



# Conscience and Peace Tax International

Internacional de Conciencia e Impuestos para la Paz

NGO in Special Consultative Status with the Economic and Social Council of the UN

International non-profit organization (Belgium 15.075/96)

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## UPR SUBMISSION

## BELARUS

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1. This submission was prepared in November 2009 on the basis of the latest information available to CPTI. The information reported has been provided by War Resisters International ([www.wri-irg.org](http://www.wri-irg.org)) and Forum 18 ([www.forum18.org](http://www.forum18.org))

### Executive summary:

**2. This submission focusses on the situation regarding military service and conscientious objection to military service in Belarus.**

**3. The principal human rights concern it identifies is failure to promulgate legislation to implement the right of conscientious objection to military service, as a result of which prosecutions of conscientious objectors for their refusal to perform military service have recommenced in 2009 after an eight year gap.**

### Background

4. Belarus operates a system of obligatory military service. Male citizens between the ages of 18 and 27 are liable to perform 18 months service; 12 months in case of those with higher educational qualifications

5. Article 57 of the 1994 Constitution, without explicitly mentioning conscientious objection, states: "Procedures regulating military service, and the grounds or conditions for exemption from military service or its replacement by alternative service, shall be further regulated by law".

6. According to Article 4 of the 1994 Law "On the Procedure Governing the Entry into Force of the Constitution of the Republic of Belarus", a law on alternative service should have been adopted within two years. This however did not happen. In 1994, the Parliament discussed a draft law but it did not proceed with its implementation.

7. Noting the assurance of the delegation of Belarus that legislation on conscientious objection to military service was envisaged, the Human Rights Committee, in its concluding observations on the Fourth Periodic Report of Belarus under the International Covenant for Civil and Political Rights, considered in October 1997, recommended “that a law exempting conscientious objectors from compulsory military service and providing for alternative civil service of equivalent length be passed at an early date in compliance with article 18 of the Covenant and the Committee's General Comment No. 22.”<sup>1</sup> The Fifth Periodic Report of Belarus, due in 2001, is still outstanding.

8. In 2000, in the case of Valentin Guhai, a Jehovah's Witness who had requested a civilian alternative service rather than the unarmed military service which was available to those who convinced the military of their objection to bearing arms on religious grounds, the Constitutional Court ruled that conscientious objectors had a constitutional right to a civilian alternative to military service, and called upon the Government to bring in implementing legislation. Guhai's sentence of 18 months imprisonment plus 18 months labour on a state construction project was subsequently commuted to a twelve-month suspended sentence.

9. A further draft Law, which envisaged 27 months' alternative service to be performed on collective farms, in factories or on building sites, was introduced in 2001. This draft was criticised by the Ministry of Defence as too favourable towards conscientious objectors, and was defeated in Parliament in December 2004. There have been no reports of any further attempts to introduce legislation.

10. Following the Constitutional Court's decision in the case of Guhai, no proceedings were initiated against conscientious objectors who requested alternative civilian service until October 2009, when Jehovah's Witness Dmitry Smyk went on trial in the city of Gomel. On 6<sup>th</sup> November 2009, Smyk was fined 3,500,000 Belarus Roubles (approximately 860 Euros), and was notified that he was forbidden to leave the country. Two similar cases were pending in Gomel and one in Grodno.

11. Although the issue of conscientious objection to military service is not involved, CPTI is concerned also about the procedures followed in the case of Dzmitry Zhalezniczenka who was called up for military service in January 2008 while still pursuing his university studies (and despite being eligible for a medical exemption). He was allegedly notified by the recruitment office that he had been expelled from the University, and no longer qualified for a deferment of his military service. Our source alleges that this manoeuvre was intended to silence Zhalezniczenka, who had been a prominent political activist, and to punish him for his dissent.

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<sup>1</sup> CCPR/C/79/Add.86, 19<sup>th</sup> November 1997, para.16.