



GENERAL INCORPORATED ASSOCIATION  
ASIA-PACIFIC ASSOCIATION OF  
**JEHOVAH'S WITNESSES**



THE EUROPEAN ASSOCIATION OF  
**JEHOVAH'S WITNESSES**

13 July 2022

**In behalf of**

**The Asia-Pacific Association of Jehovah's Witnesses**

**And**

**The European Association of Jehovah's Witnesses**

**Contribution for the**

**42nd session of the Universal Periodic Review**

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# **Republic of Korea**

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Annex 1 – Asia-Pacific Association of Jehovah’s Witnesses, Report: *Alternative Civilian Service in South Korea — July 2022* (English and Korean).

Annex 2 – Extracts from the academic seminar commemorating the first anniversary of the establishment of the Alternative Service Commission held in Seoul on 1 December 2021.

## **ABOUT THE SUBMITTING ORGANIZATIONS**

**The Asia-Pacific Association of Jehovah's Witnesses (APAJW)** is a general incorporated association registered in Japan with membership in Australia, Fiji, Guam, Hong Kong, India, Indonesia, Japan, Kazakhstan, Korea, Kyrgyzstan, Malaysia, Myanmar, New Caledonia, Papua New Guinea, Philippines, Solomon Islands, Sri Lanka, Tahiti, Taiwan and Thailand.

**The European Association of Jehovah's Witnesses (EAJW)** is a charity registered in the United Kingdom (No. 1085157) with membership throughout the member States of the Council of Europe.

These associations work together to promote the protection of human rights and fundamental freedoms in various parts of the world, particularly when Jehovah's Witnesses face violations of such rights. This submission is prepared and submitted jointly.

### **SUMMARY OF THE SUBMISSION**

This submission to the Human Rights Council (HRC) on the Republic of Korea highlights human rights issues and current failures to implement fully certain recommendations accepted by the Republic of Korea during the previous Universal Periodic Review (UPR) cycle.

Jehovah’s Witnesses in the Republic of Korea and as a worldwide organization respectfully request the Government of the Republic of Korea to:

- (1) Ensure that religiously motivated conscientious objectors to military service have the option of a genuinely civilian and non-punitive alternative in line with international standards;
- (2) Ensure that such alternative service is made available to applicants without unreasonable delay;
- (3) Ensure that appropriate provision is made for reservists who have become conscientious objectors since performing military service;
- (4) Ensure that no genuine conscientious objectors to military service who are willing to perform alternative service are imprisoned;
- (5) Ensure that the criminal records of individuals imprisoned for conscientious objection to military service are fully expunged;
- (6) Abide by its commitment to uphold the fundamental freedoms guaranteed by the Constitution of the Republic of Korea and the International Covenant on Civil and Political Rights (the Covenant) for all citizens, including Jehovah’s Witnesses.

### **I. INTRODUCTION**

1. Jehovah’s Witnesses have been present in the Republic of Korea for more than 100 years. In 2021, there were some 105,000 active adherents in the country, with more than 144,000 attending meetings for worship. Between March 2020 and April 2022, all worship events were conducted online by videoconferencing owing to the Covid-19 pandemic.
2. The Republic of Korea acceded to the Covenant, including the procedures for individual complaints under CCPR-OP1, on 10 April 1990.
3. Article 18 of the Covenant provides that “everyone shall have the right to freedom of thought, conscience and religion”. General Comment No. 22 (CCPR/C/21/Rev.1/Add.4), adopted at the forty-eighth session of the Human Rights Committee (CCPR) on 30 July 1993, states at para. 11: “The Covenant does not explicitly refer to a right to conscientious objection [to military service], but the Committee believes that such a right can be derived from article 18”.

