



Warsaw, 24 March 2022

Ministry
of Foreign Affairs

Department of the United
Nations and Human Rights

With reference to the letter from the Office of the High Commissioner for Human Rights regarding a report prepared in compliance with the Human Rights Council resolution 20/2 “Conscientious objection to military service”, Poland would like to present its input below.

In accordance with Article 85(1) and (3) of the Constitution of the Republic of Poland, defending the Homeland is the duty of every Polish citizen. However, any citizen whose religious convictions or moral principles do not allow him or her to perform military service may be obliged to perform substitute service in accordance with principles specified by statute.

In light of the above, Poland’s legal order provides for a constitutional guarantee that citizens may refuse to perform military service if their convictions do not allow them to do so.

When discussing these issues, it is necessary to make an additional distinction between two basic forms in which military service can be performed: professional military service and the fulfilment of the universal defence duty.

Professional military service is governed by the Act of 11 September 2003 on the military service of professional soldiers (Journal of Laws of 2021, item 1131 as amended). Professional military service is a voluntary, non-compulsory form of military service open to persons who fulfil conditions laid down by statute, and religious and moral convictions do not affect the recruitment process or further professional military service. There can therefore be no question of a refusal to perform it on grounds of convictions.

As regards the forms in which the universal defence duty can be complied with, these are governed by the Act of 21 November 1967 on the universal duty to defend the Republic of Poland (Journal of Laws of 2021, item 372, as amended).

According to this legal act, the military service duty involves performing military exercises as well as performing (preparatory, territorial, periodic) service. In addition, in the event of a threat to the security of the state, the military service duty may involve performing compulsory basic military service and undergoing military training by university graduates.

In order to provide citizens with a possibility of avoiding the compulsory forms of military service or military training, the Act of 28 November 2003 on substitute service (Journal of Laws of 2018, item 885) lays down the principles for performing substitute service by persons who are subject to the military service duty and whose religious convictions or moral principles do not allow them to perform it.

Substitute service performed in lieu of military service or military training involves the performance of work towards environmental protection, fire protection, health care, social assistance, care for persons with disabilities or homeless persons, as well as work for the public administration and the judiciary.

Summing up, the Polish legal order comprehensively regulates the refusal to perform military service on grounds of religious and moral convictions, ensuring that the civic obligation to defend the Homeland can be fulfilled by performing substitute service in a way that does not insult the concerned person's convictions.

The draft Homeland Defence Act, which is intended to replace, among others, the Act on the military service of professional soldiers, the Act on the universal duty to defend the Republic of Poland, and the Act on substitute service, does not fundamentally alter the existing civil rights in this area by continuing to provide persons whose religious convictions or moral principles do not allow them to perform military service with a possibility of performing substitute service. The Homeland Defence Act is scheduled to enter into force on 23rd of April 2022.