



UKRAINIAN PACIFIST MOVEMENT

☪ Ukrainian Pacifist Movement (president Ruslan Kotsaba, vice-president Ihor Skrypnyk) is a non-governmental, nonprofit, nonpartisan organization established at 29.08.2019, registered at 05.09.2019 by the decision No 2566 of the Main Territorial Department of the Ministry of Justice in Kyiv; listed under No 1503199 in the Register of Civic Associations.

☪ We aim to promote the right to peace, disarmament, the abolition of conscription, nonviolent resolution of conflicts, and democratic civilian control over military affairs.

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To: OHCHR-United Nations Office at Geneva

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Subject: **Consultation concerning new developments, best practices, and remaining challenges on conscientious objection to military service**

1. Concerning conscientious objection to military service in Ukraine

1.1. New developments are:

(a) introduction of martial law after the beginning of Russian military intervention 24 February 2022 and total mobilization of population without any exceptions for conscientious objectors to military service, which includes enforcement of draft for internally displaced persons at checkpoints and hotels and prohibition to leave the country for almost all males in age 18-60;¹

(b) plans of gradual abolishment of conscription to 2024, though hardly credible because of simultaneous announcement of significant increase of the size of armed forces with new territorial defense forces, expansion and strengthened enforcement of conscription, and introduction of mandatory military training for adults and children, including military patriotic upbringing and military pre-conscription training as parts of compulsory basic education, without exceptions for conscientious objectors.



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Ukrainian Pacifist Movement is a member of the European Bureau for Conscientious Objection, section of War Resisters' International, member of the International Peace Bureau, and affiliate of the World BEYOND War.

¹ Professor Amy Maguire, "Why banning men from leaving Ukraine violates their human rights," <https://theconversation.com/why-banning-men-from-leaving-ukraine-violates-their-human-rights-178411>; "Sasha and Nikita are two young pacifists who don't want to fight and are now stranded in Lviv as internally displaced persons. They are not allowed to leave the country - all Ukrainian males between the ages of 18 and 60 are forbidden from doing so," (in German), <https://www.instagram.com/p/CaxMFGOKfw7/c/17920321619132077/>; Many nonwhite refugees fleeing Ukraine caught in limbo at borders amid reports of discrimination <https://abcnews.go.com/International/nonwhite-refugees-fleeing-ukraine-caught-theyre-limbo-borders/story?id=83211545>; Pyra Diantouadi, refugee from the Democratic Republic of Congo: "They even told us, we are going to give you guns, and you are gonna fight for Ukraine." <https://twitter.com/ABCNewsLive/status/1498785622865100802>; "Allow men aged 18-60 without military experience to leave Ukraine," <https://www.openpetition.eu/petition/online/allow-men-aged-18-60-without-military-experience-to-leave-ukraine>

1.2. Good practice is that Ukrainian Parliament Commissioner for Human Rights took control of the observance by state bodies and their officials of the State's obligation established by Article 35 of the Constitution of Ukraine to replace military service with alternative (non-military) service to citizens who have religious beliefs incompatible with military service.

1.3. Remaining challenges are:

(a) unwilling of Ukraine to comply with recommendations of UN Human Rights Committee, including position of Ukrainian Parliament Commissioner for Human Rights that conscientious objection on non-religious grounds could be introduced only after the end of war with Russia (contrary to non-derogable nature of the right);

(b) the right to conscientious objection to military service is not recognized for (1) those who hold non-religious beliefs incompatible with military service, (2) those who do not belong to religious organizations of particular 10 confessions specified in governmental decree, and (3) those who developed conscientious objection while conducting military service;

(c) disproportionate length of alternative service, 1.5 times longer than military service, in absence of plausible explanations of such disproportion;

(d) imposition of conscription to Russian army in Crimea illegally occupied by Russia contrary to international humanitarian law with violations of human right to conscientious objection to military service usual for Russia, and imposition of conscription and military mobilization by de-facto authorities in territories of Ukraine not under the Government's control, including conscription and mobilization in "Donetsk People's Republic" and "Luhansk People's Republic" without any provisions for conscientious objectors to military service;

(e) lack of fairness in procedure of application for alternative service;

(f) restrictions on the right of freedom of expression for public critique of Armed Forces of Ukraine and advocacy of conscientious objection to military service in Ukraine.