## II. ISSUES

4. Universal mandatory military service has been the norm in the Republic of Korea since the Korean war began, with the authorities claiming an ever-present threat of invasion. As in other parts of the world, Jehovah's Witnesses in Korea have consistently been conscientious objectors to military service. The Military Service Act was enacted in 1949 and revised in 1957, when the penalty for conscientious objectors was increased to a maximum of three years' imprisonment. In 1973, the Punishment of Violation of Military Service Act increased the maximum penalty to 10 years' imprisonment and allowed for multiple prosecutions of conscientious objectors.
5. It is estimated that a total of more than 16,000 Jehovah's Witnesses were imprisoned under these laws. The 2007 Human Rights Without Frontiers report *For South Korea without Prisoners of Conscience* (Fautré) quoted Im Jong-in, a member of the Korean National Assembly, as asserting that 95 per cent of the conscientious objectors in prison anywhere in the world at that time were in Korea. The overwhelming majority of these prisoners were Jehovah's Witnesses.
6. Messrs. Yoon Yeo-bum and Choi Myung-jin, adherents of the faith of Jehovah's Witnesses, submitted a communication to the CCPR under article 18 of the Covenant on 18 October 2004.
7. On 3 November 2006, the CCPR found in favour of Yoon and Choi, informing the national government that it was under obligation to provide an effective remedy and to "avoid similar violations of the Covenant in the future". The CCPR subsequently made similar findings, with similar directions, in respect of 538 further complainants who were Jehovah's Witnesses.
8. On 28 June 2018, the Constitutional Court of the Republic of Korea declared a section of the Military Service Act of Korea (MSA) unconstitutional because it did not provide alternative service for conscientious objectors.
9. On 1 November 2018, the Supreme Court of Korea, relying on the Constitutional Court decision above, ruled that conscientious objection to military service does not constitute a crime.
10. On 27 December 2019, the National Assembly enacted the Act on the Assignment and Performance of Alternative Service (ASA) and a partial amendment to the MSA. A form of alternative service was implemented in the Republic of Korea from 1 January 2020.
11. Conscientious objectors in the Republic of Korea now have the option of performing alternative service. Conscientious objectors who decide to accept this provision and can demonstrate the genuineness of their convictions are placed in correctional facilities and live in communal dormitories for 36 months, under severe restrictions akin to imprisonment. This is twice the length of military service and twice the length of the prison sentence formerly imposed on conscientious objectors.
12. Admission to the alternative service training centre began on 26 October 2020, and as of 1 March 2022, 749 of Jehovah's Witnesses had been assigned to such service in 17 correctional facilities.

13. Nevertheless, as of 1 March 2022, two conscientious objectors who are Jehovah's Witnesses remained in prison because the court did not acknowledge the sincerity of their objection.
14. As of March 2022, there were 10 pending court cases of Jehovah's Witnesses who conscientiously object to military service and face imprisonment if convicted. There were 20 pending cases at various court levels concerning Jehovah's Witnesses who refuse reserve forces training because of their religious beliefs.
15. Those in alternative service perform the same tasks as previously did convicted conscientious objectors to military service, who were imprisoned for approximately 18 months. Therefore, the perception that conscientious objectors are imprisoned remains, and the term of confinement is effectively doubled, contributing to the punitive nature of this service and acting as a deterrent to choosing it.
16. Tasks performed by alternative service personnel could be performed without loss of efficacy by commuting from private accommodation. The Republic of Korea legislative bodies acknowledge that the only grounds for insisting that alternative service personnel perform their service from dormitories within a correctional facility is to impose punitive restrictions and to control the personnel in a barracks-like environment.<sup>1</sup>
17. Conditions for alternative service personnel ignore personal health status. Persons in different forms of national service who receive a level-4 health classification owing to either physical or psychological reasons are permitted to perform their service by commuting to various facilities. On the contrary, alternative service personnel with level-4 health classification have no alternative to performing their service exclusively from communal dormitories within correctional facilities. As a result, they undergo considerable pain and suffering.
18. Persons in national service who are not alternative service personnel are guaranteed the right to provide for their children by being allowed to commute to their place of service. However, alternative service personnel are obliged to perform the 36-month service in dormitories within correctional facilities and consequently are not able to support their children during this period. This is contrary to obligations under the United Nations Convention on the Rights of the Child, which the Republic of Korea signed on 25 September 1990 and ratified on 20 November 1991.
19. During the first month of alternative service, personnel are not allowed to leave the facility in any circumstances, even after working hours. No exceptions are permitted.
20. After the first month, with the permission and at the discretion of the head of the facility, a maximum of 50 per cent of the alternative service personnel may leave the correctional facility from time to time for a few hours. When permitted to leave, personnel must return by 9.30 p.m., unreasonably curtailing social, educational and religious activities.
21. Alternative service personnel are obliged to wear a uniform similar to that of prison officials and are under the constant strict scrutiny of a managing officer. The uniform and constant surveillance creates a quasi-military environment.
22. On weekdays, personal communication devices are impounded and locked away during working hours and from 9 p.m. to 7 a.m. the following day. At the weekend and on public

