

CONSCIENCE AND PEACE TAX INTERNATIONAL

UPR SUBMISSION

ESTONIA 38th SESSION (May 2021)

1. This submission was prepared in September/October 2020 on the basis of the latest information available.

Executive summary:

2. The submission focusses on the situation regarding military service and conscientious objection in Estonia.

3. There are concerns as to whether there are adequate safeguards of the genuinely civilian nature of alternative service.

4. There are also concerns about juvenile recruitment and military training.

History in the UPR

5. In the First Cycles of the UPR, Slovakia recommended that Estonia “Ensure that the right of conscientious objection to military service is upheld, and clarify the grounds for acceptance or rejection of such claims”. This recommendation enjoyed the support of Estonia.¹ Military service issues did not feature in the Second Cycle.

Background: Military Service in Estonia

6. Military Service in Estonia is regulated by the Defence Forces Service Act of 2000, most recently amended in 2007, under which all male Estonian citizens are required to register for military service at the age of 16 and remain listed as liable for reserve service until the age of 60.

7. The requirement to report for obligatory military service can under the Act be imposed between the ages of 18 and 27 inclusive; in practice the arrangements have the effect that those born after the 15th September may be called up before their eighteenth birthday.² “The duration of military service is often determined by the time when the person eligible is called up. Those who are called up in January or June usually serve 11 months and those called up in April or October serve 8 months. The final length of military service is determined by the position the conscript is given.³ According to The Military Balance 2020 there are some 3,200 conscripts at any one time, almost half the total strength of the armed forces. Even allowing for a basic service of only 8 months, this is equivalent to over 56% of the number of men reaching conscription age each year, estimated as about 5,700⁴ Both the absolute

¹ A/HRC/17/17, 28th March, 2011, para 77.77.

² Child Soldiers Global Report 2008 (Coalition to Stop the Use of Child Soldiers, London), p140.

³ Estonian Institute of Human Rights (EIHR), Overview of the Human Rights Situation in Estonia 2005, www.eihr.ee, p5.

⁴ Figures derived from The Military Balance, 2020, International Institute of Strategic Studies, London.

number of conscripts and the proportion which they represent of the armed forces have increased sharply in response to the alleged Russian invasion of Ukraine in 2014 and its annexation of Crimea.

8 In August 2005 a Defence Resources Agency was finally set up⁵, as had been envisaged in both the 2000 Defence Forces Service Act, and its 1994 predecessor⁶. The agency could consider written applications for alternative service based on religious or moral grounds; it appears that with its creation alternative service became a practical possibility, although numbers of applications picked up very slowly. Detailed procedures for appeals against its decisions are set out in the Defence Forces Service Act; what is not made clear is at what point applications have to be made. Is it the case that anyone wishing to be recognised as a conscientious objector has to apply for and perform alternative service?

9. Initially, the duration of alternative service was set at twice that of military service; this ratio was maintained when the duration of military service was reduced to 8 months.

10. The UN Human Rights Committee in its Concluding Observations on Estonia's Third Periodic Report under the International Covenant for Civil and Political Rights (ICCPR), expressed its concern "that the duration of alternative service for conscientious objectors may be up to twice as long as the duration of regular military service.", adding "**The State party is under an obligation to ensure that conscientious objectors can opt for alternative service, the duration of which is without punitive effect**".⁷

11. This concern was echoed by the European Committee for Social Rights in its Conclusions for 2008.

12. By the time of Estonia's Third periodic Report under the ICCPR, the durations of military and alternative service had been equalised. Nevertheless, the Human Rights Committee was "concerned that few applications for alternative to military service have been approved during the last few years (11 of 64 in 2007, 14 of 68 in 2008, 32 of 53 in 2009). It is also concerned about the lack of clear grounds for accepting or rejecting an application for alternative to military service".⁸ It was clearly this which led to the UPR recommendation the following year.

13. Alternative service, as specified in Article 73 of the Defence Forces Service Act, is to be carried out in the rescue, emergency or social care services of the Interior Ministry or the Ministry of Social Affairs. Article 76.1 of the Act states that conscientious objectors shall not be obliged to handle weapons or munitions. While, on the face of it, a useful safeguard against alternative service assignments which might not be compatible with the reasons for objection, this raises the question of why this might be expected to arise within these areas of activity. There would seem to be a more obvious link with Article 78, which stipulates that those who complete alternative service will be put on the register of reserves, and guarantees that in the event of reserve mobilisation they will not be given assignments contrary to Article

⁵ EIHR, *op cit*

⁶ Stolwijk, M., The Right to Conscientious Objection in Europe: A Review of the Current Situation, Quaker Council on European Affairs, Brussels, 2005, p.26.

⁷ CCPR/C/CO/77/EST, 15th April, 2003, para 15.

⁸ CCPR/C/CO/3/EST, 28th July 2010, para 14.

76.1. The implication seems to be that in time of war or national emergency, and notwithstanding their conscientious objections, those who have completed alternative service may be mobilised for unarmed service within the armed forces.⁹

14.. Reservists are apparently liable to recall every five years.¹⁰ We have no information on the duration of periods of reserve duty.

Juvenile recruitment

15. The 2007 revisions to the Defence Forces Service Act removed the provision whereby in time of war and national emergency volunteer reservists could be mobilised at the age of 16.

16. However, when it examined the Initial Report of Estonia under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC) the Committee on the Rights of the Child (CRC) expressed concern “ that children from the age of 7 years may participate in the voluntary Estonian Defence League that functions under the auspices of the Ministry of Defence,.” “that, despite the prohibition in the Estonian Defence League Act to provide and organize military training for its junior members, the activities of t he League may, in practice, include the participation of children in handling firearms. “ at the lack of an independent complaints mechanism for children in the Estonian Defence League.” It recommended **“that the State party take measures to ban the handling of firearms for children under the age of 18 years, in general, and in the Estonian Defence League, in particular, and establish a system to regularly monitor the Estonian Defence League programme to ensure that its curriculum and teaching personnel comply with the provisions of the Optional Protocol.”** and **“that the State party establish an independent complaints mechanism for children in the Estonian Defence League.”**¹¹

17. According to the Estonian Institute of Human Rights 2005 report this was the principal military reserve force. As well as the main organisation, with just under 10,000 members, it had a number of “special organisations,”: “the boys’ organisation Young Eagles – 4019; the girls’ organisation Home Daughters – 3788; and the Women’s Voluntary Defence Organisation – 1051.”¹², giving it a total membership of almost 19,000. The “Young Eagles” in particular, according to the Child Soldiers Global Report 2004¹³ was composed of “boys aged between eight and 18, who take part in fitness and military training, including weapons handling and shooting drills.”

18. The CRC seems to have faied to pick up the anomaly whereby those born in the last four months of the year may be subject to call-up before the eighteenth birthday.

⁹ Ibid

¹⁰ Ibid p.25.

¹¹ CRC/C/OPAC/CO/EST/1, 8th March, 2017, paras 12 and 13.

¹² EIHR, op cit

¹³ Child Soldiers Global Report 2004 (Coalition to Stop the Use of Child Soldiers, London), p236

Suggested recommendations:

19. CPTI suggests the following recommendations to Estonia:

a) that it clarify that the reserve obligations of those who have performed alternative service will in no case be performed within the armed forces.

b) that it take action to bring its recruitment timetable into line with its commitments under OPAC, ending the anomaly whereby those born in the latter part of the year may be called up before the 18th birthday.

c) that it confirm whether it has taken action to implement the recommendations of the Committee on the Rights of the Child concerning the activities of the Estonian Defence League, in particular that no military or firearms training may be carried out by juveniles.