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SUBMISSION

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RUSSIAN FEDERATION

Military service, conscientious objection and related issues

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INTRODUCTION

1. The Russian Federation has longstanding issues concerning the failure to respect the right to conscientious objection to military service according to international human rights law and standards. Since the Russian invasion in Ukraine the situation has been deteriorated, including the obstruction of exercise of the right to conscientious objection, the reported arbitrary detention of persons who object to engage in the war, and the violation of the right to freedom of expression and other rights of those who oppose the war.

Previous related recommendations

2. The Russian Federation has received in the context of previous cycles various recommendations about the freedom of thought, conscience and religion in general,ⁱ about violations in the army,ⁱⁱ as well concerning the outlawing of religious groups, such as Jehovah's Witnesses (JWs) and the need to guarantee freedom of conscience and religion or belief.ⁱⁱⁱ However, especially in the current context, more specific recommendations explicitly about the right to conscientious objection are urgently needed.

Longstanding issues

3. IFOR, has documented in detail^{iv} how the Russian Federation does not respect the right to conscientious objection to military service, by:
 - failing to guarantee in certain circumstances the civilian character of the alternative civilian service (alternative civilian service in organizations subordinate to the Ministry of Defence, e.g., military hospitals^v),
 - not having independent and impartial procedures for granting conscientious objector status^{vi},
 - failing to provide a non-punitive and non-discriminatory alternative civilian service:
 - o in terms of length: the military service is 12 months, while the alternative civilian service is 21 months or 18 months for alternative service in organizations affiliated to armed forces, such as military factories and construction departments.^{vii}
 - o but also because of other punitive conditions: insufficient salary, place of service outside places of permanent residence, inadequate housing.^{viii}
4. Furthermore, IFOR and other international civil society organisations have raised concerns about non-recognition of selective conscientious objectors, as well about other issues such as:
 - Persecution of JWs. The refusal to perform military service (or alternative "civilian" service connected with the military), or promoting such refusal, has been among the elements used as a pretext by Russian prosecutors and courts for the dissolution of JWs organisations, the ban of publications etc.^{ix} Furthermore, the ban is affecting the right to conscientious objection, insofar JWs are afraid to cite their beliefs in the process of applying for alternative civilian service because they are afraid of being accused of extremism.
 - Violations of the freedom of association affecting organisations defending the rights of conscripts and conscientious objectors.^x
 - Illegal conscription in Russian-occupied territories.^{xi} In this regard, the OHCHR has also dedicated an extensive part in a 2022 report.^{xii}
 - Violations of the right to conscientious objection by forces over which the State party appears to have considerable influence.^{xiii}

Deterioration since 2022

5. The above-described situation has been significantly deteriorated after the Russian invasion of

February 2022 in Ukraine, and especially after the partial mobilisation of September 2022.

Obstruction of exercise of the right to conscientious objection in time of mobilisation

6. No legal or practical provision exists for alternative civilian service (ACS) during mobilisation, despite the Constitution guaranteeing this right for every citizen. This has led to military recruitment offices refusing applications for ACS and sending conscientious objectors to military units. Moreover, a November 2022 legal amendment allows those already undertaking ACS after being called up for regular military service to be transferred to a non-combat role within the Armed Forces. The amendment effectively abolishes ACS as a peaceful alternative to military service during mobilisation.^{xiv}
7. According to information from local sources, military commissariats put pressure on recruits, telling them that asking for alternative civilian service is unlawful. The government has proclaimed that the alternative civilian service is not possible during mobilization. Indeed, on 25 September 2022, the government information portal "We explain"^{xv} stated that alternative civilian service is not possible during mobilisation.^{xvi}
8. The Law on alternative civilian service stipulates in Article 9 that "The organisation and performance of alternative civilian service during mobilisation, martial law and wartime shall be determined by federal constitutional laws, other federal laws and other normative legal acts of the Russian Federation adopted in accordance with them." However, there is currently no law that establishes the procedure for alternative civilian service during mobilisation.^{xvii}
9. According to information from the Russian Movement of Conscientious Objectors, a bill has been submitted to the Duma in early October 2022, but it has not been yet considered. Indeed, according to Forum 18, in early October, two State Duma deputies from the New People party attempted to introduce a bill which would make alternative service available to reservists under conditions of mobilisation. This appears to have stalled at the committee stage.^{xviii}
10. Nevertheless, the Constitutional Court in 1996 stated that this right "is directly applicable and must be ensured regardless of whether or not a relevant federal law has been enacted".^{xix}
11. Moreover, according to art. 59 of the Constitution citizens have the right to alternative civilian service in case the military service contradicts their beliefs.^{xx} Furthermore, the Constitution guarantees the right to freedom of conscience and religion,^{xxi} to which the right to conscientious objection is inherent,^{xxii} and stipulates that no one shall be compelled to renounce his opinions and beliefs.^{xxiii} In addition, Russia is a state party to the ICCPR and according to its article 4 "no derogation" from the rights enshrined in Article 18 "may be made under this provision".

