

Human Rights Without Frontiers Int'l

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Conscientious Objection to military service in the OSCE Space

Recommendations

Human Rights Without Frontiers Int'l hails the recent adoption by Armenia of appropriate legislation recognizing the right to conscientious objection and recommends to

Azerbaijan, Belarus, Georgia, Turkey and Turkmenistan

to legalize the right to conscientious objection to military service on religious or philosophical grounds.

Armenia

By January 2004 Armenia should have introduced a civilian alternative to compulsory military service. In the last nine and a half years, about 275 JW were imprisoned as objectors, around 30 per year. In 2011, Armenia was condemned by the European Court on Human Rights on this issue. In May of this year, the Armenian has adopted new amendments to the 2003 Alternative Service Law and to the 2003 Law on Implementing the Criminal Code.

Two types of alternative service are now available:

- a.) "Alternative military service" for 30 months which is not connected with bearing, keeping, maintaining or using weapons;
- b.) "Alternative labour service" for 36 months not connected with the armed forces.

The conscientious objectors are currently transferred from their prison to a civilian service.

Azerbaijan

Azerbaijan's two known imprisoned conscientious objectors sentenced last year to one year imprisonment – both Jehovah's Witnesses - have been freed as part of a prisoner amnesty in June last on the occasion of the late President Heydar Aliev's 90th birthday.

Both conscientious objectors had been imprisoned under Article 321.1 of the Criminal Code. This states: "Evasion without lawful grounds of call-up to military service or of mobilisation, with the purpose of evading serving in the military, is punishable by imprisonment for up to two years [in peacetime]".

Three former imprisoned conscientious objectors have lodged cases to the European Court of Human Rights in Strasbourg.

Azerbaijan has not adopted a law on alternative civilian service, although this was one of the commitments it made upon accession to the Council of Europe in 2001.

Belarus

While the constitution provides for the right to alternative civilian service, the law makes no provision for conscientious objectors. Persons charged with draft evasion face penalties ranging from fines to five years in prison.

Georgia

In two cases reported this year by the Jehovah's Witnesses involving alternative service for compulsory active military duty, the Ministry of Defense denied initial requests for exemptions, but granted the requests in follow-up appeals. Authorities granted the appeal of

one Jehovah's Witness in which the individual was fined for non-fulfillment of military or alternate service, but denied the appeals of three others.

Turkey

In its national law, Turkey fails to recognize the right to conscientious objection and no civilian alternative to military service is available. Conscientious objectors who have publicly stated their refusal to carry out military service have been subjected to criminal prosecution and imprisonment of up to three years. On release, they often receive new call-up papers, and the process is repeated. Turkey has failed to implement the 2006 ruling of the European Court of Human Rights that required Turkey to amend its legislation to prevent the "civil death" of conscientious objectors repeatedly prosecuted and convicted for their refusal to carry out military service, found by the Court to be a violation of Article 3 of the European Convention on Human Rights (prohibition of degrading treatment). Over the last two years, in several cases starting with *Erçep v. Turkey* in November 2011, Turkey was found to have violated Article 9 of the European Convention on Human Rights that guarantees the right to freedom of thought, conscience and religion.

In 2012, the Court applied the Grand Chamber's judgment in the cases *Savda v. Turkey*¹⁹ and *Tarhan v. Turkey*, and found violations of article 9 of the European Convention. These were the first "secular" cases addressed by the Court which did not involve Jehovah's Witnesses. In *Savda v. Turkey*, the applicant, a Kurd, had been subject to repeated call-ups, prosecutions and imprisonment. The Court also found violations of the European Convention's article 3 (inhuman or degrading treatment) and article 6 (right to a fair trial). The judgment also noted that the applicant's case was characterized by an absence of a procedure on the part of the State to examine his request for recognition of conscientious objector status, and consequently his request was never examined by the authorities who made use of criminal law provisions penalizing his refusal to carry out military service.

Turkmenistan

In March of this year, Jehovah's Witness conscientious objector Atamurat Suvkhanov was sentenced to one year in prison for refusing to perform military service on conscientious grounds.

This sentence brings to nine the number of known imprisoned conscientious objectors. A further four are serving suspended prison sentences. Another young Jehovah's Witness in the capital Ashgabad, Danatar Durdyev, was convicted on the same charges in January, but was instead given a heavy fine.

In Turkmenistan, military service for men between the ages of 18 and 27 is compulsory and is generally two years. There is no alternative to compulsory military service.

The refusal to serve in the armed forces in peacetime is punishable by a maximum penalty of two years' imprisonment under Criminal Code Article 219, Part 1.

Turkmenistan's refusal to recognise the right to refuse military service, which is part of the right to freedom of religion or belief, breaks the country's international human rights commitments, and was criticised in March 2012 by the UN Human Rights Committee where 10 objectors had filed a complaint.