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## Right to Conscientious Objection to Military Services: International to National Perspective

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### Abstract

The international regulation (United Nations Universal Declaration of Human Rights) stipulates that everyone has the right to freedom of thought, conscience and religion and that this right includes freedom to change their religion or belief and freedom to manifest their religion or belief. The U.N. Human Rights Committee concluded that the right to conscientious objections could be derived from Article 18. Article 9 of the European Convention on Human Rights also extends to the cases of the opposition to military service. In Latvia the question of conscientious objection was regulated in the Alternative Service Law which expired in 2007 when the compulsory military service was completely abolished. Since then, the question about the conscientious objection to the military service has not been directly regulated in the national normative acts and has not also been raised in the courts of Latvia.

In 2021, the Supreme Court of the Republic of Latvia heard the case about the refusal to be a reserve soldier and to perform service in the National Armed Forces' reserve on the ground of the pacifist beliefs of the applicant. This case revealed the lack of legal tools in Latvian military service regulations to respect the human rights mentioned therein.

The purpose of the article is to propose the possible solutions to the identified gaps in Latvian regulation by analysing the international and national regulation, other countries' experience and judgments of the European Court of Human Rights.

The historical, analytical, systemic and teleological method has been used in the preparation of article.

*Keywords:* conscientious objections, reserve soldier, military service.

## Introduction

Although international regulation protects the right of persons to act according to their conscience, since the abolishment of the compulsory military service in Latvia in 2007 the question about the conscientious objection to the military service has not been directly regulated in the national normative acts and has not been raised in the courts of Latvia. Only in March, 2021 the Supreme Court of the Republic of Latvia heard the case about the applicant's refusal (the former professional soldier) to be a reserve soldier and perform service in the National Armed Forces' reserve on grounds of the pacifist beliefs.

The applicant was the former professional who asked to be exempted from the military service in the National Armed Forces' reserve. The applicant started the performance of the professional service in the beginning of 2016 and during the military training course suffered health damage which required a long-term medical treatment. In 2017, the applicant decided to terminate the professional service contract prior to the end of the term and explained this decision with the acquisition of pacifist conviction during this relatively short period of military service. The applicant had gained confidence that no military action was acceptable to her. The professional service contract was terminated before the end of the term by the agreement of the parties. However, according to the Military Service Law (*Militārā dienesta likums*, 2002), the applicant was included in reserve, as the former professional soldier (*Latvijas Republikas Augstākās tiesas ...*, 2021).

According to Article 65 of the Military Service Law (*Militārā dienesta likums*, 2002), a reserve soldier has a duty:

- 1) to arrive to military training at the place and time determined in the summons;
- 2) to arrive to medical examination at the place and time determined in the summons;
- 3) to maintain and improve the battle knowledge, skills and preparedness necessary for military specialty determined during the time of active service.

It was revealed that the list of the cases (mentioned in Article 68 of the Military Service Law) when a reserve soldier and reservist can be removed from the military service records did not contain the situation when the participation in military activities restricted the person's freedom of thought and conscience. Thus, the applicant complained that her inclusion in the reserve soldiers list violated her rights under Article 99 of the Constitution of the Republic of Latvia (*Latvijas Republikas Satversme*, 1922) and under Article 9 of the European Convention on Human Rights (*Latvijas Republikas Augstākās tiesas ...*, 2021).

The Court drew attention to the case-law of the European Court of Human Rights, namely to the cases "*Bayatan vs. Armenia*", "*Papavasilakis vs. Greece*" and "*Dyagilev vs. Russia*", and pointed out that the previous case-law, according to which the admissibility of conscientious objection to military service was only a matter of choice of each state,

was changed. The Court also mentioned that the competent national authorities may interview the person in order to assess the seriousness of their convictions and prevent attempts to abuse the guarantees provided for in Article 9 of the European Convention on Human Rights (Latvijas Republikas Augstākās tiesas ..., 2021).

