

— *the prohibition of certain means and methods of warfare*

The IV Hague Convention of 1907 on the laws and customs of war on land, the Geneva Convention of 1949, the additional protocols of 1977 and other instruments concerning the law of war prohibit the use of indiscriminate and unnecessarily cruel weapons. Attacking the civilian population is prohibited, but it is also—under the protocols of 1977—prohibited to carry out indiscriminate attacks involving the civilian population, even when the intended goal is a military one. Nuclear weapons will almost always be indiscriminate. If, therefore, an individual refuses to serve because his conviction is that the methods of war envisaged are vastly beyond the due respect for the right to life, as provided for in the laws of war, his conviction should be respected.

— *genocide, deprivation of self-determination and massive violations of human rights.*

Armed forces are, in other circumstances, also used in ways which are in violation of contemporary international law. Military governments, usurping the power of democratically elected governments, sometimes engage in massive violations of human rights. In some parts of the world massacres of persons belonging to certain ethnic groups have occurred in the past and may well do so again in the future. Armed forces, even in our times, are used directly or as a threat for the denial of the right of the self-determination of a given people. In all of these circumstances, if the conviction of an individual is founded on the opinion of the international community as expressed in the UN conventions or declarations, that conscience should be respected if he or she refuses to perform military service.

## Prospects

Most states do not reflect in their domestic law and practice the evolution they themselves have encouraged at the international level. Among those states which have compulsory military service (approximately half of the states in the world today) only a small minority provide for the status of conscientious objection. Most of these states are the Western European ones (Australia, New Zealand and the United States having abolished conscription for

## Disparity among member states

At the present time the status of conscientious objectors differs considerably in the 21 Council of Europe countries.

In six of them (Iceland, Ireland, Liechtenstein, Luxembourg, Malta and Great Britain) there is no conscription and therefore the problem does not arise.

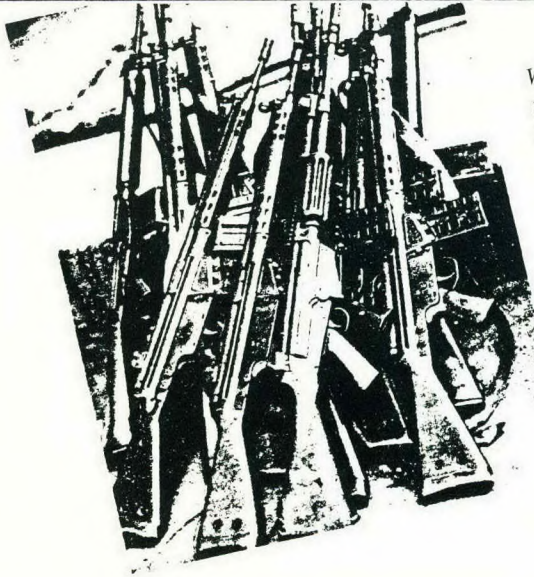
In Cyprus, Portugal, Switzerland and Turkey conscientious objection is not recognised and everybody is subject to military service. In Greece, where conscientious objection is legal, the alternative service lasts 48 months as against 26 months for normal military service. Furthermore, unlike all the other countries, this service has to be carried out within the framework of the army.

The largest numbers of conscientious objectors are to be found in the Federal Republic of Germany, where applications account for 23% of the conscripts called up for national service. In Portugal, would-be objectors represent 20% of those called up for service.

the time being). There are more than 40 states in the world today with compulsory military service which do not recognise conscientious objection. Even those few who recognise it allow only for the limited grounds of a general opposition to military service (the pacifist position), whether it be on religious or humanist grounds.

Next year, 1985, is International Youth Year. It is possible that the Commission on Human Rights and the General Assembly of the United Nations will try to move forward, providing a broader base for recognition of the conscience of those persons who take seriously the values propounded by the international community as outlined in this article.

Whatever happens at this stage, there can be no doubt that, at some time in the future, states will have to come to grips with the expectations they have created for a peaceful, co-operative and humane international community. Many of the objectors of today are the forerunners of those who will live in the global community envisaged for the future.



*We never asked for war,  
nor in the innocence  
of our birth were we aware of  
it.*

*We never asked for war,  
nor in the struggle to realisa-  
tion  
did we feel that there  
was a need for it.*

*We never asked for war,  
nor in the joyful colours of  
our childhood  
were we conscious of its dark-  
ness.*

*(Crass)*



# Conscientious objection: "a basic human right"

Over a hundred members from seven youth organisations in Europe met at the European Youth Centre, October 22-27 of last year, to discuss the theme "Conscientious objection to military service as a human right". They called for the recognition of conscientious objection to be regarded as a human right embodied in the European Convention on Human Rights.

