

## Executive Summary

**This submission was prepared in June 2013 on the basis of the latest information available at that date. It focusses on two issues regarding military service in Cyprus: the arrangements for conscientious objectors, and the possibility of juvenile recruitment. Neither featured in the review of Cyprus during the first cycle of the UPR.**

### CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

1. The Republic of Cyprus was one of the last members of the European Union to recognise the right of conscientious objection to military service. The discrepancy in duration between military service and the civilian alternative service available to conscientious objectors remains punitive. Other aspects, particularly the military control of the arrangements and the absence of provisions for reservists to apply for recognition as conscientious objectors, are not in accordance with international standards.

2. Obligatory military service for all males from the age of 18, and with reserve duties up to the age of 50, was instituted in the National Guard Law (No 20/1964) which has subsequently been amended on a number of occasions. The amended National Guard Law of 9<sup>th</sup> January 1992 contained the first provisions concerning conscientious objectors to military service. It set obligatory military service at 26 months, but allowed for unarmed military service within the armed forces of 36 months and “unarmed military service outside the armed forces” (sic) of 42 months.<sup>1</sup>

3. In June 2007, the National Guard Law was amended to reduce the duration of military service to 25 months, and the duration of the “unarmed military service outside the armed forces” to 34 months. At the same time, the exemptions from military service which had been granted to all members of the Armenian Orthodox, Latin (ie. Roman Catholic) and Maronite churches were abolished.<sup>2</sup> These exemptions do not appear to have been related to assumed conscientious objection – Jehovah's Witnesses, whose principled refusal of military service is well known, and who account for most conscientious objectors in Cyprus, did not receive this privilege. The very few Turkish Cypriots still living in the area under Government control are not called upon to perform military service, but are liable to conscription if they cross into the area under the control of the self-styled “Turkish Republic of Northern Cyprus”.

4. In December 2008 the duration of military service was further reduced to 24 months, without any change in the duration of alternative service. This had been intended as the first step in an intended progressive reduction in the length of military service to 19 months, coupled with a reform of the National Guard system to incorporate two annual intakes, rather than just one. It was not clear what the effect on the length of alternative service would have been. However, in March 2009 faced with disquiet that the proposed “two-tier” conscription would cause (unspecified) social problems, the Council of Ministers announced the temporary postponement of further cuts in the duration of military service.<sup>3</sup> Nothing more has been heard of this proposal.

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<sup>1</sup> Stolwijk, M., The Right to Conscientious Objection in Europe: A Review of the Current Situation, (Quaker Council on European Affairs, Brussels, 2005), p21.

<sup>2</sup> US Department of State, Country Reports on Human Rights Practices, 2008: Cyprus, 25<sup>th</sup> Feb. 2009.

<sup>3</sup> European Bureau for Conscientious Objection ([www.ebco-beoc.org](http://www.ebco-beoc.org)), Report to the Committee of Civil Liberties, Justice and Home Affairs of the European Parliament: Conscientious Objection in Europe 2009 /10, (Brussels, May

5. The discrepancy in duration between armed military service and the alternative offered has been repeatedly criticised by the European Committee of Social Rights as a probable violation of the Article 1.2 of the European Social Charter (“to protect effectively the right of the worker to earn his living in an occupation freely entered upon”). The most recent report from Cyprus to the Committee did not mention the issue, but having received verbal information on the 2007 changes, the Committee in its 2012 report reiterated its view that the discrepancy was still too large.<sup>4</sup>

6. There is moreover considerable scope for concern that anything described as “unarmed military service outside the armed forces” may not in practice be a truly civilian option, compatible in all cases with the reasons for conscientious objection.<sup>5</sup> Doubts on this score were expressed in a Council of Europe report in 2001<sup>6</sup> In fact, in 2003, the Jehovah’s Witnesses, who had been successfully obtaining recognition as conscientious objectors, reported that the provisions establishing alternative service outside the armed forces had not yet been implemented.<sup>7</sup>