The court concluded that in this case, being in a service whose methods and means are contrary to a person's conviction, the obligation to obey orders (for the violation of which a liability arises), the obligation to maintain combat knowledge, military skills and training significantly restricts a person's right to freedom of conscience. Simultaneously, the legitimate aim of the restriction (protection of other people's rights and public safety) can be achieved by less restrictive means, considering the total number of reserve soldiers; the fact that the applicant's case is the first (therefore atypical); the fact that the applicant has only completed a basic training course and has not acquired additional knowledge; and the fact that during the service, the applicant suffered an injury which caused the applicant not only physical but also mental sufferings, and this still has consequences, namely, due to her present health condition, the applicant is not currently expected to be called up for military trainings as a reserve soldier (Latvijas Republikas Augstākās tiesas..., 2021).

This judgment revealed shortcomings of the Latvian regulation that had long been invisible due to the lack of relevant cases. Despite the fact that this is the first case to be directly examined in the court, the judgements of the European Court of Human rights and the experience of other countries underline the need to provide for solutions to such cases in national regulation.

The aim of this article is:

- 1) to analyse provisions of the international regulation, conclusions and recommendations of international institutions and experience of other countries in the field of the right to conscientious objection to military service;
- 2) to evaluate Latvian regulation of the military service and detect its shortcomings regarding respect for the right of individual to refuse to perform military service on the grounds of freedom of thought, conscience, or religion;
- 3) to provide solutions to improve Latvian regulation of the military services on the base of the previously mentioned analyses.

## **1 International Aspects of the Right to Conscientious Objection to Military Service**

In 1993, the Human Rights Committee, in its general comment No 22 (1993), stated that although Article 18 of the International Covenant on Civil and Political Rights (which guarantees the right to freedom of thought, conscience and religion or belief) does not directly protect the right of conscientious objection, these rights could be derived from Article 18, because the duty to use weapons may seriously conflict with freedom of conscience and the right to manifest religion or belief (U.N. Human Rights Committee,

1993). In 2013, the Human Rights Council, in its resolution 24/17 (A/HRC/24/17), recognised that the right to conscientious objection to military service can be derived from the right to freedom of thought, conscience and religion or belief and encouraged states to allow conscientious objection to military service before, during and after military service including reserve duties (U.N. Human Rights Council, 2013).

Consequently, according to the mentioned information, it is necessary to ensure the right to conscientious objection in the following three situations:

- 1) in the case of compulsory military service;
- 2) during the military service (both in the case of compulsory military service and in the case of professional service);
- 3) after the end of the military service (service in the reserve with the ensuing obligations of military service in the event of military training and mobilisation).

In 2006, the Human Right Council stressed that states should adopt specific provisions on conscientious objection to military service in order to ensure that this right can be effectively exercised. The states should also ensure that the information about its implementation is properly disseminated to all citizens to the entire population (U.N. Human Rights Council, 2006). In 2010, the Human Right Council also mentioned that states should explain the criteria for accepting or rejecting applications for alternative military service and should take appropriate measures to ensure the exercise of the right to conscientious objection to military service (U.N. Human Rights Council, 2010).

In 2013, the Human Rights Council mentioned that the information about the right to conscientious objection to military service and the means of acquiring conscientious objector status must be available to all persons affected by military service. It also encouraged states to provide such information not only to conscripts but also to persons serving voluntarily in the military services (U.N. Human Rights Council, 2013).

In 2019, the Human Rights Council stressed that although the Commission on Human Rights and the Human Rights Council, the Human Rights Committee and regional human rights courts recognised the right to conscientious objection, individuals seeking to exercise this right still face certain challenges. Namely, a number of states still do not recognise this right and, as a result, do not have a legal framework for conscientious objection to military service, but in those states that recognise the right to conscientious objection to military service, some implementation gaps remain that prevent full realisation of this right (U.N. Human Rights Council, 2019).

