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**Submission to the UN Human Rights Committee**

**Subsequent to the Adoption of the List of Issues**

*(123rd Session of the UN Human Rights Committee –– 2 to 27 July 2018)*

**Lithuania**

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| SUMMARY OF THE SUBMISSION This submission to the UN Human Rights Committee (Committee) on Lithuania responds to the questions asked by the Committee concerning conscientious objection to military service at paragraph 22 of the List of Issues prior to submission of the fourth periodic report of Lithuania. As set out in this submission, Lithuania does not provide for genuine alternative civilian service.  Jehovah’s Witnesses in Lithuania and as a worldwide organization respectfully request, in harmony with the case law of the Committee and the European Court of Human Rights, that the government of Lithuania:   1. Provide conscientious objectors to military service with either a complete exemption from military service or with alternative civilian service that is not under military authority, control or direction and that is not deterrent or punitive in character. |

# I. Introduction

* 1. The European Association of Jehovah’s Witnesses is a charity registered in the United Kingdom. It assists adherents of the faith of Jehovah’s Witnesses in various areas of the world.
  2. This submission focuses on the violations of the rights protected by the International Covenant on Civil and Political Rights (ICCPR).

# II. Alleged Violations of the International Covenant on Civil and Political Rights (ICCPR - Articles 18 and 27)

**Freedom of thought, conscience and religion and right to non-discrimination (ICCPR – Articles 18 and 27)**

***No option for conscientious objectors to military service***

* 1. Lithuania has mandatory military conscription for all young men of military age. In most years, more young men volunteer for military service than the required number of conscripts, so the call-up for most conscientious objectors is usually deferred to the next call-up. Of course, this situation could change at any time.
  2. Lithuania’s law on military service does not provide for alternative civilian service. Instead, the only options are mandatory military service or “alternative national defence service”, which is a form of military service under direct military control and supervision. This is confirmed by the Law on Military Conscription, which refers to persons performing alternative national defence service as “military conscripts”. Furthermore, Government “Regulation for Performing Alternative National Defence Service” No. 206, dated 23 February 2000, provides in articles 8, 9, 12, 14, 20.4, 21.1, 21.2 and 22 that a “military conscript” performing “alternative national defence service” can be assigned work in “civilian institutions” and that his work assignment can at any moment be changed by the military authorities who can assign him “to perform an alternative service in the institutions of [the] national defence system.”
  3. Additionally, the Law on Military Conscription had for many years exempted ministers of “traditional religions” from mandatory military service. That exemption was denied to ministers of all other religions, including Jehovah’s Witnesses. That provision was amended in 2017 following a decision of the Constitutional Court. Under recent amendments, appointed religious ministers of all religions are deferred from the call-up for military service so that they can perform pastoral care in their religious communities. However, in times of military mobilization, religious ministers are assigned as military chaplains. As for religious ministers who are Jehovah’s Witnesses, their religious conscience does not permit them to serve as military chaplains. Therefore, this amendment is also not in harmony with Lithuania’s international obligations.
  4. The jurisprudence of the Committee is unequivocal and fully supports a religious conscience exemption from military service and alternative national defence service. In the case of *Atasoy and Sarkut v. Turkey* (communication nos. 1853/2008 and 1854/2008, Views adopted 29 March 2012), the Committee concluded:

*10.4 …The Committee reiterates that the right to conscientious objection to military service is inherent to the right to freedom of thought, conscience and religion. It entitles any individual to an exemption from compulsory military service if the latter cannot be reconciled with the individual's religion or beliefs. The right must not be impaired by coercion. A State party may, if it wishes, compel the objector to undertake a civilian alternative to military service, outside of the military sphere and not under military command. The alternative service must not be of a punitive nature, but must rather be a real service to the community and compatible with respect for human rights.*

* 1. The Committee reached the same conclusion in 16 separate decisions against South Korea, Turkey, and Turkmenistan.
  2. The European Court of Human Rights, in the case of *Adyan and Others v. Armenia* (no. 75604/11, 12 October 2017), ruled that conscientious objectors must be provided with genuine alternative civilian service, which is not in any way controlled, directed, or supervised by the military and which is not punitive. The ECHR held:

*67 … In this connection, while accepting that the States Parties to the Convention enjoy a certain margin of appreciation regarding the manner in which their systems of alternative service are organised and implemented, the Court considers that the right to conscientious objection guaranteed by Article 9 of the Convention would be illusory if a State were allowed to organise and implement its system of alternative service in a way that would fail to offer – whether in law or in practice – an alternative to military service of a genuinely civilian nature and one which was not deterrent or punitive in character.*

*69. … The Court therefore considers that the alternative labour service was not hierarchically and institutionally sufficiently separated from the military system at the material time. Furthermore, as regards appearances, the Court notes that alternative civilian servicemen were required to wear a uniform and to stay at their place of service. They also had “the Armed Forces of Armenia” written on the cover of their alternative labour serviceman’s record booklets. Thus, taking into account all the above-mentioned factors, the Court considers that the alternative labour service available to the applicants at the material time was not of a genuinely civilian nature.*

