absence of any right to conscientious objection in a number of OSCE member states, especially Armenia, Azerbaijan, Georgia, and

Turkmenistan, and the imprisonment of conscientious objectors in these countries.

- The limitation of the right to conscientious objection to members of certain religious groups, or to religious reasons. This applies to the draft laws in Armenia and Azerbaijan, and the existing laws in Georgia and Romania.
- The discrimination against conscientious objectors in a number of OSCE member states in terms of length and conditions of substitute service. This is especially the case in Greece, Finland, and Romania.
- The unavailability of information on the right to conscientious objection to members of Armed Forces, who voluntarily joined the army, and the practice of dealing with CO applications during the war on Iraq, especially in Britain and the United States of America.

This report highlights the situation in selected member states of the OSCE. It updates some of the information provided in WRI's 1998 World Survey *"Refusing to bear arms. A World Survey on Conscripted and Conscientious Objection to Military Service."* The fact that some countries are not covered by this report should not lead to the conclusion that there are no problems regarding the right to conscientious objection in these countries.

This report includes the situation on the ground in some disputed territories within member states of the OSCE. In referring to de-facto authorities there, War Resisters' International does not take any position regarding the legal status of these territories. War Resisters' International's only concern is the respect for and recognition of the right to conscientious objection.

London, 11 July 2003

Armenia

[09 July 2003]

Although Armenia is obliged to pass a law on conscientious objection because of its acceptance to the Council of Europe, such a law has not been passed yet. Armenia continues to imprison conscientious objectors for periods of up to 3 years. Most of those sent to prison are members of the religious community of the Jehovah's Witnesses. At the time of writing, War Resisters' International is aware of at least 32 imprisoned Jehovah's Witnesses. On 2 July, Araik Bedjanyan was sentenced to 1½ years in a labour camp for "evasion of active military service", and on 2 July two other Jehovah's Witnesses were arrested in Yerevan, and are now imprisoned in Nubarashen Labour Camp, awaiting to be tried for conscientious objection¹. This is in breach of Armenia's obligations, as expressed in Opinion 221 (2000) of the Parliamentary Assembly of the Council of Europe², and accepted by Armenia.

Although Armenia partly fulfilled one of its obligations by passing an amnesty for imprisoned conscientious objectors in June 2001 – shortly after it was accepted to the Council of Europe – it continues to imprison conscientious objectors. The Council of Europe stated clearly that Armenia is obliged "*in the meantime, to pardon all conscientious objectors sentenced to prison terms or service in disciplinary battalions, allowing them instead to choose, when the law on alternative service has come into force to perform non-armed military service or alternative civilian service*"³.

According to official statistics of the Ministry of Justice, 90 young men were sentenced on the charge of avoiding conscription in 2000, 75 in 2001, and 42 in the first half of 2002⁴. These figures show that the problem goes beyond just Jehovah's Witnesses.

The draft law on alternative service, which was presented in May 2003, would not improve the situation, it does not meet the standards set out in Council of Europe Recommendation 87 and UN Commission on Human Rights Resolution 1998/77. According to this draft, alternative service would be 48 months, compared with 24 months military service, and therefore would need to be seen as punitive in length. In addition, any alternative service would be unarmed service within the military, thus not genuine civilian. Article 14 of the draft law refers to an "oath of faith before the state flag of the Re-

public of Armenia", which also might not be consistent with the reasons for conscientious objection.

Only members of registered religious organisations would be eligible for conscientious objection, which would not only rule out members of the Jehovah's Witnesses (as they cannot get registered in Armenia)⁵, but also conscientious objectors for non-religious reasons. In addition, the religious beliefs of the official religion need to be in conflict with military service⁶, which might be a problem for pacifist members of the Armenian Orthodox Church or of other churches, which as church don't oppose military service.

War Resisters' International sent out several alerts in cases of imprisonment of Armenian conscientious objectors, and included a number of Armenian conscientious objectors in its annual "Prisoners for Peace Honour Roll"⁷.

Azerbaijan

[08 July 2003]

The right to perform alternative military service on grounds of belief is included in the Azeri 1995 Constitution. Yet decrees regulating alternative military service never have been implemented.