In 2011, the European Court of Human Rights recognised the right to conscientious objection in the case “Bayatyan vs. Armenia”. The court noticed that Article 9 of the European Convention on Human Rights does not explicitly provide for the right to conscientious objection to military service. Nevertheless, the Court considered that the rejection of military service – when the motive for such rejection is a serious and unsurmountable conflict between the obligation to serve in the army and the convictions of a person, or his deep and sincere religious or other views – is a conviction or view that

is so convincing, serious, consistent and meaningful that it is subject to the guarantees mentioned in Article 9 of the European Convention. The Court in this case had no reason to doubt that the applicant's objection to military service was motivated by their religious beliefs, because he was a member of the Jehovah's Witnesses (the religious group whose beliefs include the conviction that it is unacceptable to serve in the army, even if such service is not related to carrying weapons) (*Bayatyan vs. Armenia*, 2011). Thus, the court emphasised the need to examine the facts of each case carefully.

In the case "*Erçep vs. Turkey*", the Court verified whether there were alternatives of civilian service for people opposed to military service for reasons of conscience. The applicant was a member of the Jehovah's Witnesses (the religious group that was opposed to military service, regardless of need to bear arms). Therefore, like in the case "*Bayatyan vs. Armenia*", the Court had no reason to doubt that the person's objection to completion of military service was motivated by sincere religious beliefs that conflicted in a serious and insurmountable way with the applicant's obligation to serve in the military service. The Court found that, so far as there was no alternative civilian service in the state, the conscience objectors had no other option but to refuse to be enlisted in the military service if they wanted to stay true to their beliefs. The Court also mentioned that it was understandable that a civilian, whose case was heard by the military court composed completely from military officers, had doubts about the independence and impartiality of such jurisdiction. (*Erçep vs. Turkey*, 2011)

Thus, the Court again emphasised the need to examine the facts of each case carefully to verify whether and to what extent the opposition to military service is protected by Article 9. Nevertheless, the Court considered the issue of the neutrality of the military court, which heard the case of the civilian's offence under the Military Criminal Code. Thus, in the author's opinion, cases about objections to completion of military service should be considered by the commission or by a body composed mostly of civilians. In addition, despite the fact that the mentioned case concerned the compulsory military service, the state should also offer an alternative in other areas of military service (such as service in the reserve).

In the cases "*Papavasilakis vs. Greece*" and "*Dyagilev vs. Russia*", the Court examined existence of procedures for verifying requests to replace compulsory military service with its civilian alternative.

In the case "*Papavasilakis vs. Greece*", the special commission considered applications from a conscientious objector brought together only three of its five members, namely two senior officers of the armed forces (one from the recruitment and the other from the armed forces health service) and an assessor from the Council of State (the president of the special commission). The two other members (two university professors specialising in philosophy, social sciences and politics and psychology) were absent and had not been replaced. The Court mentioned that if the special commission had considered the application with all its members, the majority of these would have been civilians. However, in the *Papavasilakis*' case, only the president and the two officers were present.

Thus, the applicant could legitimately fear that the special commission would not be impartial. (*Papavasilakis vs. Grèce*, 2016)

In the cases “*Dyagilev vs. Russia*”, the recruitment commission which considered applications from a conscientious objector was composed of at least seven members (three of them were representatives of the Ministry of Defence, the remaining four members, including the president of the military commission, were officials of public bodies that were structurally independent of the military authorities). According to the judgement, a military recruitment commission consisted of the head or a deputy head of a municipal entity (the president); an officer of a military commissariat (the deputy president); the secretary of the commission; a medical officer responsible for the medical certification of individuals liable to be called up for military service; a representative of a local internal affairs agency (a police body); a representative of an “education governing agency”; and a representative of an employment office. So far as such commission could deliver decisions if no less than two-thirds of its members were present, the Court noticed that such regulation could result in situations where majority of its members were military officials, which could rise doubts about the commission’s impartiality. However, after the examination of the *Dyagilev’s* case, the Court concluded that in this case the state established an effective and accessible procedure for determining whether an applicant is entitled to conscientious objector status. The Court also noted that the applicant’s request for the replacement of military service was dismissed by the commission as not sufficiently persuasive (the applicant provided a CV and a letter of recommendation from his place of work). So far as the applicant’s replacement application was also examined in the domestic courts, the Court accepted that the applicant did not substantiated the existence of a serious and insurmountable conflict between the obligation to serve in the army and his pacifist convictions. (*Dyagilev vs. Russia*, 2020)

