



# 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)

[www.cpti.ws](http://www.cpti.ws)

**Bruineveld 11 • B-3010 Leuven • Belgium • Ph.: +32.16.254011 • e-✉: [cpti@cpti.ws](mailto:cpti@cpti.ws)**

Belgian account: 000-1709814-92 • IBAN: BE12 0001 7098 1492 • BIC: BPOTBEB1

UPR SUBMISSION

TURKMENISTAN DECEMBER 2008

## Executive Summary

1. This report deals with the situation regarding military recruitment and conscientious objection in Turkmenistan during the period 2004 to 2007 inclusive. Earlier references are given in an attempt to clarify the legislative background, to indicate the context of the ongoing situation, and in some cases to provide fuller evidence of structural aspects which are believed to still apply.

2. The particular concerns of CPTI (Conscience and Peace Tax International) with regard to human rights standards are:

- i) the non-recognition of conscientious objection to military service
- ii) imprisonment and repeated imprisonment of conscientious objectors
- iii) pressure to change religion or belief
- iv) torture and/or inhuman and degrading treatment of conscientious objectors
- v) the age of military recruitment
- vi) the use of military conscripts to provide forced labour in the civilian economy

## Non-recognition of conscientious objection to military service

3. Under Article 38 of the Constitution, all men are obliged to perform “general military service”. This principle has been given practical effect in Acts on Conscription and Military Service, with intermittent modification by presidential decree. The Conscription and Military Service Act of 1993 stipulated that men aged between 18 and 30 were liable to conscription, and reduced the duration of obligatory military service from the 24 months which had applied in Soviet times to 18 months. It also introduced a category of voluntary “contractual” military service, which was however reportedly abolished by presidential decree in 2001. The 1993 Act was amended in 1998, then replaced by a new Act on 25<sup>th</sup> March 2002. The 2002 Act re-established the 24 months period of service.

4. There is no provision in the Conscription and Military Service Act or any other legislation to permit those with a conscientious objection to military service to be excused if called up, nor is there any means of opting to perform that service in an unarmed capacity, nor an alternative service of a civilian nature. This is contrary to all the norms of international practice, as outlined *inter alia* in Resolution 1998/77 of the Commission on Human Rights.

6. Moreover, Turkmenistan is one of a mere half dozen States where it is known that persons have openly declared themselves as conscientious objectors to military

service despite the absence of any domestic legislation recognising such objection. All the cases known to CPTI are Jehovah's Witnesses. This does not, of course, preclude the possibility that among others prosecuted and imprisoned for evasion of military service have been conscientious objectors who did not have the theoretical training or the motivation to articulate their objection in such terms.

### Imprisonment and repeated imprisonment of conscientious objectors

#### *International standards*

7. In Operative Paragraph 5 of Resolution 1998/77, the Commission on Human Rights, “Emphasizes that States should take the necessary measures to refrain from subjecting conscientious objectors to imprisonment and to repeated punishment for failure to perform military service, and recalls that no one shall be liable or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country;” This approach has been followed by the Working Group on Arbitrary Detention in dealing with cases of conscientious objection, and has been supported by the Human Rights Committee, which in General Comment 32 (para 55) indicates that repeated punishment for refusal to perform military service, when the refusal is based on the same constant resolve grounded in reasons of conscience, constitutes a breach of the principle of *ne bis in idem*.

#### *Legislation*

8. In Turkmenistan, those who express a conscientious objection and refuse to perform military service are liable to prosecution for “evading” such service under Article 219(1) of the Criminal Code, under which the penalty is up to two years of either corrective labour or imprisonment. Those who have served such a penalty remain subject to call-up and if they persist in their refusal may be sentenced for a second time; as this is seen as a repeat offence, such persons may be subject to a stricter prison or work-camp regime. Article 16(3) of the Conscription and Military Service Act stipulates that those who have served two sentences for evasion are thereafter exempt from military service.

9. CPTI is not aware of any instance where a conscientious objector has been sentenced for a third time, in breach of Article 16.3. The fact that convictions do eventually discharge the obligation to perform military service must be acknowledged as a positive feature, but with the reservation *no* imprisonment and *no* repeated conviction of conscientious objectors can be considered acceptable.