7. Subsequently, it would appear that various public sector placements in the areas of environmental protection and social services have been made available, and on his visit to Cyprus in April 2012, the Special Rapporteur on Freedom of Religion or Belief was informed that since 2008, between ten and twelve conscientious objectors each year had taken up such placements. The Special Rapporteur however recorded his “impression that the topic of conscientious objection does not receive much public attention and that the few existing cases have not led to larger public discussion.”<sup>8</sup> He felt it appropriate to issue a firm reminder of the international standards in this field.<sup>9</sup>

8. An application for recognition as a conscientious objector must be submitted to the Ministry of Defence. This cannot constitute an “independent and impartial decision-making body.”<sup>10</sup>

9. The National Guard Law does not provide for persons liable to military reserve service to declare themselves as conscientious objectors. This was highlighted in 2002 when five Jehovah’s Witnesses went on trial for refusing call up to reservist training. Some of the five had previously tried and failed to establish conscientious objector status, others had been converted subsequent to performing their military service. Although the trial was suspended pending a rationalisation of the provisions in the National Service Act, but there are no reports that this has yet happened.

## JUVENILE RECRUITMENT

10. Cyprus ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC) on 2<sup>nd</sup> July 2010, but has not yet produced its

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2010), p11.

<sup>4</sup> See Council of Europe, European Committee of Social Rights, Conclusions 2012 (CYPRUS), (January 2013), pp 7, 8.

<sup>5</sup> See Commission on Human Rights , Resolution 1998/77, OP4.

<sup>6</sup> “Exercise of the right of conscientious objection to military service in Council of Europe member states”, Report of the Committee on Legal Affairs and Human Rights to the meeting of the Standing Committee of the Parliamentary Assembly of the Council of Europe in Istanbul, 22<sup>nd</sup> and 23<sup>rd</sup> March, 2001 (Document 8809, revised 4 May, 2001).

<sup>7</sup> Evidence submitted by the General Counsel of the Jehovah’s Witnesses to the OHCHR for its report on “best practices” in the field of conscientious objection to military service, 1<sup>st</sup> August 2003.

<sup>8</sup> A/HRC/22/51/Add.1, 24<sup>th</sup> December 2012, para 67.

<sup>9</sup> Ibid, para 69.

<sup>10</sup> See Commission on Human Rights , Resolution 1998/77, OP3.

initial report.

11. The first paragraph of the declaration made on ratification stated: “The National Guard Law No. 20 of 1964, as variously amended, most recently in 2006, hereinafter ‘The National Guard Law’, provides that the obligation to military service, in times of peace, begins the 1st January of the year the citizen becomes 18 years old. Although military service is compulsory for all Cypriot citizens, women and some categories of [males] (e.g. clergymen) are exempted from military service in times of peace”

12. Clarification obtained by Child Soldiers International from the Ministry of Defence indicated that the National Guard Law (the most recent amendment of which was in 2011) requires all male citizens to register at the age of 16 and that indeed the date on which they are required to commence their military service may be before their eighteenth birthday. “Conscripts under 18 who are called to service participate in training only.”<sup>11</sup> Further clarification of the details is needed, but there can be no doubt that any compulsory recruitment, even for training only, of persons who have not reached 18 years is in direct contravention of Article 2 of OPAC.

13. Cyprus' declaration upon ratification of OPAC also indicates that persons aged 17 may volunteer for military service. “The National Guard Law also provides for the voluntary enlistment of citizens under 18 who have attained the age of 17 by the date of their recruitment in the armed forces. The acceptance of volunteers to Military Service, requires special authorization from the Ministry of Defense. Volunteers must have recent written consent from parents or legal guardians. The recruitment, on a voluntary basis, by the armed forces at the minimum age of 17 years shall continue to be permitted under the conditions and with the safeguards provided in Article 3, paragraph 3, of the Optional Protocol.”