1.4. See details in the section "Ukraine" in the EBCO annual reports² of 2019-2021.

2. Concerning conscientious objection to military service in the world

2.1. New developments are:

(a) reintroduction and expansion of conscription or consideration of its reintroduction and expansion in several countries, as well as misrepresentation of such policies by the media as good for security and economy³;

² EBCO, "Conscientious Objection in Europe" Annual Reports, <https://ebco-beoc.org/reports>

³ <https://worldbeyondwar.org/the-economist-magazine-is-pushing-pro-draft-propaganda/>

(b) shameful and legally dubious from established human rights perspective approval of overdemanding and overmilitarized procedure of consideration of applications for alternative service in Dyagilev v. Russia case by the European Court of Human Rights⁴, which legalized blatant oppression of conscientious objectors to military service in historic moment when individual conscience should be especially encouraged to resist involvement of people into illegal and internationally condemned military operations.

2.2. Good practice is that many countries provide refuge for conscientious objectors to military service who might be persecuted in their countries because of following their conscience, unwilling to participate in any or in a particular war or preparations for war. Especially admirable is recognition as genuine conscientious objection of considerations that armed forces in which objector refuses to serve are violating international law.

2.3. Remaining challenges are:

(a) refusal of some countries to comply with international standards of protection of human right to conscientious objection to military service on the grounds that their war effort didn't allow that;

(b) widespread acceptance of the wrong idea that conscientious objectors to military service should prove genuineness of their beliefs, which violates the basic legal principle of presumption of innocence since allegedly “non-genuine” objection is usually considered as criminally liable evasion of compulsory military service, and therefore, to comply with principle of presumption of innocence, any expression of conscientious objection to military service should be considered genuine in any formal procedure unless otherwise is proved beyond reasonable doubt;

(c) widespread tendency to treat conscientious objection to military service as an irrational and marginal whim, completely disregarding developed religious and secular humanist traditions of conscientious objection to military service, which is not limited to mystical or intuitive rejection of violence, but includes also reliable and socially beneficial philosophical and ethical teachings, as well as scientific knowledge, technologies & practices of nonviolent global/local governance/management, including techniques of nonviolent conflict management, which makes conscientious objection to military service important part of contemporary progressive peace culture and vital practice for nonviolent way of life, more consistent with goals of United Nations than archaic and dangerous militarism pursuing unchecked and absolute sovereignty;

(d) widespread militarization of education and absence of access to peace education for comprehensive citizenship, unwilling of some governments to promote genuine culture of peace and to ensure implementation of human right to education in line with the 1999 Declaration and Programme of Action on a Culture of Peace (A/RES/53/243), which

⁴ ECtHR judgement on Russian CO case disregards 53 years of international human rights standards, <https://wri-irg.org/en/story/2020/ecthr-judgement-russian-co-case-disregards-53-years-international-human-rights-0>

should include dissemination of knowledge about human right to conscientious objection to military service and all religious, secular, philosophical, evidence-based and practical reasons for conscientious objection to military service.

3. Recommendations

3.1. Ukraine should comply with para. 29, 30 of the Human Rights Committee's Concluding observations on the eighth periodic report of Ukraine⁵ of 11 November 2021, preferably starting from inclusion of guaranteeing of human right to conscientious objection to military service into national human rights action plan, and Ukrainian Parliament Commissioner for Human Rights should reconsider a view expressed in a letter to Ukrainian Pacifist Movement dated 20 January 2022 that "question of normative regulation in Ukraine of rights of citizens to conscientious objection to military service (when they have no relevant religious beliefs) may be realized after cessation of aggression and regaining of control of the state over all territories occupied by Russian aggressor."

3.2. Office of the UN High Commissioner for Human Rights and other human rights defenders around the world should:

(a) insist on full implementation of human right to conscientious objection to military service in all countries on the basis of presumption of genuineness of such objection, due to relation between human rights to freedom of conscience and to fair trial;

(b) insist on introduction of peace education programs in mandatory basic education curriculum in all countries, which should cover topic of human right to conscientious objection to military service and all existing religious, secular, philosophical, evidence-based and practical reasons for conscientious objection to military service, due to relation between human rights to freedom of conscience, to peace, and to education;

(c) pay special attention to advocating implementation of human right to conscientious objection to military service in countries engaged into armed conflicts, since militarized governments of such countries usually tend to disregard fundamental and non-derogable character of such right, and because of promotion of such right is consistent with the UN Charter demanding pacific resolution of international disputes.



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⁵ Human Rights Committee, Concluding observations on the eighth periodic report of Ukraine,
https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/UKR/CCPR_C_UKR_CO_8_47160_E.pdf