* 1. Contrary to the above provisions, Lithuania does not have any provision in law that recognizes the right of conscientious objection to military service and the right to substitute mandatory military service with alternative civilian service. This is confirmed by the following cases.
  2. In June 2015, **Erikas Rutkauskas**, a ministerial servant (deacon), was ordered to appear at the Regional Military Conscription and Recruitment Division of the 2nd Detachment of Darius and Girėnas Military District of the National Defence Volunteer Forces of the Lithuanian Army. Because his religious conscience does not permit him to accept military service or alternative service that is controlled by the military, Mr. Rutkauskas submitted an application to the military authorities for an exemption from both military service and alternative national defence service. Alternatively, Mr. Rutkauskas requested the opportunity to perform alternative civilian service.
  3. Mr. Rutkauskas’s application was refused. In a decision dated 10 September 2015, the 2nd Unit of the Lithuania National Defence Volunteer Services informed Mr. Rutkauskas that his application for an exemption from military service and alternative national defence service was rejected because Jehovah’s Witnesses are not a State-recognized “traditional religion” in Lithuania. Mr. Rutkauskas appealed to the Vilnius Regional Administrative Court (VRAC).
  4. During the appeal, the VRAC suspended the case and submitted an inquiry to the Constitutional Court of the Republic of Lithuania asking them to investigate whether the exemption of ministers of “traditional religions” contradicts the constitution. On 4 July 2017, the Constitutional Court declared that the exemption for ministers of “traditional religions” violated the constitution of Lithuania. The Court did not address what exemption should be provided to persons who, like Mr. Rutkauskas, object to military service and alternative national defence service on the grounds of religious conscience.
  5. In view of the ruling of the Constitutional Court of 4 July 2017, the VRAC concluded that there is no legal basis to exempt Mr. Rutkauskas from military service or national defence service. The VRAC effectively concluded that the appeal should be rejected because no citizen of the Republic of Lithuania should be exempted—for any reason—from military service or alternative national defence service.
  6. Mr. Rutkauskas’s request to be exempted from military service and alternative national defence service was decided solely by the military authorities. This also violates Article 26 of the Constitution of Lithuania, Article 9 of the European Convention, and Article 18 of the ICCPR.
  7. An appeal in Mr. Ratkauskas’s case is now pending with the Supreme Administrative Court of Lithuania.
  8. In June 2015, **Stanislav Teliatnikov**, a ministerial servant (deacon), was summoned to report for military service on 18 June 2015. Because his religious conscience does not permit him to accept military service or alternative service that is controlled by the military, Mr. Teliatnikov submitted an application to the military authorities for an exemption from both military service and alternative national defence service. Alternatively, Mr. Teliatnikov requested the opportunity to perform alternative civilian service that is of a genuinely civilian nature.
  9. In a decision dated 10 September 2015, the 2nd Unit of the Lithuania National Defence Volunteer Services informed Mr. Teliatnikov that his application for an exemption from military service and alternative national defence service was rejected because Jehovah’s Witnesses are not a State-recognized “traditional religion” in Lithuania. Mr. Teliatnikov appealed the decision.
  10. The Vilnius Regional Administrative Court granted Mr. Teliatnikov’s appeal because the military authorities failed to issue a decision on his application in time, and they failed to address all of his requests, including his request for alternative civilian service. The Court also concluded that they could not “oblige” the military authorities to approve Mr. Teliatnikov’s appeal, but they could order that they investigate his requests again.
  11. On 20 October 2017, the military authorities appealed the VRAC decision based on the decision of the Constitutional Court of 4 July 2017, stating that no citizen of the Republic of Lithuania should be exempted—for any reason—from military service or alternative national defence service.
  12. Mr. Teliatnikov’s request to be exempted from military service and alternative national defence service was decided solely by the military authorities. This also violates Article 26 of the Constitution of Lithuania, Article 9 of the European Convention, and Article 18 of the ICCPR.
  13. An appeal by the military authorities in Mr. Teliatnikov’s case is now pending with the Supreme Court of Lithuania.
  14. **Lukas Bajoriunas**, one of Jehovah’s Witnesses, was denied a deferment as a ministerial servant (deacon) by the Panevezys Regional Division of the Military Conscription and Recruitment on 29 March 2018. After Mr. Bajoriunas appealed, the Ministry of Defence stated that under the law, “conscripts may carry out the alternative national defence service by performing community work unrelated to the use of arms, special measures and coercion at the state or municipal institutions / establishments. Therefore, such alternative national defence service (provided that your request is recognised as justified by the special commission) would not violate your convictions as one of Jehovah’s Witnesses.” However, alternative national defence service is not genuine alternative civilian service, as it is under the control of the military. Furthermore, the Ministry of Defence is not in a position to decide what types of service would violate the conscience of its citizens.
  15. An appeal inMr. Bajoriunas’s case is now pending with the Administrative Court of Vilnius.

# III. Conclusions and Recommendations

* 1. Jehovah’s Witnesses in Lithuania and as a worldwide organization respectfully ask that the Committee make the following recommendations to the government of Lithuania:

1. Provide conscientious objectors to military service with either a complete exemption from military service or with genuine alternative civilian service that is not under military authority, control or direction and that is not deterrent or punitive in character.

All of the above is respectfully submitted by

The European Association of Jehovah’s Witnesses