Due to its Council of Europe membership, Azerbaijan was obliged to introduce the right to conscientious objection within 2 years (by 2003)⁸. As a first step an amendment to the Constitution replacing the former phrase of "alternative military service" by "alternative service" is in force since a referendum in August 2002, and a new law on alternative service is going to be passed, but this has been delayed for quite a while now. It is hoped that the law will be passed during the next session of parliament in autumn 2003⁹. Detailed information about the envisaged service isn't available so far and it isn't certain that the law will be implemented soon. It has to be feared that conscientious objection will be limited to certain religious communities, and non-religious reasons for conscientious objection might not be seen as valid¹⁰.

¹ Concodoc Project at War Resisters' International: Armenia: More conscientious objectors in prison, 8 July 2003, <http://wri-irg.org/news/htdocs/20030708a.html>

² Council of Europe, Parliamentary Assembly: Opinion No. 221 (2000), Armenia's application for membership of the Council of Europe. <http://assembly.coe.int/Documents/AdoptedText/a00/eopi221.htm>; see especially Art 13 iv. d

³ see Opinion No. 221 (2000)

⁴ Vahan Ishkhanyan: Conscience on Trial: Jehovah's Witnesses continue to face imprisonment for religious beliefs. ArmeniaNow.com, 20 December 2002

⁵ Vahan Ishkanian, Helsinki Association for Human Rights: The Alternative of the Army is to flee. April 2002, <http://www.hahr.am/english/open4/obsarmyalt.htm>.

⁶ The Republic of Armenia Law on Alternartive Service, draft, May 2003

⁷ See for example: Prisoners for Peace 2002, <http://wri-irg.org/news/2002/pfp02-en.htm#Heading9>; Prisoners for Peace 2001, <http://wri-irg.org/news/2001/pfp01-en.htm#list>; Prisoners for Peace 2000, <http://wri-irg.org/news/2000/pfp00-en.htm#List>

⁸ Council of Europe, Parliamentary Assembly: Opinion No. 222 (2000), Azerbaijan's application for membership of the Council of Europe; see especially Art 14 iii. g

⁹ Email from Ramil Iskanderov, Azerbaijan Young Lawyers' Union, 30 May 2003

¹⁰ Eldar Zeynalov, Human Rights Center of Azerbaijan: Conscientious objection in Azerbaijan, 1998, <http://mitglied.lycos.de/hrca/reports/other/conobj98.doc>

At the moment there are no cases of imprisoned COs, and investigations against two Jehovah's Witnesses have been stopped because of the legal changes. Most individuals who have a conscientious objection to military service try to avoid conscription altogether through bribing military officials and getting exempted on medical grounds. Members of some Christian groups avoid conscription by migrating to Russia.

However, about 2,600 deserters and draft evaders are in prison but nothing is known about their reasons of avoiding military service¹¹.

Nagorno Karabakh

Nagorno Karabakh is a part of Azerbaijan, but proclaimed its independence and is closely linked to Armenia. It maintains its own conscription system, and it is not known whether any form of conscientious objection is recognised. A new decree on conscription was signed by the President of Nagorno Karabakh, Arkady Ghokassia, on 17 April 2003¹².

There are reports of imprisonment of conscientious objectors in the past years. Vladimir Kiroian and Edgar Bagdasarian, who had been convicted to custodial sentences charged with "evasion of military development call-up" in the first half of 2001, had reportedly been released by the end of 2001. When sentencing the two men and their co-defendant, Vladimir Osipian, who received a suspended sentence of one year, Shushinsky District court reportedly did not take into account that they had previously served in the army and were refusing only to attend a one-day military refresher course for reasons of conscience¹³.

Britain (United Kingdom)

[08 July 2003]

Although Britain does not have conscription, in principle it recognises the right to conscientious objection for members of Her Majesty's Armed Forces. However, the regulations governing this right are not publicly known, and they differ slightly for the different branches of the Armed Forces. To WRI's knowledge, Instruction No 6 [D/DM(A) 7/5/3(M1(A))] governs the procedure for the British Army¹⁴. The regulations for the Royal Navy and the Royal Air Force are not known.

