

CONSCIENCE AND PEACE TAX INTERNATIONAL (CPTI)

Submission to the 143rd Session of the Human Rights Committee

MONTENEGRO

(Military service, conscientious objection and related issues)

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CPTI aims to supply information on all States with armed forces which report under the International Covenant on Civil and Political Rights (ICCPR) with regard to their military recruitment legislation and their recognition of the right of conscientious objection, even when there appear to be no urgent questions arising.

In association with the Child Rights International Network, CPTI also reports to the Committee on the Rights of the Child on States where there appear to be issues under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, and although these issues do not necessarily have implications for the ICCPR, such concerns are also reported in these submissions.

Summary

On independence, Montenegro immediately suspended obligatory military service, and has since functioned with an entirely volunteer army recruited at above the age of 18. Although legislative provisions authorise the reinstatement of conscription in time of war or national emergency, there is no word of any discussion of this taking place in the foreseeable future.

The right of conscientious objection to military service applies of course equally to serving “professional” members of the armed forces who develop conscientious objections during their service, even where their initial enlistment was voluntary. No information has been traced on whether any such cases have occurred in Montenegro, and what procedures were, or would be followed in such instances. It is suggested that this question be raised with the delegation.

This submission identifies also a slight ambiguity regarding minimum recruitment ages, but it is not suggested that this issue be raised at this stage.

Latest statistics¹

POPULATION (November 2023, estimated)	602,000
proportion of males aged 15-19	3.1%
thus annually reaching recruitment age (approx):	3,732
ARMED FORCES: Active strength, November 2023	2,885
compared to the male population reaching recruitment age	77.3%
MILITARY EXPENDITURE: US \$ equivalent, estimated 2023	\$115m
Per capita	\$183
As % of GDP	1.6%

Military recruitment and conscientious objection

According to Montenegro's reply in 2023 to a questionnaire from the European Bureau for Conscientious Objection, "The Law on the Army stipulates that in conditions of war or state of emergency, the Ministry of Defense may call citizens for training to acquire the necessary knowledge to perform duties in conditions of war or state of emergency. All Montenegrin citizens between the ages of 18 and 60 are subject to this obligation, regardless of gender. A citizen who, due to his faith and conviction, is not ready to participate in military duty that involves the use of weapons, has the right to conscientious objection, but the Law on the Army does not prescribe alternative service in case of a request for conscientious objection"² Clarification would be welcome of whether conscientious objectors would therefore be expected to accept unarmed military service, which might in many cases be incompatible with the reasons for the objection and therefore not in accord with the Covenant.

Short of conscription, the reply to the EBCO questionnaire indicated that the Law on the Army also authorises the Ministry of Defence in any particular year to publish a call for a stated number of volunteers to perform a six-month period of temporary military service. However, in recent years recourse was not had to such a call, and all military recruitment was of professional personnel.

Even voluntarily-recruited professional military personnel may subsequently develop conscientious objections to such service. Montenegro is a member of the Council of Europe, whose Committee of Ministers addressed this issue in 2010 in its Recommendation CM/Rec(2010)4, which included:

"42. Professional members of the armed forces should be able to leave the armed forces for reasons of conscience.

43. Requests by members of the armed forces to leave the armed forces for reasons of conscience should be examined within a reasonable time. Pending the examination of their requests they should be transferred to non-combat duties, where possible.

44. Any request to leave the armed forces for reasons of conscience should ultimately, where denied, be examined by an independent and impartial body.

45. Members of the armed forces having legally left the armed forces for reasons of conscience should not be subject to discrimination or to any criminal prosecution. No discrimination or prosecution should result from asking to leave the armed forces for reasons of conscience.

1 Sources: For military expenditure, Stockholm International Peace Research Institute – SIPRI, April 2024. Otherwise, The Military Balance 2024 (International Institute of Strategic Studies, London), which bases its estimate on "demographic statistics taken from the US Census Bureau".

2 European Bureau for Conscientious Objection, Annual Report: Conscientious Objection in Europe 2023/2024, Brussels, May 2024, pp. 109, 110.

46. Members of the armed forces should be informed of the rights mentioned in paragraphs 41 to 45 above and the procedures available to exercise them.”

Montenegro was not among the member states which responded to Paragraph H.4 in the follow-up questionnaire on the implementation of this recommendation: “Can professional members of the armed forces leave the armed forces for reasons of conscience? If so, please explain the conditions and the procedure, and in particular whether the requests can be reviewed by an independent and impartial authority. If not, please explain why and whether any measure is in preparation.”³ which to date remains to the best of our knowledge the only follow-up by the Council of Europe on the implementation of this recommendation; therefore there is no information available on whether and to what extent Montenegro addresses this issue. CPTI therefore recommends that the question be explored during the examination of the current Report.

Juvenile Recruitment

Montenegro was included in the ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict by the Federal Republic of Yugoslavia in 2002. The Declaration accompanying that ratification had included the words: “a person of military age who has turned eighteen may be recruited into the Army (...) in that calendar year. The person of military age may only exceptionally be recruited in the calendar year in which he turns seventeen, at his own request, or during a state of war by order of the President”.

In its Concluding Observations on Montenegro’s Report under OPAC, the Committee on the Rights of the Child:

“regrets that legislation does not explicitly prohibit persons under the age of 18 from joining the armed forces in all circumstances, including in a state of war and in a state of martial law. The Committee recommends that the State party review the Law on Defence and the Law on the Army of Montenegro in order to prohibit the direct involvement in hostilities of persons under the age of 18 in all circumstances and in that regard proceed to amend the declaration made upon ratification of the Optional Protocol.”⁴

A renewed Declaration was duly lodged on 5th February, 2020. This states:

“Montenegro does not impose mandatory military service. The minimum age at which Montenegro will permit voluntary recruitment into Montenegro Armed Forces is 18 years. Military obligation for Montenegrin citizens starts from the age of 18 and ends at the end of the year in which they turn 60 years. They could be called to perform military service in time of peace and in case of state of war or state of emergency. This obligation is prescribed by the Law on Defence (‘Official Gazette of Montenegro’, N° 46/19) and the Law on the Armed Forces (‘Official Gazette of Montenegro’, N° 34/2019).”

It will be noted that, in contrast to the statement quoted in the previous section, this Declaration does not completely exclude the possibility that conscription might be imposed in time of “peace”. With regard to recruitment ages, however, it removes the loophole under which recruitment might exceptionally take place before the age of eighteen. The slight ambiguity in wording regarding whether the military obligation is considered to run from the beginning of the year of the eighteenth birthday also disappears; in the absence of indication to the contrary it is to be hoped that in practice no military recruitment is possible before the eighteenth birthday.

3 Council of Europe, Steering Committee for Human Rights (CDDH) Questionnaire on the implementation of Committee of Ministers Recommendation CM/Rec(2010)4 on human rights of members of the armed forces: COMPILATION OF MEMBER STATES' ANSWERS, CDDH(2012)016, Final, Strasbourg, 27th December 2012.

4 CRC/C/OPAC/MNE/CO/1, 1st October 2010, paras 13,14.

Suggested Questions / Recommendations

1) The Committee notes that the Law on the Army, while providing for the introduction of conscription if necessary in time of war or national emergency, makes no provision in such an instance for civilian alternative service for conscientious objectors. Can the State Party confirm that, in conformity with the Covenant, no person whose conscientious objection extends to include unarmed military service would be required to perform such service?

2) Has any instance arisen where a serving member of the armed forces has sought early release, having developed conscientious objections? What procedures were, or would be, followed in such an event?

It might be recommended that such procedures be developed if they do not already exist.