Important judgement cancelling mobilisation order of a conscientious objector

12. In a positive judicial development, Forum 18 reported that a Russian Protestant who sought to do alternative civilian service has succeeded in having his military mobilisation order declared illegal in court. However, it should be noted that he had already completed ACS as a conscript. The fact that he had undertaken alternative civilian service as a conscript was important, even if not key to his case. However, the freedom of conscience and religion, as well as the related right to ACS, cannot be limited only to those who have previously completed ACS – the question of exemption from military service of citizens whose beliefs oppose such service should be resolved in each specific case.^{xxiv}

Potential administrative and criminal punishment of conscientious objectors during mobilisation, in violation of international law

13. In September 2022 a new bill introduced the concepts of "mobilisation, martial law and wartime" stipulating jail terms of up to 15 years for wartime acts, including surrendering and desertion.^{xxv}
14. On September 21st, Russian President announced the start of Russia's so-called "partial mobilization".^{xxvi} About 200,000 Russian citizens left the country in the week after the mobilisation alone.^{xxvii} Failure to show up for mobilisation is an administrative offence^{xxviii} with a fine

of 3,000 roubles.

15. Considering:

- the above-mentioned obstruction of exercise of the right to conscientious objection during mobilisation, and, in any case, the longstanding lack of independent and impartial procedures for granting conscientious objector status;
- that the right to object applies both to pacifists and to selective objectors who believe that the use of force is justified in some circumstances but not in others^{xxxix} and considering the requirement to recognise the selective conscientious objection;^{xxx}
- that there is a widespread opinion that the Russian invasion “is a manifest violation of the United Nations Charter and an act of aggression that is a crime under international law”^{xxxi}; that the International Court of Justice, in the context of provisional measures, has stated that “The Russian Federation shall immediately suspend the military operations that it commenced on 24 February 2022 in the territory of Ukraine”;^{xxxii}
- that as the UNHCHR has repeatedly stated: “gross violations of international human rights law and serious violations of humanitarian law that have occurred - in particular regarding the principle of distinction and the prohibition of indiscriminate attacks - may amount to war crimes”^{xxxiii} and that “[a]ccording to information, while such incidents could be attributed to both parties to the conflict, most of these casualties appeared attributable to the Russian armed forces and affiliated armed groups. The only way to bring a stop to further violations was to end the hostilities.”^{xxxiv}
- and that the International Criminal Court judges have issued arrest warrants for alleged war crimes.^{xxxv}

16. It is, therefore, more than probable that:

- many of the Russian citizens who avoid or refuse the conscription, including during the partial mobilisation, or who desert, are doing it **for reasons of conscience**, and therefore **should be considered as conscientious objectors (including selective conscientious objectors)** according to international law and human rights standards.
- such conscientious objectors are at risk, or have already faced, administrative and/or criminal punishment, in violation of international law.