¹¹ Email from Eldar Zeynalov, Human Rights Center of Azerbaijan, 21 September 2002

¹² NKR President signs decree about conscription. Noyan Tapan News Agency, 18 April 2003, <http://www.nt.am/eng/news/18.04.2003/Politics/a2.htm>

¹³ Amnesty International: Concerns in Europe Bulletin, July – December 2001, <http://web.amnesty.org/library/Index/ENGEUR010022002?open&of=ENG-AZE>

¹⁴ War Resisters' International published the regulations for the Army on its website at http://wri-irg.org/pdf/co_uk_army.pdf.

Especially during the recent war against Iraq, the fact that these regulations were not known could have led to soldiers not making use of their right to conscientious objection.

In February 2003, War Resisters' International wrote to the Ministry of Defence, asking for copies of the regulations on conscientious objection¹⁵. So far, War Resisters' International did not receive any reply.

The fact that the regulations governing the right to conscientious objection are not publicly accessible is a violation of UN CHR Resolution 1998/77, which affirmed "...the importance of the availability of information about the right to conscientious objection to military service, and the means of acquiring conscientious objectors status, to all persons affected by military service." The same is valid for Council of Europe Recommendation R (87) 8.

Finland

[10 July 2003]

Since 1992 substitute service for COs has been thirteen months, which is discriminatory twice the period served in military service. COs undertake a five weeks preparation course where also CO groups may give lectures. By law COs in substitute service have the same rights to free accommodation and allowance for personal expenditure, as those in military service, but such obligations are being neglected in the majority of cases¹⁶. This is especially worrying as most COs serve within the civilian service system, which could give the impression of punitive neglect. Total objectors are usually sentenced to 197 days of unconditional prison regardless of whether or not they have informed the authorities of their objection to any kind of service. Non-applicants may risk a conditional sentence between 30 and 40 days on charges of desertion. Once released from prison, total objectors are not called up for military service again. Draft evasion is punished by fine and a new call-up, which has led some into a repeating circle of fines and call-ups, if they refuse to comply¹⁷.

While some people become total objectors as they view substitute service as a way of punishment, others are known to have done so due to its discriminatory length such as Andras Lahdelma, who refused to continue serving after eight months. WRI called for Mr. Lahdelma's immediate release when he was imprisoned for 77 days last year¹⁸. As of July 1, eighteen people were known to be imprisoned for total

¹⁵ War Resisters' International: letter to the Ministry of Defence, 5 February 2003

¹⁶ Raninen, Kaj (2003), Re: WRI draft section on Finland for OSCE report, July 7; Raninen, Kaj, Conscientious Objection in Finland, Mother Earth, from Internet: <http://www.motherearth.org/hermaja/en/finland.php>

¹⁷ Email from Kaj Raninen (2003), Re: WRI draft section on Finland for OSCE report, July 7.

¹⁸ War Resisters' International (2002), CO Alters: Finland: Total Objectors started prison sentence last week, January 30, from Internet: <http://www.wri-irg.org>

objection¹⁹ with an estimated 70 cases in 2002²⁰. The case of Jussi Hermaja is of special interest. Mr. Hermaja fled from Finland to Belgium in October 2001 to apply for asylum after he was sentenced to prison for his total objection in July 2001. As the only country within the European Union, which accepts asylum applicants from other EU member states, the Belgian authorities had to rule on whether Mr. Hermaja could obtain asylum on grounds of being persecuted for his beliefs²¹. His application was rejected by both the Foreigners Department and the Commissariat-General for Refugees, and he therefore still risks imprisonment in Finland²².

Both the extended substitute service time and economical discrimination of COs are clearly in breach with UN resolutions and the 1987 Council of Europe recommendation regarding CO²³. To imprison total objectors solely due to their belief could also be said to be against the UN Declaration on Human Rights, which declares that all states should prevent the judicial system from forcing people to change their conviction²⁴. The same applies for economical neglect, which could lead some to do military service instead of substitute service, if they face severe economical hardship.

Georgia

[08 July 2003]

Although different laws on substitute service have been passed since 1991, none has been implemented. The latest Law on Civilian Alternative Service, passed in 1997, also does not meet the Council of Europe standards. The length of the envisaged substitute service is 36 months²⁵, compared to 18 months military service²⁶, and therefore needs to be considered of punitive length. Only religious reasons

are accepted²⁷. In addition, the substitute service is probably not completely civilian.

