

Conscience and Peace Tax International (CPTI)

UPR Stakeholder Submission on FINLAND: 41st Session Oct - Nov 2022

Executive Summary

1. This submission was prepared in March 2022 on the basis of the latest information known at the time.
2. Finland, which recognises the right of conscientious objection to military service and has efficient alternative service provisions. Nevertheless there are concerns about the nature and duration of the alternative service, to the extent that some “total” objectors refuse it as well as military service, and can face imprisonment.

Military service and conscientious objection

3 In 1930, Finland formally recognised the right of conscientious objection to military service and joined Denmark, Norway, the Netherlands and Sweden in setting up an alternative civilian service for conscientious objectors. It has a proud record of upholding the right. In the later years of 20th Century, it was regularly the principal sponsor of resolutions on conscientious objection to military service at the UN Commission on Human Rights, including Resolution 1998/77 which first set out a comprehensive guide to best practice in the area,

4 However, Finland is now one of only five member States of the European Union which retain a system of universal male conscription (others which still conscript call up in practice far fewer than are eligible; some are generally able to fill their annual quota with willing recruits) and its practices are in some respects not in accordance with international standards..

Former preferential treatment of Jehovah’s Witnesses

5 Several States discriminate in practice between different conscientious objectors on the basis of the nature of the objection. Members of the Jehovah’s Witnesses have frequently benefited from this. Finland went one step further and under Act No. 645/1985 exempted Jehovah’s Witnesses from any alternative service requirement in peacetime. Thus even after 1987, when it disbanded the tribunals which had formerly attempted to assess the sincerity of applicants’ convictions, henceforth accepting all claims of conscientious objection without examination

6. In 2004, in its Concluding Observations on Finland's Fifth Periodic Report, the Human Rights Committee reiterated the concern it had raised during the consideration of Third and Fourth Periodic Reports, submitted in 1989 and 1995, respectively] “at the fact that the preferential treatment accorded to Jehovah's Witnesses has not been extended to other groups of conscientious objectors”and recommended that Finland end this discrimination.¹ In 2013, the Committee reiterated “The State party should also extend the preferential treatment accorded to Jehovah’s Witnesses to other groups of conscientious objectors.”²

¹ CCPR/CO/82/FIN, 2 December 2004), para.14

² CCPR/C/FIN/CO/6, 22nd August, 2013, para 14

7. Perhaps mindful of the Human Rights Committee's comments, on 23rd February 2018 the Helsinki Court of Appeal overturned the conviction of a pacifist who refused to perform alternative service on the grounds that this would be discriminatory by comparison with the treatment of Jehovah's Witnesses. This case was followed by the acquittal of no fewer than 92 further conscientious objectors. Finland reacted with Act No 330 of 1st April 2019 which repealed the 1985 Act giving preferential status to Jehovah's Witnesses.

8. In 2021, the Human Rights Committee regretted that Finland "has removed the exemption from military and civilian service accorded to Jehovah's Witnesses, in contrast to the Committee's previous recommendations to extend such exemption to other groups of conscientious objectors"³

9. It might be noted that neighbouring Norway offers a partial precedent for the more generous approach, having completely abolished alternative service when the costs of administering the scheme were seen to outweigh the potential benefits, completely exempting all conscientious objectors from any form of national service requirement.

Duration nature and control of alternative service

10. Those admitted to alternative civilian service are required to perform 347 days' duty. This is equivalent to the military service required of those who will become officers in the reserves, and who are liable also until the age of 60 to reservist training aggregating no more than 100 days. Conscripts using special or professional skills perform 255 days of military service. The period of service for the rank and file is 165 days⁴, marginally less than half the period of alternative service required of *all* conscientious objectors. To that is nominally added between 40 and 100 days of reserve training, but War Resisters International⁵ quote local sources as indicating that in practice reservists are called up for much less. Even at the possible maximum, for rank and file conscripts the aggregate of initial service and reservist duties is substantially less than the duration of alternative service – the latter would in fact be 39% longer.

11. According to the website of the Finnish armed forces, only 43% of military conscripts perform the full 347 days; a similar number perform the minimum 165 days, while the remaining 14% serve for 255 days.

12. The duration of alternative service in Finland clearly does not meet the criterion established by the Human Rights Committee in *Foin v France* that any discrepancy with the length of military service must "in a particular case" be based on "reasonable and objective criteria"⁶. This implies that for any individual, the duration of alternative service must be compared with the duration of military service which he personally would otherwise face, not with some theoretical maximum, or even with "the average". Likewise, when comparing the restrictions of military life with the performance of a civilian service (which was presumably part of the assessment by a Parliamentary Committee of the relative "burdens" of the two forms of service), it is the actual conditions of the

³ CCPR/C/FIN/CO/7, 3rd May 2021, para 36

⁴ Stolwijk, M., The right to conscientious objection in Europe, Quaker Council for European Affairs, Brussels, 2005, p.27

⁵ War Resisters International, Imprisonment of conscientious objectors in Finland: Report to the Human Rights Committee under Article 18 of the International Covenant on Civil and Political Rights, London, September 2004.

⁶ Communication no. 666/1995, Views adopted 3rd November 1999. Report of the Human Rights Committee, Vol II, GAOR, Fifty-fifth Session, Supplement No. 40 (UN Document Ref. A/55/40), pp. 30-38., para10.

placement concerned and the effective extra amount (if any) of free time which should be considered. And even if the hours of duty are equalised, it must be recognised that a service of substantially longer duration inevitably involves a greater interruption to the life and normal career of the person concerned.