Arbitrary detention and cruel treatment of military personnel refusing to participate in the war

17. Since the beginning of the invasion, hundreds of military personnel have refused to participate in combat operations in Ukraine.^{xxxvi} In recent months, there have been reports about detention and/or cruel treatment in such cases. On 28 July 2022, five members of the Presidential Human Rights Council^{xxxvii} wrote an appeal to the military prosecutor’s office with a demand to check the information about cruel treatment of Russian servicemen who wanted to refuse to take part in the war in Ukraine. The appeal was drawn up based on statements by relatives of servicemen and mentioned several Russian-occupied Ukrainian towns - Popasna, Alchevsk, Stakhanov, Krasnyy Luch and Bryanka - where the refuseniks were being held.^{xxxviii} Citing families of the soldiers and human rights organizations, the independent news outlet Verстка^{xxxix} reported that at least 234 soldiers who were deployed to various regions of Ukraine were being held at facilities in the town of Bryanka.^{xl}
18. Media reported several cases of detained refusers in Ukraine^{xli}, sometimes reportedly forced to manual labour^{xlii} and subjected to psychological pressure and physical torture.^{xliii}
19. More recently, according to VESNA^{xliiv}, “journalists have been able to confirm the existence of 13 such prisons, in which, according to relatives, more than 600 people are being held”.^{xliv}
20. In March 2023, IFOR together with other organisations issued a joined press release denouncing the reported detention by the Russian authorities of large numbers of soldiers and mobilised civilians in a number of centres in Russian-controlled areas of Ukraine, because they refuse to participate in the war, and asked for the release of all those who object to engage in the war and are illegally detained.^{xlvi}
21. Considering that some of those refusing, might do so, *inter alia*, on conscientious grounds, IFOR emphasizes that according to international and regional human rights standards, **the**

right to conscientious objection applies also for professional members of the armed forces, (including permanent members), as it has been explicitly recognized, *inter alia*, by the OHCHR,^{xlvi} the Parliamentary Assembly of the Council of Europe (PACE),^{xlvi} the Committee of Ministers of the Council of Europe,^{xlvi} and the Office for Democratic Institutions and Human Rights (ODIHR), of the OSCE.¹

Continued illegal conscription by Russian affiliated armed groups

22. Through individual interviews, OHCHR confirmed allegations of forced conscription of men by Russian-affiliated armed groups at the end of February 2022^{li}. Such cases constitute multiple violations of international law (armed groups have no right to impose conscription, practices of forced conscription, no right to conscientious objection, wearing of uniforms without insignia, compelling civilians to serve in the armed forces of a hostile power).

Raids and roundups

23. Journalists and human-rights activists have reported that police officers have stopped and questioned men (for instance near Moscow metro stations and in St. Petersburg), collected their data, and handed them conscription letters. Moscow's military commissariat denied reports.^{lii} He acknowledged, though, that draft dodgers fall within the scope of this law-enforcement work.^{liii}
24. Moscow authorities reportedly demanded that hotel and hostel operators hand over information on male guests. Mediazona reported that on 8 October 2022, police cordoned off the Travel Inn hostel and start to check guest's documents. On 14 October 2022, publications Kholod and Verstka reported that an enlistment office in Moscow's Danilovsky district held at least 12 men, who had been brought there from hostels in the capital, for 24 hours. Three of them were residents of Bashkortostan. They were released, but instructed to return within two days, according to Kholod. It is not known what became of the other men who were taken in.^{liv}
25. The police extensively hunt down potential recruits in the streets and in the practice of raids and arbitrary detentions. According to reports, since the beginning of the mobilization, a widespread practice in large cities is that police officers stop men on the streets, check their documents, and try to hand a subpoena. Lately, another practice was introduced in the form of raids. On 9 October 2022, the police came to the 'heating centre' for the homeless in Moscow and detained several dozen people. There were also raids at workers' dormitories. In St. Petersburg, police officers blocked exits of several residential buildings and handed out subpoenas.^{lv}
26. According to information from the Russian Movement of Conscientious Objectors, people who get caught are threatened with criminal prosecution if they refuse to go to the military unit.
27. Such forms of forced conscription present similarities with practices which have been applied in Colombia^{lvi} and Ukraine^{lvii} and have been criticised by the Human Rights Committee. Furthermore, in its recent Concluding Observations on the eighth periodic report of the Russian Federation, the Human Rights Committee has explicitly expressed concerns about forced conscription.^{lviii}

Violations of the right to freedom of expression and other rights of those who oppose the war