The four-day symposium was the first such event to be held under new programme guidelines agreed in 1983. The meeting concluded with the adoption of a memorandum proposing a draft additional protocol to the European Convention on Human Rights and a set of minimum standards for the implementation of this right.

The symposium was organised and run as a series of keynote speeches, representing opinions of the Council of Europe's Parliamentary Assembly, the Oslo Peace Research Institute, the European Commission of Human Rights, the United Nations, the European Parliament and a range of conscientious objectors from around Europe. The participants also worked in a number of language groups and four "theme-workshops": the result was a detailed memorandum and final report which concluded, amongst other things:

— that all conscientious objectors should be allowed to perform alternative service independent of the military structures; this

service should be in harmony with the convictions of the objector;

— alternative service should not constitute a sanction and its length should not exceed that of normal military service;

— conscientious objection should not be seen as a refusal to accept an imposed duty; many objectors wish to perform a humanitarian alternative service which represents a positive wish to work for peace;

— the efforts of conscientious objectors throughout Europe and world-wide need to be co-ordinated so that their voice may be heard in the international institutions and so that solidarity between them may be reinforced;

— the concept of conscientious objection does not only concern military conscripts; it must be understood in a wider sense and thus extended to cover all forms of participation in the militarisation of society.

The final report and working documents for the symposium are available on request from the European Youth Centre.

## The background

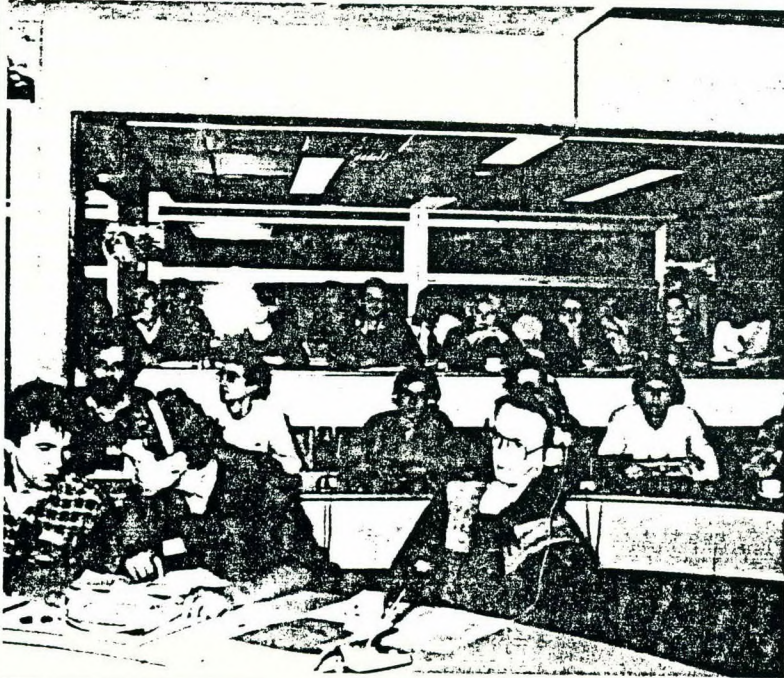
In 1967, the Parliamentary Assembly of the Council of Europe voted for a resolution<sup>1</sup> that declared as a "basic principle" the right to be "released from the obligation" to perform military service for those who, for a variety of conscientious reasons, refuse to perform armed services.

Then years later, the Parliamentary Assembly reaffirmed its position by a recommendation<sup>2</sup> to the Council of Ministers that they "urge the governments of member states ... to bring their legislation into line with the principles adopted by the Assembly".

The next step forward came in the form of a resolution in the European Parliament. In 1983, they adopted the so-called "Macciocchi Resolution"<sup>3</sup> which elaborated the proposals for alternative services to be available, stressing that it "should not exceed the period of normal military service"—seen by many conscientious objectors as essential to remove the sense of "punishment" associated with unduly long periods of alternative service for those who refuse military service.

1. Resolution 337 (1967) on the right of conscientious objection.
2. Recommendation 816 (1977) on the right of conscientious objection to military service.
3. Resolution OJ No. C103 adopted February 1983.