13. The Human Rights Committee has repeatedly expressed concern about the punitive and discriminatory duration of alternative service in Finland. In its latest concluding observations it links this with concerns about the truly civilian nature of such service, its independence from the military and the adequacy of information about the possibility of applying. "[The Committee] notes with concern that the regular duration of alternative non-military service amounts to the longest period of military service and that, while such alternative service is under the direction of the Ministry of Employment and the Economy, military personnel still take part in relevant working groups and committees determining the nature and duration of alternative service. It is also concerned about the insufficient dissemination of information about the right to conscientious objection and alternatives to military service

"The State party should:

(a) **Ensure that alternatives to military service are not punitive or discriminatory in terms of their nature or duration and remain of a civilian nature, outside military command;**

[...]

(c) **Intensify its efforts to raise awareness among the public about the right to conscientious objection and the availability of alternatives to military service.**⁷

14. Despite this recommendation the report of the Parliamentary Committee reviewing the future of military service, published on 26th November 2021 envisaged the further integration of alternative service into a comprehensive security approach.

15. In 2008, the Human Rights Committee welcomed the revision of the Non-Military Service Act which at last removed the paradox that arrangements for conscientious objectors to military service did not apply at the times when, logically, they were most necessary, namely during national emergencies, including war. One issue which it did not however address was that different application procedures were prescribed for such times, when a board will be specially constituted for the purpose of reviewing applications; this board will include a representative of the armed forces and report to the Ministry of Defence. Such a process is contrary to the recommendations in paras OP7 and OP8 of Human Rights Council Resolution 24/17 of 30th September, 2013..

⁷ CCPR/C/FIN/CO/7, paras 36, 37.

Imprisonment of conscientious objectors

16. Doubts about the truly civilian nature of alternative service in Finland contributed to the Jehovah's Witnesses initial negotiation of a complete exemption, whereas in many other States they are content to accept an alternative civilian service, and also to the number of "total objectors" who refuse both military and alternative service. Between 2010 and 2018 inclusive, there were just under 300 such cases, an average of over 30 per annum; in 2019 and 2020 there were a further 159 cases, the number boosted by Jehovah's Witnesses.⁸

17. "Total objectors" are liable to imprisonment for half the length of unfulfilled alternative service (173 days). Although it has been possible since 2013 to apply to perform this under a form of "house arrest", with electronic "tagging", this still arguably breaches the principle that persons should not be imprisoned for their conscientious objection to military service, and in any case is discretionary; any breach of the conditions may lead to firm imprisonment.. It must be remembered that it is the sincerity of objections, rather than their nature, which leads to their protection under the freedom of conscience.

18. In addition to the recommendations previously quoted, in 2021 the Human Rights Committee added "**[The State Party should] halt all prosecutions of individuals who refuse to perform military service on grounds of conscience and release those who are currently serving related prison sentences**"⁹

The issue in the UPR

19. In the First Session of the UPR, the UK raised with Finland the issue of conscientious objection to military service. It "welcomed the attempts to end discrimination against conscientious objectors through the reforms of the Non-Military Service Act. However, it encouraged Finland to go further in reducing the duration of non-military service and to establish parity between the length of non-military service and the average, rather than the longest possible, length of military service."¹⁰ Although it would appear that this was intended as a recommendation it was not so described, and hence not recorded as such – in this very first session there was no past experience to go on, and only eight recommendations to Finland were formally recorded.

20. The issue was not raised in the Second Cycle.

21. In the Third Cycle, Finland received a recommendation from Uruguay that it "Release prisoners detained as conscientious objectors to military service and ensure that civilian alternatives to military service are not punitive or discriminatory and remain under civilian control"¹¹. Finland noted this recommendation with the comment "The aim in preparing legislation is to ensure that various service alternatives are as equal as possible. Non-military service authorities will continue to develop the system in cooperation with various authorities."¹²

⁸ Based on detailed figures obtained by AKL, the Association of Conscientious Objectors in Finland

⁹ CCPR/C/FIN/CO/7, para 37b.

¹⁰ A/HRC/8/24, 23rd May, 2008, para 36.

¹¹ A/HRC/36/8, 14th July, 2017, para 100.84.

¹² A/HRC/36/8/Add.1, 8th September, 2017, para 64.

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Suggested recommendations

It might be observed that both the recommendation in the Third Cycle and the non-recommendation” in the First Cycle remain valid and would bear repetition. For the Fourth Cycle, however, CPTI would suggest the following:

That Finland reverse the decision to impose the same alternative service requirements on Jehovah’s Witnesses, previously completely exempt, as on other conscientious objectors, instead, following the example of Norway, abolishing all alternative service.

That failing this Finland reduce the duration of the alternative service required until it is equal to the basic period of military service.

That in reviewing the future of its alternative service arrangements, Finland should take care to provide options which are completely independent of the national security apparatus and which are compatible as possible with all grounds for objection.

That Finland remove from its legislation any possibility of imprisonment for “total objectors” who refuse of both military service and the alternative service available.

Contact: Derek BRETT
Conscience and Peace Tax International
Main Representative to the United Nations, Geneva
derekubrett@gmail.com
Tel: (41) 77 444 4420