28. The Human Rights Committee highlighted extensively the undue restriction of the freedom of expression, especially in relation to the war in Ukraine.^{lix}
29. Forum 18 has reported cases of pre-trial detention^{lx} and fine^{lxi} of two Russian Orthodox priests for protesting the Russia's war in Ukraine, as well other cases concerning people opposing the war, involving detentions^{lxii} and administrative fines.^{lxiii}
30. In November 2022, War Resisters' International (WRI), has reported that: "Since February

2022 the Russian authorities have initiated more than 230 criminal cases against Russian citizens who opposed the so-called “special operation” in Ukraine. Most of these cases are filed for non-violent actions, classified as crimes, such as posts on social networks, peaceful protests, or distribution of anti-war stickers.” WRI has provided a (non-exhaustive) list of people who have been detained or are still in detention or are facing imprisonment for their peaceful resistance to the war in Ukraine, taken from the website Black February, prepared by Russian activists.^{lxiv}

31. Considering the above, IFOR is concerned about the ongoing violations of the right to freedom of expression, as well the right to freedom of association, the right to liberty, and other rights of protesters who oppose the war in Ukraine. We are also concerned that such violations affect conscientious objectors and those who support their rights.
32. According to international human rights standards, those who support conscientious objectors or who support the right of conscientious objection to military service should fully enjoy their freedom of expression.^{lxv}

Intensified persecution of Jehovah’s Witnesses in 2022

33. IFOR is also extremely concerned about the intensified persecution of JW’s in recent months, which inevitably undermines, *inter alia*, the right to conscientious objection to military service.
34. According to the European Times, in 2022, Russian courts sentenced over 40% more JW’s (45) to prison than the previous year (32). This resulted in a peak of 115 men and women in prison at one time—the most since the 2017 Supreme Court ruling that effectively banned the Witnesses’ activities.^{lxvi}
35. **Persecution has been intensified**, despite a landmark ruling in June 2022 by the European Court of Human Rights directing Russia to halt all pending criminal proceedings against JW’s and release those imprisoned.^{lxvii} The Council of Europe’s Secretary General urged Russia to comply with the ECtHR’s judgements, as it is obligated to do, and reverse the ban on JW’s.^{lxviii}

Suggested recommendations

36. IFOR suggests the following recommendations:
 - a) Promptly and impartially investigate all allegations of illegal detention of military personnel, including professional soldiers and mobilized reservists, for refusing to participate in the “special military operation” in Ukraine, including for reasons of conscience, and immediately and unconditionally release any such detainees, including conscientious objectors to military service.
 - b) Introduce legislation about conscientious objectors in times of mobilization, in line with international human rights law and standards, including by ensuring an alternative civilian service which is genuinely civilian, accessible to all conscientious objectors without discrimination, compatible with the reasons for conscientious objection, and not punitive or discriminatory in terms of its nature, cost or duration.
 - c) Place the assessment of applications for conscientious objector status under the full control of civilian authorities, and as a best practice accept claims of conscientious objection without inquiry.

ⁱ Report of the Working Group on the Universal Periodic Review [1st cycle], Russian Federation, (A/HRC/11/19), 5 October 2009, para. 85, recommendation 41 (Palestine).

ⁱⁱ Report of the Working Group on the Universal Periodic Review [2nd cycle], Russian Federation (A/HRC/24/14), 8 July 2013, recommendation 140.137 (Hungary).