14. The declaration closes:

“The Republic of Cyprus understands that Article 1 of the Optional Protocol would not prevent members of its armed forces to be deployed where:

a. There is a genuine military need to deploy their unit to an area in which hostilities are taking place; and b. By reason of the nature and urgency of the situation: (i) it is not practicable to withdraw such persons before deployment; or (ii) to do so would undermine the operational effectiveness of their unit, and thereby put at risk the successful conduct of the military mission and/or the safety of other personnel. The above understanding is all the more necessary under the circumstances prevailing nowadays in the Republic of Cyprus as a result of the continued illegal military occupation of 37% of its national territory by a foreign State, Party to the Optional Protocol.”

15. This declaration sounds suspiciously like a reservation. If in view of the circumstances which prevail in Cyprus it is envisaged that there is a particularly strong likelihood of the deployment in hostilities of units including 17-year-old recruits, “all feasible measures” to ensure that such persons do not take a direct part in hostilities must include not attaching them to active service units, and indeed giving serious reconsideration to the wisdom of allowing their recruitment in the first place.

16. The Committee on the Rights of the Child has not yet had the opportunity to examine a report from Cyprus under the OPAC. However in its concluding observations on the Second Periodic Report of Cyprus under the Convention itself, the Committee stated that it was “concerned

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<sup>11</sup> Child Soldiers International, Louder than words: an agenda for action to end state use of child soldiers. London, September 2012, p146.

that under-18s may be deployed since no distinction is made between the age for recruitment and deployment”, and called upon the State party to take measures to ensure that this was not possible.<sup>12</sup> It is unfortunate that when examining the Third and Fourth Periodic Reports in June 2012, the Committee seems to have left follow-up on this point for the pending OPAC Report.

## THE AREA UNDER TURKISH OCCUPATION

17. Cyprus will of course argue that the northern part of the island, which has been under Turkish occupation since 1974, is not under the control of the internationally-recognised government. This sadly means that as long as the current situation persists, human rights in the area controlled by the unrecognised self-styled “Turkish Republic of Northern Cyprus” (TRNC) will in practice not be examined at any point under the UPR. Even so, some developments deserve mention for the record.

18. Provision for conscription was made in Article 74 of the Constitution of the TRNC. The arrangements are currently regulated by the Military Service Law (No. 59/2000), which stipulates that all men aged between 19 and 30 are liable to fifteen months<sup>13</sup> service in the “Security Forces” (GKK)<sup>14</sup> - reduced to 12 months for University graduates. In theory, this obligation extends to all those who are considered to be entitled by descent to citizenship of the TRNC, whether or not resident. As in the Republic of Cyprus, voluntary recruitment with parental consent is possible from the age of 17.<sup>15</sup> It is to be assumed that likewise there are no effective safeguards against under-age deployment.

19. There is no provision for conscientious objectors to be excused this service or to substitute a service of a civilian nature. In the absence of any procedures for dealing with conscientious objectors, only one conscript is known to have openly declared his refusal to serve on the grounds of conscientious objection, Salih Askeroglu, who was sentenced to 39 months’ imprisonment in 1993, but was subsequently released, apparently on condition that he did nothing to further publicise his case.<sup>16</sup>

20. Until the age of 50, all those who have served in the GKK are required to report each year for a nominal day of reserve training. In 2009 Murat Kanatli declared himself a conscientious objector and did not report. When charged over this in the Military Court, he pleaded not guilty on the grounds that he was exercising the freedom of thought, conscience and religion guaranteed under the European Convention on Human Rights and the Constitution of the TRNC itself. After several postponements, the Military Court finally decided to refer the case to the Constitutional Court. It was heard on 16<sup>th</sup> May, 2013, but at the time of writing the Court's decision has not been published.

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<sup>12</sup> CRC/C/15/Add.205, 3<sup>rd</sup>. July 2003, paras. 57-58.

<sup>13</sup> At an earlier date the service had been of 24 months.

<sup>14</sup> Although under Turkish military command, the GKK is completely separate from the Turkish Army itself, which has approximately 40,000 personnel stationed in Cyprus.

<sup>15</sup> Child Soldiers Global Report 2008 (Coalition to Stop the Use of Child Soldiers, London), p.126.

<sup>16</sup> Horeman, B. & Stolwijk, M. Refusing to Bear Arms (War Resisters International, London, 1998)