#### *Practice*

10. CPTI is aware of 13 declared conscientious objectors who have been held in prison or corrective labour colony during the period of this report, and a further three who have received suspended sentences.<sup>1</sup> Those serving suspended sentences are subject to a restriction that they may not leave the city of residence without special

---

<sup>1</sup> The sources for this information are: a communication from the General Counsel of the Jehovah's Witnesses, in March 2005 - a supplementary response to a questionnaire from OHCHR issued in pursuance of Resolution 2002/45 of the Commission on Human Rights; and various reports from Forum 18 News Service (<http://forum18.org>) and War Resisters International (CO Update - <http://wri-irg.org/pubs>).

permission and are subject to an 8pm curfew. They are also supposedly required to work, although work is not always available in practice.

11. Nikolai Shelekhov was released on January 2, 2004, at the end of an 18 month sentence. He had previously served one year on the same charge.

12. Kurban Bagdatovitch Zakirov was finally released on 11<sup>th</sup> June 2004, having initially been detained following his refusal to perform military service in 1999.

13. Rinat Babadzhanov, Shohrat Mitogorov, Ruslan Nasyrov, and Rozymamed Satlykov were sentenced in May 2003 to 18 months in the minimum-security corrective labour colony (IKTOR) at Seydi.

14. On December 4<sup>th</sup> 2003 Aleksandr Matveyev was sentenced to 24 months at Seydi.

15. Mansur Masharipov and Vepa Tuvakov were sentenced on May 28 and June 3, 2004, respectively, to 18 months in the IKTOR at Seydi.

16. Babadzhanov, Mitogorov, Nasyrov, Satlykov and Matveyev were released by general amnesty on 11<sup>th</sup> June 2004. The detention of Masharipov and Tuvakov however continued.

17. Atamurat Dadebayevich Suvkhanov from Dashhowuz was sentenced to 18 months on December 17, 2004.

18. In February 2005 Begench Muratgeldiyevich Shakhmuradov from Ashgabat was sentenced to one year's imprisonment by the Azatlyk District Court.

19. Following a presidential decree of 16<sup>th</sup> April 2005 all four conscientious objectors currently imprisoned were released. However it was reported in August 2007 that Shakhmuradov was facing renewed imprisonment.

20. On 28<sup>th</sup> June 2007, Aleksandr Zuev was given a suspended sentence of two years by Azatlik district court. He had been sentenced to 18 months imprisonment in June 2000 following a previous refusal of military service.

21. On 18<sup>th</sup> July 2007, Nuryagdy Gairov was sentenced to 18 months imprisonment at a closed trial at Kopetdag district court in Ashgabat, having been held incommunicado since 14<sup>th</sup> June. For Gairov, too, this was the second conviction on such charges; he had served a one year sentence in 1999 - 2000.

22. At the same court, two days later, Bayram Ashirgeldiev received a suspended sentence of two years. Relatives reported that the judge told Ashirgeldiev after the trial that he would be called up again in two years time and if he repeated his refusal would face imprisonment of between three and five years. The maximum imprisonment reportedly threatened would not appear to be consistent with any provision of Article 219.1. Ashirgeldiev is also in the situation of requiring a stamp from the Military Commissariat on a permit to apply for work. This is repeatedly being refused.

23. On 7<sup>th</sup> August 2007, Suleiman Udaev, was sentenced to 18 months' imprisonment.

24. Zuev, Gairov and Udaev, but not Ashirgeldiev, were among 9,000 citizens to benefit from a presidential amnesty to mark the Muslim Night of Omnipotence on 9<sup>th</sup> October 2007.

25. Finally, on 18<sup>th</sup> December 2007, Ashirgeldy Taganov received an eighteen month suspended sentence from the Niyazov District Court in Ashgabat.

#### Pressure to change religion or belief

26. There have been disturbing reports that prisoners detained in Turkmenistan come under pressure to swear on the Koran an oath of allegiance to President and State. As far as Jehovah's Witnesses are concerned, this is a double violation of their freedom of thought, conscience and religion; they do not accept the Koran as a sacred text; but in any event they have a conscientious objection, based on biblical authority, to the taking of oaths in any form and under any circumstances.

27. Zakirov (see para 12) was allegedly not been released at the end of his first sentence when he refused to take such an oath. An earlier offer of a pardon had been subject to the same condition.