- iii Report of the Working Group on the universal periodic review [3rd cycle], Russian Federation (A/HRC/39/13), 12 June 2018, recommendations 147.199 (New Zealand); 147.200 (Spain); 147.201 (Iceland); 147.202 (Denmark); 147.203 (Luxembourg); 147.204 (Finland); 147.206 (Australia); 147.207 (Brazil).
- iv E.g., IFOR, Submission to the 135th session of the Human Rights Committee, Russian Federation, Conscientious objection to military service and related issues, Updated May 2022. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fCSS%2fRUS%2f48820&Lang=en
- v EBCO, *Annual Report Conscientious Objection to Military Service in Europe 2021*, 21 March 2022, p. 53. Available at: https://ebco-beoc.org/sites/ebco-beoc.org/files/attachments/2022-03-21-EBCO_Annual_Report_2021.pdf
- vi “ECtHR judgement on Russian CO case disregards 53 years of international human rights standards”, joint statement by War Resisters’ International (WRI), European Bureau for Conscientious Objection (EBCO), International Fellowship of Reconciliation (IFOR), and Connection e.V., published on October 29th, 2020. Available at: <https://www.ifor.org/news/2020/10/for-participates-in-a-public-statement-regarding-ecthr-judgment-on-russian-co-case29?rq=Dyagilev>
- vii EBCO, *Annual Report Conscientious Objection to Military Service in Europe 2021*, 21 March 2022, p. 52. Available at: https://ebco-beoc.org/sites/ebco-beoc.org/files/attachments/2022-03-21-EBCO_Annual_Report_2021.pdf
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- ix ECtHR, Case of Taganrog Lro and others v. Russia. See paras. 10, 14(d), 20, 101, 103, 166, 200, 266, 271 of the judgement. Available at: <https://hudoc.echr.coe.int/eng?i=001-217535>
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- xi EBCO, *Annual Report Conscientious Objection to Military Service in Europe 2021*, 21 March 2022, p. 67. Available at: https://ebco-beoc.org/sites/ebco-beoc.org/files/attachments/2022-03-21-EBCO_Annual_Report_2021.pdf
- xii OHCHR, Conscientious objection to military service, Analytical report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/50/43), 11 May 2022, para. 50. Available at: <https://undocs.org/A/HRC/50/43>
- xiii EBCO, *Annual Report Conscientious Objection to Military Service in Europe 2021*, 21 March 2022, p. 68. Available at: https://ebco-beoc.org/sites/ebco-beoc.org/files/attachments/2022-03-21-EBCO_Annual_Report_2021.pdf
- xiv https://www.forum18.org/archive.php?article_id=2797
- xv [obyasnyaem.rf](https://www.forum18.org/archive.php?article_id=2797)
- xvi https://www.forum18.org/archive.php?article_id=2797
- xvii Law on alternative civilian service, Article 9: The organisation and performance of alternative civilian service during mobilisation, martial law and wartime shall be determined by federal constitutional laws, other federal laws and other normative legal acts of the Russian Federation adopted in accordance with them.
- xviii For further details see: https://www.forum18.org/archive.php?article_id=2797
- xix Ruling No. 63-O of 22 May 1996, explained that the right of citizens whose beliefs or religious beliefs conflict with military service to be replaced by alternative civilian service, as well as all other human and civil rights and freedoms, is directly applicable and must be ensured regardless of whether or not a relevant federal law has been enacted, literally, as set forth in the said constitutional norm.
- xx Constitution of the Russian Federation, Article 59(3):
A citizen of the Russian Federation shall have the right to alternative civilian service if his convictions or religious beliefs conflict with military service, as well as in other cases established by federal law.
Constitution of the Russian Federation, Article 29(3):
No one shall be compelled to ... renounce [his opinions and beliefs].
- xxi Constitution of the Russian Federation, Article 28:
Guarantees everyone freedom of conscience and freedom of religion, including the right ... to freely choose, hold and disseminate religious and other beliefs and to act in conformity with them.
- xxii According to UN Human Rights Committee’s jurisprudence. E.g., Communication No. 1642-1741/2007, Jeong et al. v. Republic of Korea (CCPR/C/101/D/1642-1741/2007), 27 April 2011, para. 7.3. Available at <http://undocs.org/CCPR/C/101/D/1642-1741/2007>
- Communication No. 1786/2008, Jong-nam Kim et al. v. The Republic of Korea (CCPR/C/106/D/1786/2008), 1 February 2013, para. 7.4. Available at <http://undocs.org/CCPR/C/106/D/1786/2008>
- xxiii Constitution of the Russian Federation, Article 29(3)
- xxiv https://www.forum18.org/archive.php?article_id=2798
- xxv <https://www.themoscowtimes.com/2022/09/20/russian-lawmakers-approve-long-jail-terms-for-military-surrender-refusal-to-serve-a78843>
- xxvi Russian authorities announced that they planned to call up about 300,000 people from the reserves. Dozhd TV has [reported](#) that mobilization will happen in three stages: September 26–October 10; October 11–25; and October 26–November 10.
- xxvii <https://en.connection-ev.org/article-3624>
- xxviii Under Article 21.5 of the Code of Administrative Offences.
- xxix Analytical report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/35/4, 1 May 2017, para. 63. Available at: <https://undocs.org/A/HRC/35/4>
- xxx OHCHR, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, (A/HRC/41/23), 24 May 2019, para. 60(d). Available at: <https://undocs.org/A/HRC/41/23>