In practice no impartial decision-making procedures for applying for substitute service have been established yet, although already in May 2000 more than 300 people²⁸ had requested arrangements for alternative service. The Ministry of Social Affairs did fail to set up a department to run the substitute service, and there are reports that the Ministry is torn apart owing to internal debates over the issue²⁹.

During recent years, Georgian authorities often did not call up Jehovah's Witnesses in order to avoid open conscientious objection. As most young men don't want to serve – mainly because of the poor conditions within the army – the number of Jehovah's Witnesses in Georgia has increased rapidly.

According to the Ministry of Defence, there were 167 draft evaders and deserters in prison in September 2002³⁰, but it is not clear if any of them had a conscientious objection to military service.

The Georgian Law on Civilian Alternative Service does not meet up to the standards set out in Council of Europe Recommendation 87, and UN Commission on Human Rights Resolution 1998/77. The length of substitute service has to be considered punitive, and the limitation to religious reasons violates the human rights of non-religious conscientious objectors. In addition, conscientious objection is not available in practice yet.

Abkhazia

The 1994 Constitution of the self-declared republic of Abkhazia, which isn't internationally recognised but regarded as a Georgian region, does not include the right to an alternative to military service, and in spite of discussions about a law on a civilian substitute service in 2001 there have been no further developments.

Between 1995 and 2000, at least 30 Jehovah's Witnesses have been imprisoned for refusing to serve in the army, one of them being still in prison in December 2001.

Greece

[10 July 2003]

An amendment to the constitution in 2000, recognises CO status on non-religious grounds. As of

¹⁹ Email from Raninen, Kaj (2003), Re: WRI draft section on Finland for OSCE report, 7 July

²⁰ Email from Raninen, Kaj (2003), Re: WRI draft section on Finland for OSCE report, 7 July

²¹ Cf. Mother Earth, Case Herjama: Support For Finnish Conscientious Objectors, from Internet: <http://www.motherearth.org/hermaja/en/index.php>; cf. United Nations Universal Declaration of Human Rights (1968), article 14.

²² Heller, David (2002), Finnish Total Resister Refused Political Asylum in Belgium, For Mother Earth, June 21st, from Internet:

<http://groups.yahoo.com/group/ForMotherEarth/message/37>

²³ United Nations Commission on Human Rights (1998), Resolution 1998/77: Conscientious Objection to Military Service, article 6; Council of Europe (1987), Recommendation No. R (87) 8 of the Committee of Ministers to member states regarding conscientious objection to compulsory military service, article C9 and C11, adopted on 9 April 1987 at the 406th meeting of the Ministers' Deputies.

²⁴ United Nations Universal Declaration of Human Rights (1968), preamble.

²⁵ United Nations Committee on Human Rights: Concluding Observations/Comments – Georgia, <http://www1.umn.edu/humanrts/hrcommittee/georgia2002.html>

²⁶ Georgia – State Report – CCPR/C/GEO/2000/2 (2000)

²⁷ Marc Stolwijk: Conscription and Conscientious Objection in the former Soviet Union. VD AMOK, vol 12, no 2, 2003

²⁸ Georgia – State Report – CCPR/C/GEO/2000/2 (2000), see item 154

²⁹ Marc Stolwijk: Conscription and Conscientious Objection in the former Soviet Union. VD AMOK, vol 12, no 2, 2003

³⁰ Ucha Nanuashvili: Email to War Resisters' International, 21 September 2002; Ucha Nanuashvili, Email to War Resisters' International, 2 October 2002. This email includes a complete list of names and charges.

September 2001, CO status had been granted in 458 cases, while 57 people were awaiting a reply and nine applicants had been rejected³¹. However, more than twenty ongoing cases are currently observed by NGOs. Recognised COs are required by law to do substitute service for normally 30 months³² although a small number of people obtain exceptions down to a minimum of fifteen months due to family issues. Still, this does not change the fact that COs are discriminated against with between twelve to eighteen months longer service time compared to the three to eighteen months served in military service. The majority of COs are required to serve far from home³³, separating them from their families. Total objectors are typically sentenced to six months imprisonment; following which they are usually called up for military service again. In addition, total objectors are refused the right to leave the country and their relatives have in some cases been harassed by police³⁴.