28. Nasyrov (see para 13) and Matveyev (see para 14) were allegedly beaten on April 14<sup>th</sup> 2004 for refusing to take an oath of allegiance.

29. Some of the prisoners released in the October 2007 amnesty were shown on television swearing an oath of allegiance on the Koran. However, it does not appear that on this occasion the Jehovah's Witnesses were asked to do so.

#### Torture and/or inhuman and degrading treatment of conscientious objectors

30. Some of the treatment reported by conscientious objectors detained in Turkmenistan reveal disturbing details of prison conditions. Examples are given here of Zakirov's treatment, as reported by the Jehovah's Witnesses in March 2005.

31. Following an incident when his first sentence came to an end he was charged with assaulting a member of the security services, and was sentenced to eight years in the high-security corrective labour colony (ITKSR) at Chärjew. Zakirov maintains that the evidence of the alleged assault was concocted by one officer tearing the shoulder straps off his own uniform in the presence of the supposed witnesses.

32. At a later date, he was transferred to the maximum-security prison in Turkmenbashi. This, to quote the Jehovah's Witnesses "is known as a place from which prisoners rarely are released in good health. Many die. The cells are plain concrete rooms with one window—without glass or any cover—that is open all year long. In the wintertime the cells are freezing, and in summertime they are extremely hot. The food consists of some kind of slime made of sprat (herring) and macaroni."

33. In the maximum-security prison. Zakirov was entitled to one visitor every six months. When the time came for the visit, however, his visitor was refused access, being told that he was subject to a "special note".

34. “In January 2003”, the Jehovah’s Witnesses report, “Zakirov was badly beaten by the prison guards and then confined with known homosexual rapists (in the prison-language called *harem*). Once a prisoner is confined there and labeled as belonging to the *harem*, it is impossible to change his status in the prison community. Those labeled this way are regarded as the very lowest class among the prisoners and are commonly treated like animals and as having a loathsome disease. Those who knew Zakirov before prison say that this, together with other “treatment,” has had a tremendous impact, ruining his mental and emotional balance.”

35. Subsequently, a portrait of Zakirov was displayed in the prison, labelling him an “enemy of the people”, in a clear incitement to mistreatment by the other prisoners.

36. When he was eventually released Zakirov’s arms were covered in needle marks, and his behaviour was such as to suggest that in prison he had been injected with psychotropic drugs. He initially had to be confined in a mental hospital.

#### The age of military recruitment

37. The Conscription and Military Service Act of 2002 (in Para 15) reduced the recruitment age to 17, for those who applied in writing. A Presidential Decree of March 2003 reportedly lowered the minimum age for obligatory recruitment to 17.<sup>2</sup> There have been no explicit reports of the repeal of this decree, but the initial report of Turkmenistan to the Committee on the Rights of the Child<sup>3</sup> mentioned only voluntary recruitment at the age of 17, although from the ambiguous language it appears that this relates to the early admission to obligatory military service, rather than to any completely voluntary service.

38. The lowering of the recruitment age had been connected with the reduction of the length of schooling from ten years to nine, and was justified in terms of reducing youth unemployment. It is believed that there was considerable family pressure on otherwise unemployed seventeen-year-olds to “volunteer”. An Presidential Decree issued by President Berdymuhammedov in March 2007, the month after he took office, restored the ten year period of education, but it is reported that as of the Autumn call-up of 2007, seventeen-year-old “volunteers” were still accepted.<sup>4</sup>

#### The use of military conscripts to provide forced labour in the civilian economy

39. Although often seen by the families of recruits as a welcome alternative to probable involvement in drugs and/or crime, the armed forces are reportedly themselves heavily tainted by both, and conditions for recruits are very poor.

40. There had long been reports of conscripts being hired out as labour to private employers. During the final years of the Niyazov era large numbers of civilian workers were dismissed and their places taken by conscripts. Payment was left to the agencies employing them, health service, traffic police etc. In practice, conscripts frequently went unpaid, and were reduced to crime or begging on the streets.

---

<sup>2</sup> Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2004 pp 182-3.

<sup>3</sup> CRC/C/TKM/1, para 189.

<sup>4</sup> Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2008 (<http://www.childsoldiersglobalreport.org/content/turkmenistan>)