Participants in the Symposium



Conscientious objection in the Council of Europe member states — a comparative table

Country	Minimum length of basic military training (months)	Minimum length of alternative service (months)
Austria	6	8
Belgium	10	15
Cyprus	26	none provided
Denmark	9	11
France	12	24
FRG	15	20
Greece	26	48
Iceland		no conscription
Ireland		no conscription
Italy	12	20
Liechtenstein		no conscription
Luxembourg		no conscription
Malta		no conscription
Netherlands	14	18
Norway	12	16
Portugal	18	none provided
Spain	15	22
Sweden	9	12
Switzerland	11	none provided
Turkey	20	none provided
UK		no conscription



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RESOLUTION

on conscientious objection

The European Parliament,

- having regard to Article 9 of the European Convention on Human Rights, which guarantees the right to freedom of thought, conscience and religion,
  - having regard to Resolution 337 (1967) and Recommendation 816 (1977) of the Consultative Assembly of the Council of Europe on the right of conscientious objection,
  - having regard to the laws of the Member States of the European Community concerning the right of conscientious objection,
  - having regard to the case law of the Court of Justice of the European Communities and the Joint Declaration of Parliament, Council and Commission<sup>1</sup> in which these institutions stressed the prime importance they attach to the protection of fundamental rights as derived in particular from the European Human Rights Convention,
  - having regard to motions for resolutions Doc. 1-795/80, Doc. 1-803/79 and Doc. 1-244/80,
  - having regard to Petitions Nos 14/80, 19/80, 26/80 and 42/80,
  - having regard to the report of the Legal Affairs Committee and the opinion of the Political Affairs Committee (Doc. 1-546/82),
1. Recalls that the right to freedom of thought, conscience and religion is a fundamental right;
  2. Notes that protection of freedom of conscience implies the right to refuse to carry out armed military service and to withdraw from such service on grounds of conscience;
  3. Points out that no court or commission can penetrate the conscience of an individual and that a declaration setting out the individual's motives must therefore suffice in the vast majority of cases to secure the status of conscientious objector;
  4. Stresses that the performance of alternative service as provided for in Resolution No. 337 (1967) of the Consultative Assembly of the Council of Europe may not be regarded as a sanction and must therefore be organized in such a way as to respect the dignity of the person concerned and benefit the community, particularly in the social field and in the field of aid and development cooperation;
  5. Considers that the duration of such alternative service when carried out within a civil administration or organization should not exceed the period of normal military service including military exercises following the period of basic military training;
  6. Emphasizes the need to approximate the legislation of the Member States of the Community governing the right of conscientious objection, the status of conscientious objector, the procedures to be applied and alternative forms of service;
  7. Stresses the need for the procedures to be designed in such a way that they involve no additional waiting period and administrative complications as is often the case at present;
  8. Calls on the governments and parliaments of the Member States of the Community to examine their respective legislation in this field;
  9. Supports efforts to include a right of conscientious objection in the Convention on Human Rights;
  10. Instructs its President to forward this resolution to the Commission, the governments and parliaments of the Member States, and the Parliamentary Assembly of the Council of Europe.

PARLIAMENTARY ASSEMBLY  
OF THE  
COUNCIL OF EUROPE

TWENTY-NINTH ORDINARY SESSION

RECOMMENDATION 816 (1977)<sup>1</sup>  
*on the right of conscientious objection  
to military service*

The Assembly,

1. Wishing to promote legal status for conscientious objectors in Council of Europe member states;
2. Recalling its Recommendation 478 (1967) and Resolution 337 (1967), on the right of conscientious objection;
3. Re-asserting the principles stated in Resolution 337 (1967), which form an integral part of this recommendation,
4. Recommends that the Committee of Ministers:
  - a. urge the governments of member states, in so far as they have not already done so, to bring their legislation into line with the principles adopted by the Assembly;
  - b. introduce the right of conscientious objection to military service into the European Convention on Human Rights.

APPENDIX

Principles relating to the right of conscientious  
objection to military service

A. Basic principles

1. Persons liable to conscription for military service who, for reasons of conscience or profound conviction arising from religious, ethical, moral, humanitarian, philosophical or similar motives, refuse to perform armed service shall enjoy a personal right to be released from the obligation to perform such service.
2. This right shall be regarded as deriving logically from the fundamental rights of the individual in democratic rule of law states, which are guaranteed in Article 9 of the European Convention on Human Rights.