In the cases of Yiannis Glarnetatzis, Dimitrios Tsouchlis and Kyriakos Iosifidis irregularities have been alleged concerning both hostile attitudes from their work placement managers and a pattern of eleven-hour workdays, seven days a week. On 1 June 1999, they refused to continue serving in solidarity with then imprisoned Lazaros Petromelidis. Consequently their status as COs were withdrawn by the authorities and they have since been called up for military service on several occasions. Yiannis Chrysosvergis, who was given the choice between 3 months military service and 30 months substitute service, also stopped serving on the same occasion³⁵. The case of Petromelidis is a typical example of how people are refused CO status after being accused of having failed to submit a conscientious objection statement. However, this is because of neglect by local police to pass on the statements to relevant authorities rather than not having received them. As a result, Petromelidis was given a twenty-months suspended sentence for draft evasion in June, but he could be jailed if he is sentenced at another court where his is due to be tried again for the same allegations³⁶.

The extended substitute service is clearly in breach with both UN resolutions and the 1987 Council of

Europe recommendation regarding CO³⁷, while trying COs for draft evasion more than once violates UN standards on the right to fair trial³⁸. Moreover, Greece prevents its COs from travelling aboard in contrast to the human rights³⁹.

An EBCO⁴⁰ study session in June 2002 concluded that the following issues need solving: (1) the length of substitute service is punitive; (2) COs cannot apply for CO status during or after military service; (3) substitute service should be under civilian rather than military authority, as recognised by the UN⁴¹; and (4) the right to substitute service must never be derogated from⁴².

Romania

[10 July 2003]

CO status is only admitted to religious communities officially recognised to collectively object military service, while unrecognised beliefs are ignored by the authorities. As a result, CO status is only granted to representatives of religious minority groups⁴³. Although the length of substitute service benefiting the community was shortened in May from 24 months to 12 months, COs are still being discriminated against with three months longer service than those in military service. Graduates of higher education spend four or six months in respectively military or substitute service which constitutes a two-month discrimination. It should be stressed that CO status is not granted on non-religious grounds under any circumstances, and such applicants are consequently treated as total objectors without an option of substitute service.

As article 354 of the Romanian Penal Code only applies to failure to report for military service, it has been argued in court that it does not apply when total

³¹ Most recent figures known to WRI: parliamentary reply from the Greek Ministry of National Defence to a question by Fotis Kouvelis (Synaspismos) reproduced in Association of Greek Conscientious Objectors (2001), Development of the COs' Situation in Greece During the Last Months – September 2001.

³² Email from Glarnetatzis, Yiannis (2003), Re: WRI draft section on Greece for OSCE report, July 9.

³³ Email from Glarnetatzis, Yiannis (2003), Re: WRI draft section on Greece for OSCE report, July 9.

³⁴ For details on individual cases please refer to: Amnesty International (2003), Greece: To be in the army or choosing not to be: The continuous harassment of conscientious objectors, June 1st, downloaded from Internet on 02/07/2003: <http://web.amnesty.org/library/print/ENGEUR250032003>

³⁵ Email from Glarnetatzis, Yiannis (2003), Re: WRI draft section on Greece for OSCE report, July 9.

³⁶ Dr. Moutoussis, Michael (2003), CO Petromelides given 20 months [suspended] jail sentence, EBCO board, June 13th.

³⁷ United Nations Commission on Human Rights (1998), Resolution 1998/77: Conscientious Objection to Military Service, article 6; Council of Europe (1987), Recommendation No. R (87) 8 of the Committee of Ministers to member states regarding conscientious objection to compulsory military service, article C9, adopted on 9 April 1987 at the 406th meeting of the Ministers' Deputies.

³⁸ United Nations Commission on Human Rights (1998), Resolution 2002/45: Conscientious Objection to Military Service taking note of United Nations Commission on Human Rights (2001), Opinion E/CN.4/2001/14, Recommendation 2: detention of conscientious objectors, article 53.

³⁹ United Nations Universal Declaration of Human Rights (1968), articles 13.

⁴⁰ European Bureau for Conscientious Objection (EBCO) has consultative status with the Council of Europe and the European Union. WRI is an founding member organisation of the EBCO.

⁴¹ United Nations Commission on Human Rights (1998), Resolution 1998/77: Conscientious Objection to Military Service, article 4.