The Court also assessed the aspects of the mentioned cases by considering whether the applicable laws guarantee a fair balance between the interests of the state and the rights of the individual (*Chmykh, et al.*2000). In addition, whatever the system of the military service is in the state, it is recommended to create procedures that allow:

- 1) the professional military personnel apply for conscientious objector status during their service;
- 2) reserve soldiers apply for conscientious objector status without waiting until conscription to military training or mobilisation;
- 3) reservists apply for conscientious objector status without waiting until mobilisation (*Conscientious objection to...*, 2021).

## 2 Experience of Other Countries

Many states (for example, Denmark, Norway, Slovenia) in their legislation apply conscientious objection to conscripts, but some countries also recognise the conscientious objection of professional personnel (for example, Czech Republic, Germany, Slovenia,

Switzerland (Human Rights of Armed..., 2021), Canada (Government of Canada, 2015), Netherlands, where both professional and reserve personnel can claim conscientious objection (Act on conscientious objection, 1961)). Luck of the regulation in the cases of professional service most likely is connected to the fact that the professional service is performed on a voluntary basis and can be terminated at any time at the request or agreement of the parties.

In different states, claims of conscientious objection are reviewed by civilian, military or mixed body (Human Rights of Armed ..., 2021). Applicants' potential doubts about neutrality could be dispelled through consideration of the applications in mixed or civilian bodies. As mentioned before, the commission is mixed in Greece (the European Court of Human Rights recognised it as neutral, provided that not only the military, but also civilian members participate in it).

In Slovenia, during the military service or after it, the conscript may invoke the conscientious objection to military service for religious, philosophical or humanitarian reasons and these reasons must be confirmed by the general way of life and conduct of the person. In this country, neutrality is also ensured by the composition of the commission which considers applications from conscientious objectors. The commission includes a social worker, psychologist and doctor who is not in a regular or contractual employment relationship with the bodies responsible for defense affairs, and a representative of administrative bodies responsible for internal affairs and defense or protection and rescue. The representative of administrative bodies responsible for defense affairs may not be the president of this commission. (Military Service Act, 1991)

### 3 Latvian Regulation and Possible Changes in It

After restoration of Latvia's independence, the law "On compulsory service of the Republic of Latvia" (Par Latvijas Republikas obligāto..., 1991) provided for the persons (subject to compulsory military service) whose confessional affiliation or pacifist convictions prevented them from performing military service (these circumstances had to be proven in court as a legal fact) the right to be assigned to a labour service in places designated by the government.. This regulation was replaced by the Alternative Service law (Alternatīvā dienesta likums, 2002), which entered into force in July 2002. According to Article 1 of this law, the purpose of it was to determine the procedures for the performance of alternative service and to guarantee freedom of human thought, conscience and religious beliefs by linking such freedom with the duty of a citizen towards the state.

The Cabinet established a Military Service Conscription Control Commission which took decisions regarding substitution of mandatory active military service with alternative service. This commission was chaired by a chairperson recommended by the Minister for Defence, and it included a representative authorised by the Ministry of Defence, by the Ministry of Foreign Affairs, by the Office of the Prosecutor, by the Ministry

of the Interior, by the Ministry of Education and Science, by the Ministry of Culture, by the Ministry of Welfare, by the Ministry of Justice, by the Ministry of Agriculture and by the State Human Rights Bureau (*Obligātā militārā dienesta likums*, 1997).

