

Amnesty International
Helsinki Committee for Human Rights of the Republic of Macedonia

Joint Appeal

To the Macedonian government and parliament for amendments to the defence law which will guarantee the rights of conscientious objectors in the spirit of international standards

AI Index: EUR 65/011/00
27 September 2000

The Helsinki Committee for Human Rights of the Republic of Macedonia and Amnesty International have studied the draft of the Law of Defence which has been adopted by the Government of the Republic of Macedonia and delivered to the Parliament. The two organizations jointly welcome the initiative to introduce the possibility of a civilian alternative to military service for conscientious objectors. However, they have deep concerns about the draft law's compatibility with international recommendations and resolutions such as those of the United Nations (UN), Council of Europe, Organization for Security and Co-operation in Europe (OSCE) and European Union (EU).

Our organizations' concerns relate to:

- The failure to recognize that a conflict of conscience may occur at any moment in a person's life and to allow for applications for conscientious objector status at any time, including during military service or while on reserve duties.
- The punitive length of the alternative service: 14 months as opposed to nine months' military service.
- The lack of guarantees that the alternative service will be of a purely civilian character and under civilian control.

Amnesty International and the Helsinki Committee urge the government to reconsider the draft law before it is presented to parliament, and members of parliament to ensure that the law which is passed includes adequate amendments. The organizations also call on the government to give assurances that any additional laws and regulations foreseen in the Law on Defence will be compatible with existing international recommendations and resolutions on the right to conscientious objection.

The organizations' concerns are set out in more detail below:

The denial of conscientious objector status to men who have already been recruited for military service

The new law gives the right to apply for alternative service, but only to new recruits. Men who have already been recruited or will be recruited before the new law comes into force are denied this right. Several conscientious objectors who are known to have been imprisoned in the last year, or those who have already been called up and may face prosecution and imprisonment in the future, will not benefit from the new law.

The lack of any possibility of applying for conscientious objector status after recruitment

New recruits have 15 days to apply for alternative service when they receive their notice to appear for recruitment. This fails to recognize that an individual's beliefs can change. In the case of young men who have been initially recruited, but then delay performing their service in order to complete their studies, several years might elapse between this brief period and the time when they are actually required to carry a gun. International bodies such as the United Nations (UN) Commission on Human Rights, the UN Human Rights Committee, the Council of Europe and the European Parliament have recommended that the opportunity to apply for conscientious objector status should be available to anybody liable to compulsory military service, at any stage, including after conscription.

In addition, the 15-day deadline itself is unnecessarily short.

Claims for conscientious objector status should not be assessed by the Ministry of Defence

The draft law proposes that the decisions on applications be made by a commission formed by the Ministry of Defence. Appeals against the decisions of the first commission will be considered by a government commission of second instance.

A 1995 Resolution of the UN Human Rights Commission appealed to Member States "to establish, within the framework of their national legal system, independent and impartial decision-making bodies with the task of determining whether a conscientious objection is valid in a specific case."

Amnesty International and the Helsinki Committee fear that the commission of first instance, in particular, may not be, or may not appear to be, independent and impartial because of its proximity to the Ministry of Defence. The organizations urge the government to heed the UN Human Rights Commission's appeal and ensure that the commissions are independent and impartial and that there is recourse to an appeal system in cases of dispute.

The punitive length of the alternative service: 14 months in contrast to nine months' military service

An essential component of the right to conscientious objection to military service is that alternative service should not be imposed as a punishment for such objection.

The draft Law on Defence fixes the period of alternative service (or unarmed service in the army) at 14 months as opposed to the normal military service period of nine months. The Law does not define the working conditions applicable to those performing alternative service (or the hours spent on duty for a soldier). A conscientious objector could, therefore, work for the same number of hours each week as a soldier on duty, but have to do so for five extra months. The impression that the increased period is intended to be punitive is reinforced by the fact that unarmed service in the army (for those who opt for it instead of civilian service) is also 14 months, although the conditions for an unarmed soldier would be practically identical to those for an armed soldier.

Article 9 of the draft law states that “A person who serves the military service period on civilian service is equal in terms of his rights and obligations to a soldier performing military service”. The obligation to perform an extra five months’ service is at odds with this principle.

In 1987 the Council of Europe Committee of Ministers recommended that the duration of alternative service “...shall, in comparison to that of military service, remain within reasonable limits.” A European Parliament Resolution of October 1989 “urge[d] that the length of alternative service should be allowed to exceed the duration of ordinary service only by half as much again to compensate for periods of reserve training by those performing military service.”

The period of alternative service should be reduced, so that any difference between it and the period of normal military service is accounted for only by differences in the working week and the amount of leave allowed. Whether or not conscientious objectors have additional duties, equivalent to reserve duties for soldiers, should be clarified, as this is not defined in the draft law.

Failure to guarantee that the alternative service offered will be of a purely civilian character and under civilian control

According to the draft Law on Defence civilian service will be performed in “health, humanitarian or social service organizations or institutions or firefighting units”. The government is charged with defining which specific institutions will be included. However, in the explanatory text which accompanies the draft law there is also reference to “trading companies, public enterprises and institutions and services of particular importance for the defence [of the country] which will be determined by the government.” Service in a defence- or arms-related organization would be incompatible with the beliefs of many conscientious objectors and unacceptable to them.

The Helsinki Committee and Amnesty International appeal for clarification of the situation and for guarantees that conscientious objectors will not be required to serve in arms- or defence-related organizations which may be conflict with their religious beliefs or moral convictions. Recourse to an appeal system should be available in any case where there is dispute as to the appropriateness of an institution or workplace for a conscientious objector.

The two organizations also urge that non-governmental organizations and institutions be specifically included in the list of organizations where civilian service may be performed.

Further conclusions and recommendations

In addition to the points made above, Amnesty International and the Helsinki Committee call for clarification or amendment of further aspects of this law. These are:

- Guarantees that no conscientious objector who applies for this status upon his first call-up is made to serve in the army while consideration of his claim is in process and before any appeals, including to judicial bodies, have been heard.
- Clarification or definition of the obligations (or lack of obligations) of conscientious objectors in comparison to the reserve duties of soldiers. These are not mentioned in the draft law.

- Assurances that information about the right to conscientious objection and to perform a civilian alternative service and the conditions of alternative service will be made widely available to all men liable to military service at all stages.

Amnesty International and the Helsinki Committee fear that the adoption of the draft law in its present form will lead to the imprisonment of further conscientious objectors in Macedonia, either because civilian service is not available to them, or because they refuse to perform civilian service because of its punitive length or because it is not of a purely civilian character and under civilian control. Amnesty International will adopt such prisoners as prisoners of conscience.

Background information

Under the new law military service will be compulsory for all men aged between 17 and 55 years. Service is voluntary for women. Men will normally be recruited for army service when they reach the age of 18. At this point they receive notice to appear for recruitment and have 15 days to apply for conscientious objector status if their beliefs demand it. Men will normally be called to perform service at age 19 years or over.

Amnesty International and the Helsinki Committee are aware of three men, all Jehovah's Witnesses, who have been imprisoned for up to three months during the previous 12 months as a result of their conscientious objections to performing military service. These men have expressed their willingness to perform a civilian alternative service in place of their obligations to perform military service. At least one of them has been prosecuted and imprisoned on more than one occasion.

The new law, as drafted at the moment, offers no opportunity for these men to fulfil their obligations with an alternative civilian service as they have already been registered for military service (called for recruitment). The 15-day period in which to apply for alternative service is available only to new recruits. These men may thus face further prosecution and imprisonment. Other men have also been prosecuted and may face imprisonment in the future.