⁴² EBCO (2002), Grassroots Work for Conflict Prevention and Peace in South-East Europe, 16-23 June, European Youth Centre Strasbourg.

⁴³ Horeman, Bart and Marc Stolwijk (1998), Refusing to Bear Arms: a world survey of conscription and conscientious objection to military service, pp. 237-238, War Resisters' International, London.

objectors do not respond to call up for substitute service. In 1999, the Club Military Tribunal recognised that Robert Fazakas could not be sentenced under the provisions of article 354. However, this was later overruled by two military appeal tribunals, and Mr. Fazakas was sentenced to two years and six months imprisonment, later to be made suspended for three years and six months. The case of Janos Szekely confirms this pattern where one military tribunal's decision is overruled by another tribunal. In addition, as ordained Jehovah's Witnesses ministers both men would normally be granted exception from military service⁴⁴.

Romania's refusal to recognise CO due to non-religious belief is a serious breach of UN Commission on Human Rights resolutions, the Universal Declaration of Human Rights and both Council of Europe recommendations regarding CO⁴⁵. In 1999 the Human Rights Committee expressed its concerns about Romania's discrimination in this regard and encouraged Romania to amend her practise⁴⁶. Subsequently, it is against both UN Human Rights Committee resolutions and the 1987 Council of Europe recommendation to practise a military appeal tribunal for CO applications, which should be under civilian administration⁴⁷. Finally, the 1987 Council of Europe recommendation also prohibits states from refusing people in military service to obtain CO status, which Romania currently violates⁴⁸. An EBCO⁴⁹ study session in June 2002 concluded that the following issues need solving: (1) CO status does not exist on non-religious grounds; (2) substitute service is longer than military service; and (3) substitute service is titled "utilitarian alternative service"⁵⁰.

⁴⁴ Amnesty International (2000), Romania: Conscientious objectors face imprisonment, October 6, from Internet: <http://web.amnesty.org/library/print/ENGEUR390062000>

⁴⁵ United Nations Commission on Human Rights (1998), Resolution 1998/77: Conscientious Objection to Military Service; Council of Europe (1987), Recommendation No. R (87) 8 of the Committee of Ministers to member states regarding conscientious objection to compulsory military service, article A1, adopted on 9 April 1987 at the 406th meeting of the Ministers' Deputies; Council of Europe (2001), Recommendation 1518, articles 1-3, adopted by the Standing Committee, acting on behalf of the Parliamentary Assembly of the Council of Europe, on 23 May 2001; United Nations Universal Declaration of Human Rights (1968), article 18.

⁴⁶ United Nations Human Rights Committee (1999), International Covenant on Civil and Political Rights: Concluding Observations of the Human Rights Committee, Romania, July 28.

⁴⁷ United Nations Commission on Human Rights (1998), Resolution 1998/77: Conscientious Objection to Military Service, article 3; Council of Europe (1987), Recommendation No. R (87) 8 of the Committee of Ministers to member states regarding conscientious objection to compulsory military service, article B7, adopted on 9 April 1987 at the 406th meeting of the Ministers' Deputies.

⁴⁸ Council of Europe (1987), Recommendation No. R (87) 8 of the Committee of Ministers to member states regarding conscientious objection to compulsory military service, article B8, adopted on 9 April 1987 at the 406th meeting of the Ministers' Deputies.

⁴⁹ European Bureau for Conscientious Objection (EBCO) has consultative status with the Council of Europe and the European Union. WRI is an founding member organisation of the EBCO.

Serbia and Montenegro

[10 July 2003]

Although CO is recognised by the constitution together with the right to civilian service outside the military, it has so far been practise to demand unarmed military-economic service for 13 months⁵¹. In response to fulfilling her commitments on joining the Council of Europe⁵², new regulations were expected to come into force in Serbia and Montenegro at the time of writing. They are expected to recognise COs' right to serve in a civilian substitute service outside the military. However, concerns must be raised about granting the authority to decide on an applications validity to a Ministry of Defence appointed committee, which is to include a psychologist, theologian and medical doctor. This could give the impression that the authorities view CO as a mental condition. CO status will reportedly not be given to members of hunting or shooting societies or people either owning, trading or holding permit for a weapon. It is also worrying that people convicted for a violent act up to three years before requesting civilian service will not be able to obtain CO status. The same will apply for those in substitute service, who will be stripped of their status as conscientious objector and transferred to military service should any of the above criteria be violated. It is also worth noticing that conscripts in military service can only apply for CO status until 1/3 into their service time⁵³. The amendments do not refer to the punishment of total objectors, and it is therefore assumed that total objectors will still risk between four months to two years imprisonment.