In general, the alternative service existed in Latvia as an alternative to the compulsory military service until the full transition to the professional service in 2007. Those who were called up for compulsory active military service were called soldiers. Persons subjected to compulsory military service who were unable to perform military service because of their thoughts, conscience or religious convictions could have their compulsory active military service replaced by alternative service. These persons were not called soldiers in the regulation. Both soldiers after compulsory active military service and persons after alternative service were included in the reserve. Persons who were enlisted in the reserve, after completing alternative service, were called reservists. Persons who were enlisted in the reserve, after completing compulsory active military service, were called reserve soldiers. (*Obligātā militārā dienesta likums*, 1997; *Alternatīvā dienesta likums*, 2002).

Persons who were retired from the professional service (performed on a voluntary basis) and were assigned to the reserve were also called reserve soldiers (*Par Aizsardzības spēkiem*, 1992). According to Article 33 of the Mandatory Military Service Law (*Obligātā militārā dienesta likums*, 1997), reserve soldiers could be called up for military exercises, while reservists could be called up for training. Thus, despite the possibility provided for in the regulation to replace compulsory military service by the performance of prescribed work of a non-military nature, the regulation did not provide for complete exclusion of such persons from the reserve of the Armed Forces.

After the transition to the professional service, the military service in the country is regulated by the Military Service Law (*Militārā dienesta likums*, 2002), according to which, the military service is a type of state service in the field of national defense that is performed by a soldier and that includes active service and service in the National Armed Forces' reserve. The active service (the direct performance of military service in the status of a soldier) includes professional service, direct performance of military service in case of mobilisation, and military training of reserve soldiers. The National Armed Forces reserve consists of reserve soldiers and reservists. The reserve soldiers, according to Article 63 of the Military Service Law (*Militārā dienesta likums*, 2002), are those meeting the requirements for reserve service: soldiers who have retired from professional service; national guards after termination of a contract on the service in the National Guard; Latvian citizens who have voluntarily enlisted for the service in the National Armed Forces' reserve; youth guards who have successfully passed final examinations of a special course of interest education programme for youth guards. Meanwhile, a reservist is a Latvian citizen who has been included in the National Armed Forces' reserve and may be conscripted in the active service in the case of mobilisation. In the case of mobilisation, both reserve soldiers and reservists can be called up for active service (*Militārā dienesta likums*, 2002; *Mobilizācijas likums*, 2002).

Professional service is the military service which is performed by a Latvian citizen on a voluntary basis according to a professional service contract entered into by themselves and the Ministry of Defense. According to Article 43 of the Military Service Law (*Militārā dienesta likums*, 2002), a professional service contract may be terminated before the end of the term at any time by agreement of the parties. However, the person who fulfils the requirements for the service shall be placed on reserve after the retirement from the professional service. Thus, the actual national regulation of the military service does not contain norms directly protecting the right to conscientious objection to military service.

By evaluating the norms of international law, judgements of the European Court of Human Rights and the national regulations of other countries, the author provides the following changes in the national regulations. Although termination of a professional service contract is possible prior to the end of the term at any time by agreement of the parties, it would be desirable to provide in the Military Service Law for the provision that exempts a soldier from their weapons-related duties until their application has been examined and a decision has been made about it.

With regard to the reserve, it would be advisable to adopt the following rules in the Military Service Law (*Militārā dienesta likums*):

- 1) a soldier who is retired from the professional service due to conscientious objection shall not be included in reserve;
- 2) provide for the right of a reservist/reserve soldier to claim their exclusion from the reserve due to conscientious objections;
- 3) while the issue of reserve soldier is being considered, they shall not be conscripted for the military trainings;
- 4) provide for the right of a person excluded from the reserve (if they were excluded due to the conscientious objection) to request their return to the reserve due to the change in their genuine beliefs or religious conviction regarding the carry and use of weapons).

