

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (87) 8

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES

**REGARDING CONSCIENTIOUS OBJECTION
TO COMPULSORY MILITARY SERVICE ¹**

*(Adopted by the Committee of Ministers on 9 April 1987
at the 406th meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Recalling that respect for human rights and fundamental freedoms is the common heritage of member states of the Council of Europe, as is borne out, in particular, by the European Convention on Human Rights;

Considering that it is desirable to take common action for the further realisation of human rights and fundamental freedoms;

Noting that in the majority of member states of the Council of Europe military service is a basic obligation of citizens;

Considering the problems raised by conscientious objection to compulsory military service;

Wishing that conscientious objection to compulsory military service be recognised in all the member states of the Council of Europe and governed by common principles;

Noting that, in some member states where conscientious objection to compulsory military service is not yet recognised, specific measures have been taken with a view to improving the situation of the individuals concerned,

1. When this recommendation was adopted:

— in application of Article 10.2.c of the Rules of Procedure for the meetings of the Ministers' Deputies, the Representative of Greece reserved the right of his Government to comply with it or not, and the Representative of Cyprus reserved the right of his Government to comply or not with paragraph 9 of the text;

— in application of Article 10.2.d of the Rules of Procedure for the meetings of the Ministers' Deputies, the Representative of Italy recorded his abstention and in an explanatory statement said that his Government was of the opinion that the text as adopted fell short of the suggestions made by the Assembly, and therefore appeared to be deficient;

— in application of Article 10.2.d of the Rules of Procedure for the meetings of the Ministers' Deputies, the Representatives of Switzerland and Turkey recorded their abstentions and in explanatory statements said that their Governments would be unable to comply with the text.

Recommends that the governments of member states, insofar as they have not already done so, bring their national law and practice into line with the following principles and rules :

A. *Basic principle*

1. Anyone liable to conscription for military service who, for compelling reasons of conscience, refuses to be involved in the use of arms, shall have the right to be released from the obligation to perform such service, on the conditions set out hereafter. Such persons may be liable to perform alternative service ;

B. *Procedure*

2. States may lay down a suitable procedure for the examination of applications for conscientious objector status or accept a declaration giving reasons by the person concerned ;

3. With a view to the effective application of the principles and rules of this recommendation, persons liable to conscription shall be informed in advance of their rights. For this purpose, the state shall provide them with all relevant information directly or allow private organisations concerned to furnish that information ;

4. Applications for conscientious objector status shall be made in ways and within time-limits to be determined having due regard to the requirement that the procedure for the examination of an application should, as a rule, be completed before the individual concerned is actually enlisted in the forces ;

5. The examination of applications shall include all the necessary guarantees for a fair procedure ;

6. An applicant shall have the right to appeal against the decision at first instance ;

7. The appeal authority shall be separate from the military administration and composed so as to ensure its independence ;

8. The law may also provide for the possibility of applying for and obtaining conscientious objector status in cases where the requisite conditions for conscientious objection appear during military service or periods of military training after initial service ;

C. *Alternative service*

9. Alternative service, if any, shall be in principle civilian and in the public interest. Nevertheless, in addition to civilian service, the state may also provide for unarmed military service, assigning to it only those conscientious objectors whose objections are restricted to the personal use of arms ;

10. Alternative service shall not be of a punitive nature. Its duration shall, in comparison to that of military service, remain within reasonable limits ;

11. Conscientious objectors performing alternative service shall not have less social and financial rights than persons performing military service. Legislative provisions or regulations which relate to the taking into account of military service for employment, career or pension purposes shall apply to alternative service.