⁵⁰ EBCO (2002), Grassroots Work for Conflict Prevention and Peace in South-East Europe, 16-23 June, European Youth Centre Strasbourg.

⁵¹ Amnesty International (2003), Amnesty International's concerns in Serbia and Montenegro, section 4, March 1st, from Internet: <http://web.amnesty.org/library/Index/ENGEUR700042003?open&of=ENG-345>

⁵² Cf. Federal Republic of Yugoslavia's application for membership of the Council of Europe, Doc. 95333, Appendix VI, September 5, 2002, from Internet: <http://assembly.coe.int/Documents/WorkingDocs/Doc02/EDO C9533.htm>

⁵³ Email from Igor Seke (2003), New regulation on CO, June 24.

It is unknown what will happen to those presently in unarmed military service or imprisoned for their objection to it. WRI has been informed that 60 people in unarmed military service are expected to request civilian service when the new regulations comes into force⁵⁴. A WRI co-alert in April 2003 called for the immediate release of Milan Gligoric, who was required to live at a military base, while performing unarmed military service as has been common practise. He since left the base without permission, refusing to continue serving in a non-civilian system. He was later detained by police for a short period, and at present it is unclear what will happen to him and others, who are awaiting trials for refusing unarmed military service⁵⁵. Other cases include that of Igor Seke, who was denied CO status for failing to submit his conscientious objection statement in time. However, he was never informed of any deadline and the situation has been further complicated by the fact that the law on unarmed military service was not passed by parliament before after the claimed date of deadline⁵⁶.

As Serbia and Montenegro's recent actions seem to be facilitated by a desire to fulfil her Council of Europe requirements, it can only be regretted that she continues to violate its 1987 recommendation, which states that the appeal court for CO applications must be civilian and that anyone has the right to obtain CO status both during and after their entire military service⁵⁷. These principals are also enshrined in UN Commission on Human Rights resolutions and, as for the latter, in the Universal Declaration of Human Rights⁵⁸.

Turkmenistan

[10 July 2003]

Turkmen legislation does not provide for the right to refuse military service and a law on a civilian alternative does not seem probable during the next few years.

COs, mostly members of the Jehovah's Witnesses and similar religious groups, face several years' imprisonment under criminal law and often serve their sentences in labour colonies under harsh conditions. In a lot of cases, release has been denied if the prisoner refused to swear an oath of allegiance to the president on grounds of conscience.

Nikolai Shelekhov was sentenced on 2 July 2002 to an extended prison term for his CO. He was first sentenced to one year in prison on 21 August 2000 ignoring Mr. Shelekhov's request for substitute service⁵⁹. Mr. Shelekhov has since been released. In another case, Yuri Yeremeyeu was arrested on 8 December 2000 and sentenced on 19 January to one and a half years imprisonment for CO. He served in a labour camp in Seydi. Although granted pardon in 1999 under a prisoner amnesty, Il'ya Vladimirovitch Osipov and Kurban Zakirov remained in labour camp when they both refused to swear an oath on the Koran and a picture of the president⁶⁰. Mr. Zakirov was reportedly sentenced to eight years in prison after being asked twice to swear an oath⁶¹. Also Ilya Osipov and Il'ya Vladimirovitch Osipov were known to WRI to be in prison last year. All men are Jehovah's Witnesses.

United States of America

[10 July 2003]

It is required to register with the Selective Service System at the age of eighteen despite that some find it to be against their conscience to register with a military authority. Failure to comply results in derogation of the right to federal financial aid for education, job training and exclusion from federal employment⁶². While entering military service is voluntary, CO status once serving is only recognised on grounds of religious or ethical belief, while political orientation, for instance, is not accepted as a valid reason on its own⁶³. In addition, only total objection of any kind of

⁵⁴ Email from Igor Seke (2003), (No subject), July 7.