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<sup>1</sup> Excerpts from the Meeting Minutes of the 3rd National Defense Committee meeting of the 371st session of the 20th National Assembly, 12 November 2019. (See Annex 1.)

holidays, all communication devices must be turned in at 9.30 p.m. on the final day. During the hours when such devices are impounded, families cannot communicate directly with alternative service personnel, even in an emergency. There is no objective justification for this restriction.

23. Privacy rights are abrogated to the extent that in a number of reported cases the alternative service personnel could not consult a doctor without a prison official being present. This constitutes an arbitrary interference, contrary to the obligations of the Republic of Korea under article 17 of the Covenant.
24. Because alternative service is restricted to correctional facilities, only 1,600 of the approximately 3,200 applicants can be accommodated by 2023. The delay for others seriously affects family life and career development.
25. The law provides that in time of war or public disturbance, or in the event that an order for military mobilization is issued, procedures for assignment to alternative service shall be suspended.
26. Commenting on the legislation, the Special Rapporteur on Freedom of Religion or Belief stated: “The [Alternative Service Act] bill proposes that alternative service should be 36 months ... There does not seem to be any objective justification for this distinction ... The failure to provide such a justification is not only contrary to article 26 of the [ICCPR], but also considered a punitive measure”. (OL KOR 4/2019)
27. Han In-seob, Head of the Korea Institute of Criminology, stated on 20 November 2020: “The current ACS can be considered a form of ‘alternative punishment’ according to the United States Commission on International Religious Freedom”.
28. On 1 December 2021, an academic seminar commemorating the first anniversary of the establishment of the Alternative Service Commission was held in Seoul. During the seminar, officials and academics made multiple comments on the punitive nature of the ACS in South Korea and the need for future improvements. (See Annex 2.)

### **III. IMPLEMENTATION OF ACCEPTED RECOMMENDATIONS**

29. Following its previous review in 2017, the Republic of Korea supported specific recommendations made by member States.
30. Para. 12 of the Report of the Working Group (A/HRC/37/11), dated 27 December 2017, recorded that “the Government [was] planning to undertake a cautious review of the amendment to the Military Service Act, introducing alternative service for conscientious objectors, and to hold a wide consultation on the matter”.
31. In A/HRC/37/11, para. 110, Croatia noted positive developments regarding conscientious objection to military service, including the draft bill on alternative services for conscientious objectors. It encouraged the Republic of Korea to continue its efforts. It remained concerned over discrimination against conscientious objectors.
32. A/HRC/37/11, para. 132 listed multiple recommendations to be examined by the Republic of Korea with a view to providing responses in due time.

