

Human Rights of Armed Forces Personnel:

COMPENDIUM OF STANDARDS, GOOD PRACTICES AND RECOMMENDATIONS

This is an overview of rights covered in Chapter 8 of HUMAN RIGHTS OF ARMED FORCES PERSONNEL: COMPENDIUM OF STANDARDS, GOOD PRACTICES AND RECOMMENDATIONS developed by the OSCE Office for Democratic Institutions and Human Rights (ODIHR) together with the Geneva Centre for Security Sector Governance (DCAF) to safeguard and strengthen the rights of people working in the armed forces. For more information, see: osce.org/odihr/ArmedForcesRights

Civil and political rights

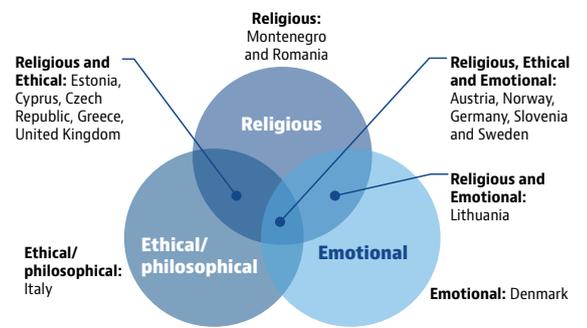
Equal opportunities and non-discrimination

Rights related to military life (e.g., working and living conditions)

Procedural rights (e.g., military justice and oversight mechanisms)

Conscientious Objection to Military Service

The right to object to conscription for compulsory military service is closely linked to the right to freedom of thought, conscience and religion or belief. In recent decades, many states have abolished universal conscription in favour of voluntary enlistment. A minority of states have reintroduced conscription, with Norway and Sweden extending the practice to include women.



Reasons for conscientious objection

In the OSCE region, religion is most often recognized as a reason for conscientious objection, although several states recognize others such as ethical, philosophical and emotional grounds.

In a 1998 Recommendation, the United Nations Human Rights Commission called on states "not to discriminate amongst conscientious objectors on the basis of their particular beliefs."

Legal recognition of conscientious objection

In many states, the right to conscientious objection is provided for in the constitution. To avoid uncertainty and ensure that this right can be exercised fully, it is important that relevant procedures are specified in legislation.

Example: Switzerland's legislation recognizes the right to conscientious objection, including for career officers and non-commissioned officers. Those wishing to exercise this right are not required to give specific reasons and are not subject to any examination by the authorities.

Example: Croatia's Civil Service Commission, composed of representatives of different government ministries, considers individual requests to abstain from military service. The Commission may reject the request if the applicant: has a conviction for using a weapon or force; is found to possess a weapon without a specific firearm licence; did not provide religious or moral reasons for the objection; or did not file an application for alternative service. Appeals can be brought before an appeals commission and, if unsuccessful, further considered in an administrative court.

Procedures for determining conscientious-objection claims

Many states require an assessment to verify whether a claim of conscientious objection is genuine. In some states, such as in Croatia, this process is led by a civilian body, while in others the assessment is conducted by a military authority, as is the case in the United States.

Good practices include:

- » Where a state does not initially accept a statement of conscientious objection, an independent panel assesses the claim.

Alternative service

States that recognize conscientious objection generally permit an alternative non-military service with other public authorities, such as in healthcare, social services or education. It is common for alternative service to be longer in duration than

military service to reflect the arduous working conditions of conscripts. However, any differences in duration must not be designed to deter applicants from alternative service.

Alternative Service should:

- be compatible with the reasons for the conscientious objection;
- be performed under a purely civilian administration, with no involvement of the military authorities;
- involve work in the public interest;
- not be a form of punishment for conscientious objection;
- last no more than 1.5 times the length of military service; and
- confer the same economic and social rights as military service.

Conscientious objection for different types of service personnel

In a number of OSCE participating States, the right to conscientious objection exists not only for conscripts, but also for serving members of the armed forces (namely, in Belarus, the Czech Republic, Germany, Romania, Slovakia, Slovenia,

Spain, Switzerland, and the United Kingdom). Such states recognize that an individual's convictions can evolve and that service personnel may develop a conscientious objection to bearing arms over time.

Selective conscientious objection

Selective conscientious objection is defined as a refusal by women and men in the armed services to participate in particular military campaigns. It is difficult to assess whether such claims are genuine – since the individual had previously been willing

to bear arms – or well grounded, as the motivation for objecting may appear political rather than a question of conscience. Few states therefore exempt armed forces personnel from service on the basis of selective conscientious objection.

Good practices include:

- » Providing any individual subject to conscription with information about the right to object to military service and the process for being recognized as a conscientious objector;
- » Making conscientious objection available both prior to and during military service;
- » Avoiding any punishment conscientious objectors for failing to perform military service; and
- » Protecting conscientious objectors from discrimination in relation to the terms or conditions of service, and their economic, social, cultural, civil or political rights.

