

“Citizen. Army. Law”

Human Rights Group

*Russian human rights group for conscripts, military and alternative servicemen:
Joint action for the rule of law*

On the implementation of the right to conscientious objection to military service in Russia in 2002-2012

1. The right to conscientious objection was introduced in the Russian Constitution of 1992. Its implementation, however, was conditional on availability of alternative civil service for those who opt out of military duty. Decades-long parliamentary disputes led to the emergence of a community of civil society organizations - the All-Russian NGO Coalition for Democratic ACS - advocating for a socially-beneficial, non-discriminatory model of alternative service in Russia, consistent with international and European standards. In 2002 Russia adopted Federal Law No 113 on Alternative Civil Service (ACS Law). The law reflected a compromise reached by diverse political parties and civil society groups concerning the format of alternative civil service for conscientious objectors (C.O.) in Russia.

Since the law was adopted and came into force in 2004, the Coalition has focused on defending the rights of applicants for alternative service and alternative servicemen in active duty, on promoting ACS in Russia, and on monitoring military draft committees, draft boards, local authorities and employers for compliance with the ACS law. These efforts are continued today.

2. Some aspects of the Russian ACS Law are consistent with internationally accepted standards:

- any type of beliefs and convictions, such as religious, philosophical, ethical, political, etc., make one eligible to apply for alternative service instead of military duty;
- the procedure of applying for ACS may in principle be described as 'motivated notification'. A citizen must notify the authorities of his convictions and explain (i.e. clarify, rather than prove!) why they are incompatible with military service.
- alternative service may be performed by working for organizations owned by the federal or regional government (however, alternative servicemen cannot be employed by entities owned by the local self-government or by private entities, either commercial or nonprofit);
- the general labor legislation is used as regulatory framework for ACS, with certain exceptions reflecting the alternative service specifics;
- alternative servicemen may continue to live at their habitual residence; if a serviceman is assigned to serve in a different location, he should be provided with free lodging in a dormitory that meets normal standards for service accommodation.
- alternative servicemen are free to use their time when they are not at work, e.g. they may choose to get an education by taking evening or correspondence courses.

And there were some positive developments in the way the ACS law was implemented. For example, the ACS law came under criticism soon after its adoption for making alternative service too long - 1.75 times longer than the regular military service. In absolute figures, when the law was first adopted, the duration of ACS was 42 months for service in civilian organizations and 36

months for service in military organizations (the duration of regular military service was 24 months before 2007).

A military reform in Russia reduced the regular military service by half, and the duration of alternative civil service was reduced accordingly. The change reflected in the ACS Law brought the duration of ACS to 21 months in civilian entities and to 18 months in military entities starting from 2008.

Notwithstanding that the initial duration of ACS of 42 months was sufficiently reduced (to 21 months), it still can be described as discriminatory (vs. the regular military service of 12 months) for the following reasons.

The civilian labor legislation that regulates alternative civil service allows alternative servicemen two annual leaves, about a month each, and two full days off every week. The annual leaves, as well as weekly days off duty are added to their time of service. In contrast, a military conscript serves 12 months (since 2008) without a single leave of absence and with just one day off per week. A simple calculation shows that the total duration of alternative service should exceed the duration of military service by 3-4 months to make the net duration of service equal in both cases.

Consequently, 16 months of ACS for all categories of alternative servicemen vs. 12 months of military service appears to be the optimal, non-discriminatory solution.

3. However, the ACS Law still contains a number of unfounded restrictions of citizens' rights. The following provisions are specifically designed to make ACS unattractive:

- The law prioritizes the exterritorial principle of alternative service, meaning that alternative servicemen are almost always forced to serve outside their home region or community, even if sending them away is not necessary.
- Citizens in active military service, either conscription or contract-based, are not allowed to opt out of military service for C.O. reasons and switch to alternative service instead, even though the Russian Constitution does not establish any restrictions to this effect.
- The law sets out a procedure whereby an application for alternative service must be filed with a military draft committee six months prior to the draft campaign during which the applicant expects to be drafted into the army. Missing this deadline is the reason why most applications for ACS are denied, meaning that the constitutional right is sacrificed to make the procedure convenient for the bureaucrats.
- The law also says that only citizens fit to serve in the army may engage in alternative service instead of their military duty. At the same time, the established procedure requires that a citizen must apply for ACS first, and his fitness for military service is determined later.
- The serviceman is not allowed to choose from the list of available alternative service vacancies.
- A person in alternative service does not receive any pay other than wages corresponding to his position. The law does not require that the wages paid to alternative servicemen may not be below the subsistence minimum.

4. The Russian President's Decree No 793 of 21 June 2003 and the Government's Decree No 750 of 11 December 2003 entrust the organization of ACS to a civilian authority, namely the Federal Service for Labour and Employment (Labour Agency); however, these Decrees also provide for the involvement of the military - the Russian Ministry of Defense – in the procedure.

Citizens file applications for alternative service with military draft committees, and the latter forward the applications to draft boards. Once the right to alternative service is confirmed, the applicant's details are forwarded to the military authorities, and they, in turn, send the lists of would-be alternative servicemen to the Labour Agency following the end of the draft campaign.

The military authorities' involvement in the procedure is a cause of problems: the staff of military draft committees arbitrarily refuse to accept applications for ACS and offer misleading information about ACS.

In some cases the lists of applicants for ACS sent by the military to the Labour Agency are incomplete, missing important information about the applicants' professional background and personal situation necessary for assigning them to service positions. Moreover, the military sometimes "lose" some of the applicants' names, and some of the lists they send to the Labour Agency are missing certain people.