33. A/HRC/37/11, paras. 132.94–132.106 concerned recommendations relevant to the provision of a genuine civilian alternative to military service for conscientious objectors.
34. At A/HRC/37/11, para. 132.94, Germany recommended decriminalizing conscientious objectors, introducing a genuinely civilian alternative to military service and releasing those imprisoned for refusing to perform military service.
35. At A/HRC/37/11, para. 132.95, Canada recommended recognizing conscientious objection to military service, and allowing conscientious objectors the option to perform an appropriate alternative service of a genuinely civilian character and of a length comparable to that of military service.
36. At A/HRC/37/11, para. 132.96, the United States of America recommended introducing alternatives to military service to protect conscientious objectors.
37. At A/HRC/37/11, para. 132.97, Australia recommended introducing an alternative non-punitive service of genuine civilian character, under civilian control and of a length comparable to military service.
38. At A/HRC/37/11, para. 132.98, Croatia recommended providing 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.
39. At A/HRC/37/11, para. 132.99, France recommended adopting legislation to ensure that alternative services offered to conscientious objectors are of a civilian nature, placed under civilian authorities' control, and devoid of any punitive dimension; and examining the situation of individuals who are currently imprisoned for refusing to submit to compulsory military training, with a view to offering them an alternative civilian service.
40. At A/HRC/37/11, para. 132.100, Mexico recommended setting up an alternative service for conscientious objectors to the compulsory military service in order to guarantee their right to freedom of expression.
41. At A/HRC/37/11, para. 132.101, Switzerland recommended establishing an alternative service under civilian control for conscientious objectors, in conformity with the international human rights obligations of the Republic of Korea.
42. At A/HRC/37/11, para. 132.102, Argentina recommended making further progress in changing the regime, which criminalizes the exercise of the right to conscientious objection in relation to obligatory military service.
43. At A/HRC/37/11, para. 132.103, Panama recommended introducing alternatives to military service for conscientious objectors, abolishing prison sentences and releasing all persons who have been incarcerated for having refused the military service in the absence of a civilian alternative.
44. At A/HRC/37/11, para. 132.104, Portugal recommended ensuring the legal recognition of conscientious objection to military service.
45. At A/HRC/37/11, para. 132.105, Croatia recommended releasing individuals imprisoned or detained solely on the basis of their conscientious objection to military service and



considering expunging the corresponding charges from their criminal records.

46. At A/HRC/37/11, para. 132.106 Costa Rica recommended considering the release of people imprisoned or detained because of their conscientious objection to military service, and removing the corresponding charges from their criminal record.
47. Addendum A/HRC/37/11/Add.1 to the Report of the Working Group, dated 2 February 2018, para. 32, recorded that, while maintaining certain reservations, the Government of the Republic of Korea undertook to “conform to the decision of the Constitutional Court’s ruling on the [then] pending case on the punishment of the conscientious objectors”. As set out above, on 28 June 2018, the Constitutional Court declared a section of the MSA unconstitutional because it did not provide alternative service for conscientious objectors.
48. The ASA and partial amendment to the MSA, as enacted by the National Assembly of the Republic of Korea on 27 December 2019, and the alternative service system subsequently implemented from 1 January 2020, have gone some way to meeting these recommendations and the undertaking. Nevertheless, as described in detail above, the Republic of Korea does not yet provide religiously motivated conscientious objectors to military service with a genuinely non-punitive civilian alternative service provision meeting international standards and recommendations.

#### **IV. CONCLUSION AND RECOMMENDATIONS**

49. Jehovah's Witnesses in the Republic of Korea and as a worldwide organization express concern at the failure of the Republic of Korea to follow through both on the above recommendations and on the conclusions of its Constitutional and Supreme Courts by putting in place a provision for alternative civilian service in full harmony with international standards and with its commitments under the Covenant. They respectfully request the Government of the Republic of Korea to take the necessary steps to:
  - (1) Ensure that religiously motivated conscientious objectors to military service have the option of a genuinely civilian and non-punitive alternative in line with international standards;
  - (2) Ensure that such alternative service is made available to applicants without unreasonable delay;
  - (3) Ensure that appropriate provision is made for reservists who have become conscientious objectors since performing military service.
  - (4) Ensure that no genuine conscientious objectors to military service who are willing to perform alternative service are imprisoned;
  - (5) Ensure that the criminal records of individuals imprisoned for conscientious objection to military service are fully expunged;
  - (6) Abide by its commitment to uphold the fundamental freedoms guaranteed by the Constitution of the Republic of Korea and the Covenant for all citizens, including Jehovah's Witnesses.