The Military Service Law should delegate to the Cabinet of Ministers the right to create a commission to consider the mentioned applications and determine the order of work of this commission (including the range of documents to be submitted to the commission). Decisions of this commission should be subject to judicial review. In the author's view, the Commission could include the following members:

- 1) a civilian representative, authorised by the Ministry of Defense (for example, an employee with a university degree in law or in political science as a representative of the authority responsible for organisation and co-ordination of the implementation of the national defence policy);
- 2) a civilian representative, authorised by the Ministry of the Interior (as a representative of the authority responsible for public order and security);
- 3) a representative, authorised by the Ministry of Justice (as a representative of the authority responsible for development, coordination and implementation of the state policy in the field of religion);

- 4) a representative, authorised by the State Human Rights Bureau (as a representative of the authority responsible for protection of the human rights of a private individual);
- 5) representative of the National Armed forces Psychological Service (this service provides psychological support for military personal and is well familiar with the peculiarities of the military service) or Chaplain Service (chaplains are responsible for the spiritual life of the unit);
- 6) a representative, authorised by the Joint Headquarters of the National Armed Forces (as a representative of the institution of the Commander of the National Armed Forces responsible for ensuring the Commander the possibility of exercising continuous management in the armed forces).

To ensure a comprehensive assessment of the application, the Commission should have the right not only to invite the applicant (to hear their arguments), but also to invite and ask the opinion of experts from other competent institutions or organisations.

The applicant could be required to submit not only a reasoned application but also written statements (about the applicant's lifestyle) of the priest, teacher, employer or other persons who are not directly interested in the outcome of a case. Exemption from the reserve can be difficult for such individuals who are involved in the arms trade, who have the weapons permit (a permit for the possession or carrying of a weapon) or who were involved in illegal activities with weapons.

The national regulation could also provide that the persons excluded from the reserve are included in a separate list of alternative service, which do not require the use of military force. These persons could be conscripted to perform duties according to their education (for example, information technology, medical, transport, engineering etc.) in the situations of mobilisation.

## Conclusions

The actual national regulation of the military service in Latvia does not contain norms directly protecting the right to conscientious objection to military service. Thus, based on the foregoing, the author provides to include in the national regulation the following provisions:

1. The definition of a conscientious objection must be included in the regulation. Therefore, Article 2 of the Military Service Law can be added with paragraph 17. The wording of the amendment may be as follows: "17) conscientious objection – a sincerely held objection, on grounds of freedom of conscience or religion, to participation in war or other armed conflict and to participation in carrying and use of weapons as a requirement of military service".

2. The list of situations when a professional service contract may be terminated before the end (Article 43 of the Military Service Law) can be added with section 1<sup>1</sup>. The wording of the amendment may be as follows: "(1<sup>1</sup>) A professional service contract may be terminated before the end of the term by the decision of the commission

responsible for the consideration of applications to request a voluntary release on the basis of a conscientious objection (hereinafter – Objection commission).”

3. The Military service law can be added with the chapter VII<sup>1</sup> “Conscientious objection”, which can contain the following regulation:

- a) the right of a professional service soldier, reservist/reserve soldier to claim their exclusion from the reserve due to conscientious objection;
- b) a professional soldier must be exempted from their weapons-related duties until their application for conscientious objection has been examined and a decision has been made about it;
- c) while the issue of exclusion from the reserve is being considered, the reserve soldier shall not be conscripted for the military training;
- d) the right of a person who is excluded from the reserve (if they were excluded due to the conscientious objection) to request their return to the reserve due to the change in their genuine beliefs or religious conviction regarding the carrying and use of weapons);
- e) persons excluded from the reserve due to the conscientious objections can be included in a separate list of alternative service, which does not require the use of military force. These persons could be conscripted to perform some duties according to their education (for example, information technology, medical, transport, engineering etc.) in the situations of mobilisation.

According to the mentioned conclusions, the following draft of the chapter VII<sup>1</sup> has been proposed:

“VIII<sup>1</sup> Conscientious objection

44.<sup>1</sup> Right to conscientious objection:

- (1) A professional service soldier, a reserve soldier and reservist can request a voluntary release from the military service on the basis of a conscientious objection. This regulation does not apply to the military chaplain service so far as it is regulated by the special regulation.
- (2) If an application for release on the basis of a conscientious objection is submitted while a soldier is participating in an operation, the final determination of the request can be delayed until completion of the operation.