B. Procedure

1. Persons liable for military service should be informed, when notified of their call-up or prospective call-up, of the rights they are entitled to exercise.
2. Where the decision regarding the recognition of the right of conscientious objection is taken in the first instance by an administrative authority, the decision-making body shall be entirely separate from the military authorities, and its composition shall guarantee maximum independence and impartiality.

<sup>1</sup> *Assembly Debate* on 7 October 1977 (10th Sitting) (see Doc. 4027, report of the Legal Affairs Committee).

*Text adopted by the Assembly on 7 October 1977 (10th Sitting)*



3. Where the decision regarding the recognition of the right of conscientious objection is taken in the first instance by an administrative authority, its decision shall be subject to control by at least one other administrative body, composed likewise in the manner prescribed above, and subsequently to the control of at least one independent judicial body.

4. The legislative authorities should investigate how the exercise of the right claimed can be made more effective by ensuring that objections and judicial appeals

have the effect of suspending the armed service call-up order until the decision regarding the claim has been rendered.

5. Applicants should also be granted a hearing, and be entitled to be represented and to call relevant witnesses.

#### C. Alternative service

1. The period to be served in alternative work shall

be at least as long as the period of normal military service.

2. The social and financial equality of recognised conscientious objectors and ordinary conscripts shall be guaranteed.

3. The governments concerned shall ensure that conscientious objectors are employed in social work or other work of national importance—having regard also to the manifold needs of the developing countries.

## RESOLUTION 337

### CONSULTATIVE ASSEMBLY OF THE COUNCIL OF EUROPE

EIGHTEENTH ORDINARY SESSION

#### RESOLUTION 337 (1967)<sup>1</sup>

*on the right of conscientious objection*

The Assembly,

Having regard to Article 9 of the European Convention on Human Rights which binds member States to respect the individual's freedom of conscience and religion,

Declares :

#### A. Basic Principles

1. Persons liable to conscription for military service who, for reasons of conscience or profound conviction arising from religious, ethical, moral, humanitarian, philosophical or similar motives, refuse to perform armed service shall enjoy a personal right to be released from the obligation to perform such service.

2. This right shall be regarded as deriving logically from the fundamental rights of the individual in democratic Rule of Law States which are guaranteed in Article 9 of the European Convention on Human Rights.

#### B. Procedure

1. Persons liable for military service should be informed, when notified of their call-up or prospective call-up, of the rights they are entitled to exercise.

2. Where the decision regarding the recognition of the right of conscientious objection is taken in the first instance by an administrative authority, the decision-making body shall be entirely separate from the military authorities and its composition shall guarantee maximum independence and impartiality.

3. Where the decision regarding the recognition of the right of conscientious objection is taken in the first instance by an administrative authority, its decision shall be subject to control by at least one other administrative body, composed likewise in the manner prescribed above, and subsequently to the control of at least one independent judicial body.

4. The legislative authorities should investigate how the exercise of the right claimed can be made more effective by ensuring that objections and judicial appeals have the effect of suspending the armed service call-up order until the decision regarding the claim has been rendered.

5. Applicants should be granted a hearing and should also be entitled to be represented and to call relevant witnesses.

#### C. Alternative Service

1. The period to be served in alternative work shall be at least as long as the period of normal military service.

2. The social and financial equality of recognised conscientious objectors and ordinary conscripts shall be guaranteed.

3. The Governments concerned shall ensure that conscientious objectors are employed in social work or other work of national importance - having regard also to the manifold needs of the developing countries.

## RECOMMENDATION 478

EIGHTEENTH ORDINARY SESSION

#### RECOMMENDATION 478 (1967)<sup>1</sup>

*on the right of conscientious objection*

The Assembly,

1. Having regard to its Resolution 337 on the right of conscientious objection,

2. Recommends the Committee of Ministers :

(a) to instruct the Committee of Experts on Human Rights to formulate proposals to give effect to the principles laid down by the Assembly in its Resolution 337 by means of a Convention or a recommendation to Governments so that the right of conscientious objection may be firmly implanted in all member States of the Council of Europe;

(b) to invite member States to bring their national legislation as closely as possible into line with the principles adopted by the Consultative Assembly.

1. *Assembly Debate* on 26th January 1967 (22nd Sitting) (see Doc. 2170, report of the Legal Committee).

*Text adopted by the Assembly* on 26th January 1967 (22nd Sitting).

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And have the best memory of the extraordinary collaboration of the technical and clerical staff of the European Youth Centre.



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