- ^{xxxi} See for example: Amnesty International, “Russia/Ukraine: Invasion of Ukraine is an act of aggression and human rights catastrophe”, 1 March 2022. Available at: <https://www.amnesty.org/en/latest/news/2022/03/russia-ukraine-invasion-of-ukraine-is-an-act-of-aggression-and-human-rights-catastrophe/>
- ^{xxxii} ICJ, Order on the Request for the indication of provisional measures submitted by Ukraine in the case concerning *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, para. 86. Available at: <https://www.icj-cij.org/public/files/case-related/182/182-20220316-ORD-01-00-EN.pdf>
- ^{xxxiii} OHCHR, “Ensuring accountability for atrocities committed in Ukraine”, 27 April 2022. Available at: <https://www.ohchr.org/en/statements/2022/04/ensuring-accountability-atrocities-committed-ukraine>
- ^{xxxiv} Human Rights Council, “High Commissioner to Special Session of the Human Rights Council on Ukraine: Many of the Allegations of Violations of International Human Rights and Humanitarian Law in Ukraine May Amount to War Crimes”, press release, 12 May 2022. Available at: <https://www.ohchr.org/en/press-releases/2022/05/high-commissioner-special-session-human-rights-council-ukraine-many>
- ^{xxxv} <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and>
- ^{xxxvi} <https://www.wsj.com/articles/documents-reveal-hundreds-of-russian-troops-broke-ranks-over-ukraine-ors-11654094212>
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- ^{xxxvii} Alexander Asmolov, Nikolai Svanidze, Alexander Verkhovsky, Alexander Sokurov, and Natalia Yevdokimova.
- ^{xxxviii} <https://novayagazeta.eu/articles/2022/08/12/voiska-vyshli-iz-stroia>
- ^{xxxix} <https://t.me/svobodnieslova/282>
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- ^{xli} <https://www.newsweek.com/multiple-russian-soldiers-detained-refusing-fight-putins-war-1722915>
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<https://www.newsweek.com/russian-soldiers-refuse-fight-ukraine-war-detained-1764556>
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- ^{xlii} <https://www.severreal.org/a/chto-proishodit-s-otkazavshimisya-voevat-v-ukraine/31954279.html>
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- ^{xliv} (Движение Весна)
- ^{xlvi} <https://www.change.org/p/russia-stop-illegal-detention-release-conscientious-objectors-jailed-in-ukraine>
- ^{xlvi} EBCO, Connection e.V., IFOR, WRI, Joint Press Release, “Russia: Release all those who object to engage in the war and are illegally detained in the Russian-controlled areas of Ukraine”, 28 March 2023. Available at: <https://www.ifor.org/news/2023/3/29/russia-release-all-those-who-object-to-engage-in-the-war-and-are-illegally-detained-in-the-russian-controlled-areas-of-ukraine>
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- ^{xlvi} Council of Europe, Committee of Ministers, Recommendation CM/Rec (2010) 4 “Human Rights of members of the armed forces”, paras. 42 - 46. Available at: <https://www.refworld.org/docid/506979172.html>
- ⁱ OSCE, ODIHR, *Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel*, 2008, Chapter 10 Conscientious Objection to Military Conscription and Service, 4. Best Practices and Recommendations, p. 85 [second point]. Available at: <https://www.osce.org/odihr/31393?download=true>
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- ^{lviii} CCPR/C/RUS/CO/8, 1 December 2022, paras 6, 8, as well 38 about Crimea and Sevastopol. Available at: <https://undocs.org/CCPR/C/RUS/CO/8>
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