⁵⁵ War Resisters' International (2003), CO alerts: Serbia and Montenegro: Conscientious objector went into hiding, April 4th, from Internet: <http://www.wri-irg.org>

⁵⁶ Speck, Andreas (2002), Conscientious Objection in Yugoslavia – the cases of Igor Seke and Goran Miladinovic, September 7, Conscription and Conscientious Objection Documentation Centre, War Resisters' International, London.

⁵⁷ Council of Europe (1987), Recommendation No. R (87) 8 of the Committee of Ministers to member states regarding conscientious objection to compulsory military service, articles B7 and B8, adopted on 9 April 1987 at the 406th meeting of the Ministers' Deputies.

⁵⁸ United Nations Commission on Human Rights (1998), Resolution 1998/77: Conscientious Objection to Military Service, articles 1 and 3; United Nations Universal Declaration of Human Rights (1968), article 18.

⁵⁹ War Resisters' International (2002), CO alert: Turkmenistan: Conscientious objector sent to prison again, July 24, London.

⁶⁰ Email from Corley, Felix (2002), Fw: KNS TURKMENISTAN, April 6.

⁶¹ Amnesty International (2002), Turkmenistan: Appeal Cases: Prisoner of conscience Kurban Zakirov, June 7, London.

⁶² Horeman, Bart and Marc Stolwijk (1998), Refusin to bear arms: a world survey of conscription and conscientious objection to military service, War Resister' International, London.

⁶³ Seeley, Robert A. (1998), Advice for Conscientious Objectors in the Armed Forces, 5th edition, p. 7, Central Committee for

war is recognised by law; ignoring selective objection to specific events or practises⁶⁴. CO status is divided into two categories: "1-A-O" is objection to bearing arms and is served as unarmed military service, whereas "1-O" is objection to any military related duty and results in a discharge.

Before the 1990 Gulf War, approximately 2000 military personnel were granted CO status⁶⁵. However, it seems that most cases during the war were seen as selective objection as only 111 out of 1250 applications were approved⁶⁶ and 42 applicants were imprisoned at Camp Lejeune⁶⁷.

More recently, twelve military personnel have publicly opposed the 2003 Iraq War⁶⁸. In April, WRI was informed that against army regulations Gabriel I. Johnson had been sent to Iraq despite his application for CO status. Prior to that Mr. Johnson had received misinformation regarding the application process, which is by no means unusual⁶⁹. In another case, reservist Stephen Funk was charged with desertion when his unit was activated for combat duty on February 13 although he had left the base in advance to complete his CO application. Mr. Funk turned himself over to military authorities on 1 April, and he has since been transferred from California to New Orleans, where he is awaiting a decision; an act which has separated him from his family and legal help⁷⁰.

In line with the general principle in the Universal Declaration of Human Rights, the USA should adhere to its military personnel's right to change their conscience without any reservations such as political orientation⁷¹. It is also worrying that the USA seems to violate UN standards on the treatment of COs by economically discriminating objectors to compulsory registration⁷².

Conscientious Objectors, Philadelphia & San Francisco.

⁶⁴ Cf. Seeley, Robert A. (1998), Advice for Conscientious Objectors in the Armed Forces, 5th edition, pp. 9-11, Central Committee for Conscientious Objectors, Philadelphia & San Francisco.

⁶⁵ Horeman, Bart and Marc Stolwijk (1998), p. 295.

⁶⁶ Schaeffer-Duffy, Claire (2003), "Catholic conscientious objector charged with desertion", National Catholic Reporter, June 6, from Internet: http://www.natcath.com/NCR_Online/archives2/2003b/060603/060603k.htm

⁶⁷ Horeman, Bart and Marc Stolwijk (1998), p. 295.

⁶⁸ Schaeffer-Duffy, Claire (2003).

⁶⁹ War Resisters' International (2003), CO-Alert: USA: Conscientious objector sent to Iraqi war zone, April 11, from Internet: <http://www.wri-irg.org/>

⁷⁰ San Francisco Bay Area Independent Media Center (2003), Urgent Support Needed, Case of Stephen Funk, from Internet: <http://www.indybay.org/print.php?id=1615573>

⁷¹ United Nations Universal Declaration of Human Rights (1968), article 18.

⁷² United Nations Commission on Human Rights (1998), Resolution 1998/77: Conscientious Objection to Military Service, article 6.