There have been reports about arbitrary and abusive acts by draft committee officers and draft boards, such as unmotivated rejection of applications, unlawful denials of requests for alternative service and attacks against conscientious objectors' dignity.

While challenges persist, some of the problems have been successfully addressed. For example, the Coalition's efforts have resulted in a number of favorable judicial precedents (including some rulings of the Russian Constitutional Court) confirming that the procedure of applying for alternative service is that of notification, and one cannot be denied this option for merely formal reasons, such as missing the deadline for application.

That said, in order to eliminate denials of the right to C.O. on formal grounds, the ACS law should be amended to rule out the possibility to turn down an application because the deadline is missed.

The 8-year history of ACS in Russia has confirmed the civilian nature of the service. The list of organizations where alternative servicemen may be employed is an open list that is annually updated and published on the Labour Agency's website. Where alternative servicemen are assigned to entities operated by the military authorities, such as military plants or defense construction facilities, they are only employed in workshops which produce civilian products or at construction sites of civilian facilities.

The Russian public is not adequately informed about ACS. On the one hand, the Labour Agency's official website contains all relevant information about ACS, the ACS Law has been published in a large number of copies, and mass media coverage of ACS is substantial. But on the other hand, military draft committees, responsible for drafting citizens into the army, do not display or distribute information about the right to opt for ACS. Yet the biggest disincentive to ACS is the military-inspired, ongoing propaganda marginalizing ACS as a choice befitting only religious minority, and perpetuating other myths about ACS.

5. Nevertheless, the situation with the right of conscientious objectors in Russia to opt out of military duty may be described as satisfactory. In general, the ACS legislation and the accessibility and openness of the ACS system offer Russian citizens reasonable opportunities to defend and implement their anti-war choices.

Regardless of counteraction from the military lobby, ACS in Russia has become a truly civilian service. It continues to evolve, becomes more accessible and attractive to young people. The annual number of young men wishing to opt for ACS increases (see table below).

	2004	2005	2006	2007	2008	2009	2010	2011
The number of applications for ACS filed in Russia	1800	854	319	439	443	473	730	879
% of applications	71	64	86	91	95	98	93	91

3

satisfied								
-----------	--	--	--	--	--	--	--	--

According to official data, during 8 years of operation of the ASC Law (2004-2012) a positive decision on the replacement of military duty with alternative civilian service was taken in 83% of cases. At the same time, human rights defenders annually record cases of refusals to accept applications from citizens wishing to opt for ACS. Accordingly, there is no precise data on how many applications were filed in reality and how many attempts were made to apply (i.e. the official data includes only those applications that were satisfied).

According to data from the Labor Agency, more than 2,000 people have already passed the service. About 80% of the total number of conscientious objectors refused military service on religious grounds, about 17% - on convictions not related to religion, and about 3% - by reason of their belonging to indigenous peoples.

Job placement of conscientious objectors in 2010 was the following: 243 persons worked in hospitals and other social institutions, 29 - in schools and orphanages, 23 - in agriculture sector, 77 – at post offices, 11 - in the units of the Federal Cosmic Agency, the Federal Medical-Biological Agency, the Federal Agency for Special Construction and the Federal Penitentiary Service.

In recent years, the List includes more than 100 kinds of jobs, professions and positions, and more than 600 organizations where conscientious objectors might be sent. Thus, there are about 5000 job opportunities for conscientious objectors. Currently (autumn 2012), more than 1,000 young men are passing ACS.

6. The human rights group “Citizen. Army. Law” (the Group) believes that nowadays, while promoting the military reform, it is necessary to continue developing and improving the institution of ACS. First and foremost, for sustainable and positive development of this institution, there is a need for wide-scale public education campaigns and improvement of legislation on ACS.

The Group actively works on informing citizens on alternative civilian service, explaining what ACS in Russia is, who is eligible for it, how to apply for ACS, where and how to pass it, which rights conscientious objectors have, etc. This information on ACS is posted on the websites of the Group. Also, the Group regularly issues a newsletter "Alternative Service" and informational leaflets on ACS, which are distributed in various regions of Russia.

Moreover, in 2012, the second edition of the book “Alternative to Military Conscription: for Those Who is Making a Choice” was issued under the authorship of Lev Levinson, the expert of the Group. The book is a step-by-step guide for a young citizen who is making a free and deliberate choice between military duty and alternative civilian service; it describes all the steps: from composing an application to a draft board to getting a direction to a place of alternative civilian service.

Besides of the aforementioned activities, the experts of the Group provide conscripts and conscientious objectors engaged in alternative civilian service with legal aid in the form of personal reception at offices, representation in court proceedings, consultations given via a telephone hot-line or on-line on the project’s websites and social networks pages. In addition to this, educational seminars and expert events are regularly conducted.

The human rights group “Citizen. Army. Law” advocates for the following improvements of ACS-related legislation, regulations and practices:

- * shortening of the ACS term in order to bring it closer to the term of military duty;
- * revision of the application procedure for ACS, including elimination of time constraints for applying;
- * exclusion of the "preferential extraterritoriality" principle for passing ACS from the text of the ACS law;
- * alteration of the examination procedure of citizens’ applications to ACS by an amendment establishing that medical examination should be carried out right after filing an application for ACS, and only after such examination the decision on the replacement of military duty to alternative civilian service should be taken;
- * legal ban on assignment of conscientious objectors engaged in ACS to workplaces with wages below the subsistence minimum in the relevant region;
- * establishment of a procedure for determining the place of alternative civilian service, which would consider the citizen's preferences in assigning;
- * permission to pass ACS in the organizations subordinated to local authorities.

Human Rights Group “Citizen. Army. Law” , (Moscow, Russia)