44.<sup>2</sup> Performance of Duties:

A soldier, who requests a voluntary release on the basis of a conscientious objection, remains liable to perform any lawful duty until their retirement from professional service or their removal from the military service record of reserve soldiers and reservists. The soldier must not be assigned duties that conflict directly with the stated objection to the extent that the requirements of service allow and while the request for release is under review.

44.<sup>3</sup> Return to the service:

A citizen of Latvia, who has been retired from military service because of termination of a professional service contract before the end of the term or removed from the military service record on the basis of a conscientious objection, has a right to request their return to the professional military service or reserve due to the change in their genuine beliefs or religious conviction.

#### 44.<sup>4</sup> Objection commission:

The Objection commission established by the Cabinet of Ministers may allow termination of a professional service contract before the end of the term or removal from the military service record on the basis of a conscientious objection.

The Objection commission established by the Cabinet of Ministers may allow acceptance into military service or inclusion in reserve soldiers or reservists of a citizen of Latvia who has been retired from military service because of termination of a professional service contract before the end of the term or removed from the military service record on the basis of a conscientious objection.

The Cabinet of Ministers shall stipulate the procedures in accordance with which the Objection commission shall evaluate the issue regarding the provision of the permit referred to in Paragraph 1 and 2 of this Article.

#### 44.<sup>5</sup> Alternative service:

- (1) A citizen of Latvia, who has been retired from military service because of termination of a professional service contract before the end of the term or removed from the military service record on the basis of a conscientious objection, is included in an alternative service record, which does not require the use of military force and may be involved in conformity with their profession in the elimination of the consequences of natural disasters or in case of mobilisation.
- (2) Registration and record into alternative service shall be performed by the structural unit for the record of the National Armed Forces' reserve in accordance with the procedures stipulated by the Cabinet of Ministers.
- (3) The structural units for the record of the National Armed Forces' reserve, for the performance of the functions specified by the law, are entitled to request and receive the necessary information from the Population Register, State administration institutions, local governments, health care institutions and other legal persons free of charge regarding a person subject to alternative service record. The procedures for requesting and issuance of the information shall be regulated by the Cabinet regulations.
- (4) A citizen of Latvia shall be in the alternative service record until the attainment of 60 years of age."

4. So far as the current version of paragraph 2 of Article 15 of the Military Service Law determines that "a soldier has no right to refuse to perform military service on religious grounds, and to use his or her service position to impose his or her religious conviction on others", it is necessary to harmonise this paragraph with the newly proposed Article 44<sup>2</sup>. Therefore, the wording of the amendment may be as follows: "(2) A soldier has no right to refuse to perform military service on religious grounds, except for the condition specified in Article 44<sup>2</sup> of this Law, and to use their service position to impose their religious conviction on others".

5. To prevent these conscientious objectors from their inclusion in reserve, the following changes to Article 63 and 68 of the Military Service Law are proposed:

- a) to add Article 63 with the paragraph 4: "(4) A soldier, who is retired from the professional service and National Guard, after termination of a contract on the service in the National Guard due to conscientious objection shall not be included in reserve soldiers";
- b) to add Article 68 with the section 6: "(6) on the basis of a decision of the Objection commission".

6. The Cabinet of Ministers must create a commission to consider applications about conscientious objection and determine the order of work of this commission (including the range of documents to be submitted to the commission). Decisions of this commission should be subject to judicial review. The Commission could include the following members: three civilian representatives from the Ministry of Defence, the Ministry of the Interior and the State Human Rights Bureau (one from each institution) and two military representatives from the National Armed forces Psychological Service (or Chaplain Service) and the Joint Headquarters of the National Armed Forces. The Commission should also have the right to invite and ask the opinion of experts from other competent institutions or organisations.

7. The Cabinet of Ministers can also stipulate a procedure according to which the applicant could be required to submit a reasoned application and written statements (about their lifestyle) of the priest, teacher, employer or other persons who are not directly interested in the outcome of a case.

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