INTERNATIONAL FELLOWSHIP OF RECONCILIATION (IFOR) and CONSCIENCE AND PEACE TAX INTERNATIONAL (CPTI)

Submission to the 106th Session of the Human Rights Committee for the attention of the Country Report Task Force on ALBANIA

(Military service, conscientious objection and related issues)

Prepared August 2012.

Contact:
Derek BRETT
International Fellowship of Reconciliation
Main Representative to the UN, Geneva
derekubrett@gmail.com
Tel: (41) 77 462 9825

Summary

As part of the conditions for its admission to NATO in 2009, Albania's armed forces had been completely “professionalised” by the following year, but it appears that the legislation authorising conscription has merely been suspended, and could theoretically be reintroduced. A number of questions arise as to the implications for conscientious objectors.
ALBANIA: Basic information

Population (November 2011, estimated\(^1\)) \quad 2,995,000

Conscription reportedly ceased with effect from 1\(^{st}\) January 2010

Minimum recruitment age\(^2\): \quad 18

Manpower reaching “militarily significant age” in 2010\(^3\): \quad 31,986

Armed forces active strength, November 2011\(^4\):
   as a percentage of the above figure:

Military expenditure US $m equivalent, 2011\(^5\)

Per capita
As % of GDP

Background

Article 166 of the Constitution introduced in 1998 stipulated that “The citizen who for reasons of conscience refuses to serve with weapons in the armed forces is obliged to perform an alternative service, as provided by law.” The following article indicated that such persons “enjoy all the constitutional rights and freedoms, except for cases when the law provides otherwise”.

During the 1990’s, and possibly even after the 1998 Constitution came into effect, a small number of Jehovah's Witnesses are known to have been imprisoned for refusing military service, and sometimes to have faced repeated call-up.\(^6\) There have however been no reports of further abuses since the promulgation of a new Law on Military Service (No. 9047/2003), which in Article 20.1 instituted a “compulsory alternative military service (…) for those nationals who, for conscientious reasons, do not accept to carry out armed services in the Armed Forces. (…) The request for carrying out such service, along with the required documents attached, is submitted to the recruitment-mobilization center or to the commanding unit (military unit) before the national has reached the legal age [19] for enrolment into the compulsory military service.”\(^7\) Article 10.1 of the Law stipulated that both the “compulsory military service” and the “compulsory alternative military service” would have a duration of 12 months.\(^8\) The alternative service could be “carried out in public institutions or in the Armed Forces”,\(^9\) and was to be administered jointly by the Ministry of Defence and the Ministry of Labour and Social Affairs; applications were to be assessed by a

---

1 Source: The Military Balance 2012 (International Institute of Strategic Studies, London), which bases its estimate on “demographic statistics taken from the US Census Bureau”.
3 Source: CIA World Factbook. [https://www.cia.gov/library/publications/the-world-factbook/index.html](https://www.cia.gov/library/publications/the-world-factbook/index.html). “Militarily this is a (spuriously precise) estimate of the male population reaching “militarily significant age” - defined by the source as 16 - is more meaningful than total population in assessing the comparative impact of military recruitment in different countries.
4 The Military Balance 2012 (International Institute of Strategic Studies, London)
5 Stockholm International Peace Research Institute (SIPRI), April 2012
8 Ibid, para 26.
9 Ibid.
commission of the Ministry of Defence, including representatives of other Ministries and of religious organisations.\textsuperscript{10}

Although there was no discrimination in duration between military and alternative service, the provisions clearly did not accord with best practice in relation to independence from military control, or the very strict time limit on making applications.

In response to a question asked during the Human Rights Committee's consideration the following year of Albania’s initial report, the delegation stated:

“With regard to the right of conscientious objection to military service, article 166 (2) of the Constitution stipulated that a citizen who, for reasons of conscience, refused to serve in the armed forces was obliged to perform alternative service as provided for by law. Such service could be performed, for example, in a hospital, prison or home for disabled or older persons. Exemption from military service was also granted on payment of a sum of money.”\textsuperscript{11}

The payments referred to were in fact instituted under Article 15 of the 1995 Military Service Law (no. 7978). In 2005, the price was set at 300,000 lek, equivalent to approximately €2400, well beyond the means of most of those affected.\textsuperscript{12} Such overt discrimination on the basis of wealth was most disturbing.

In 2009, Albania was admitted as a member of NATO,\textsuperscript{13} having “undertaken serious steps within the framework of creating a professional army according to the NATO standards.”\textsuperscript{14} This included In advance, it was reported that part of the requirements for admission was an end to obligatory military service, and on 13\textsuperscript{th} August 2008 the Parliament passed a law which stipulated that with effect from 1\textsuperscript{st} January 2010 the army would be completely professional.\textsuperscript{15} In December 2010, Albania reported “It is already a known fact that from September 2009 and onwards no national is recruited for the active compulsory military service.”,\textsuperscript{16} making it clear that the reform had indeed been implemented but creating some ambiguity as to whether it was in September 2009 or September 2010, at the end of 12 months, that the last conscripts had been demobilised.

Other, more important, questions remain unanswered. It is clear from the lengthy description of the obligatory (“compulsory”) military service provisions that these have not been repealed, but simply suspended. Nothing is said about what has happened to the alternative service, although it would be logical to expect that it too had been suspended. But are those who would want to declare themselves as conscientious objectors in the event of the reintroduction of conscription still bound by the requirement that they must declare themselves to the military authorities before their 19\textsuperscript{th} birthday? Moreover, what is the position of a “professional” member of the armed forces who develops a conscientious objection to military service?

\textbf{Suggestions for the list of issues}

It is suggested that in the List of Issues Albania be asked to confirm whether the suspension of obligatory military service has also applied to alternative service for conscientious objectors. What effect has this had on the obligation for conscientious objectors to apply for recognition

\textsuperscript{10} Stolwijk, op cit, p1. 
\textsuperscript{11} 20\textsuperscript{th} October 2004, pm. CCPR/C/SR.2230, (25\textsuperscript{th} October 2004), para 47.
\textsuperscript{12} Stolwijk, op cit, p1.
\textsuperscript{14} CCPR/C/OPAC/ALB/1, para 33.
\textsuperscript{15} War Resisters’ International, “Albania to end conscription by 2010”, CO Update No. 41,(September 2008)
\textsuperscript{16} CCPR/C/OPAC/ALB/1, para 33.
before their 19th birthday; where would they stand in the event that conscription were reintroduced in a national emergency? And are any procedures in place to deal with the possibility that a professional member of the armed forces might seek release having developed conscientious objections to military service?

Albania might also be asked whether the suspension of obligatory military service has also entailed the abolition of the official system which sold exemption from military service for a fixed fee.