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To: ebco@ebco-beoc.org

CC: Ceslav Panico <ceslav.panico@ombudsman.md>, Victoria Rotaru <victoria.rotaru@ombudsman.md>, Secretariat <secretariat@ombudsman.md>

Date: 08/02/2023 16:33 EET

Subject: Response to the request

Hi,

With this, on behalf of the Ombudsman and the Office of the Ombudsman, we present our greetings to the European Bureau for Conscientious Objection and hope this message finds you well.

Also, as a consequence of the letter sent by the institution you represent, the Ombudsman elaborated and attached the response based on the presented requests. We hope the information given by the People's Advocate Office will meet your expectations.

With respect,

Cu respect,
Dumitru DAREA

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European Bureau for Conscientious Objection (EBCO)

www.ebco-beoc.org

ebco@ebco-beoc.org

At No.	No. from
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Mrs. Alexia Tsouni
President of the European Bureau for
Conscientious Objection
ebco@ebco-beoc.org

Dear Madam President of EBCO,

Ref: to the request received on behalf of the European Bureau for Conscientious Objection regarding the presentation of information on the human rights of conscientious objectors to military service in the Republic of Moldova for the year 2022, for the annual report of EBCO "Conscientious Objection to Military Service in Europe 2022", the People's Advocate has examined this approach and communicates:

Ab initio, we mention that according to the provisions of art. 10, para. (2) and art. 31, para. (1) of the Constitution of the Republic of Moldova, the state recognizes and guarantees the right of all citizens to preserve, develop and express their ethnic, cultural, linguistic, and religious identity, a right that can only be restricted as an exception according to the Law. At the same time, based on the provisions of the Law no. 1245 of April 18, 2002, regarding the preparation of citizens for the defense of the Motherland, citizens of the Republic of Moldova, who have reached the age of 18, are incorporated into the military service within the term. They must be fit for military service and not benefit from deferments or exemptions for military service in the term.

At the same time, the Law provides that if young people study in gymnasiums, high schools, vocational schools, colleges or universities, academies, with any form of training, on the territory of the Republic of Moldova or other states, for the term established by study programs, their incorporation into military service in due course will be postponed.

Also, according to the Law no. 156 of July 6, 2007, regarding the organization of civil service (alternative), citizens of the Republic of Moldova have the right to replace military service within the term with civilian service if the performance of the military service within the duration contradicts his religious beliefs, pacifist, ethical, moral, humanitarian and in other similar cases.

Moreover, the duration of the civil service is 12 months, but for people with higher education, it is 6 months.

At the same time, following the Law no. 162/2005 regarding the status of the military, the military has the right, outside the time of fulfilling the obligations of the military service, to practice a religious cult recognized by the state and to participate in religious rituals. At the same time, the military's

adherence to religious cults is free, except for those that contradict the norms of maintaining public order and those that violate good morals or affect the fulfillment of military service obligations. During the completion of the responsibilities of military service, the soldier is prohibited from propagating any attitude towards religion.

Secundo, the Ombudsman highlights two problems from the year 2022 arising within the People's Advocate Office.

The first issue concerns the forced incorporation into the armed forces of people from the Transnistrian region (unrecognized separatist territory, part of the Republic of Moldova) whose conscience prevents them from taking part in military activities.

In fact, following the amendments of December 30, 2019, in the "Law of the Transnistrian unrecognized region regarding alternative civil service," priority is given to incorporation into alternative civil service within the armed forces units. Thus, persons who refuse armed service for religious reasons are incorporated into the civil service within the military units in the Transnistrian region. This fact goes against the religious beliefs of some denominations.

Thus, people who care for religious reasons have passed the training in civil protection training and the voluntary sanitary training of the Red Cross on the right side of the Dniester and are exempt according to art. 32 paragraph (1) point b) of the Law no. 1245 /20022 from the military service within the term, upon returning with permanent living in the Transnistrian region, ***they are forcibly conscripted into the "Transnistrian armed forces."***

Therefore, if the person for religious confessional reasons requests to perform alternative civilian service in civil institutions/organizations or refuses to perform alternative service as civilian personnel in military formations for confessional reasons, he risks being convicted according to the Transnistrian "criminal code."

Another case registered within the People's Advocate Office that requires increased attention is the Baranov case. The Ombudsman registered the request submitted by Mr. Vitalii Baranov (the father) in the interests of his son Maxim Baranov regarding the violation of the right to perform civil service instead of military service within the term, manifested by his incorporation under the conditions that he was a member of a militant religious community for peace. The Law allowed him to perform (alternative) civil service.

In this case, the People's Advocate sent a request based on art.23. para. 1 of Law 52/2014 to the Ministry of Defense for organizing the control of all the circumstances in order to be elucidated. Following the intervention of the People's Advocate, the responsible authorities suspended the decision of the recruitment-incorporation commission of the municipality of Chisinau regarding the incorporation of the recruit into military service. They released him from military service within the deadline.

We want to mention that in 2022, 325 citizens were incorporated into the civil service for pacifist reasons and 111 for religious reasons.

In the context of the above, with the aim of not admitting the situations in the future, the Ombudsman submitted his Opinion to the Minister of Defense with several recommendations:

Ministry of Defense:

- Elaboration of methodical instructions regarding the examination of applications related to the postponement of incorporation into military service in connection with the need to continue studies and regarding the replacement of military service in the term with civil service for reasons of conscience, in which the importance of detailed research of the particular situation of each person, enumerated the methods of investigation;
- Description of the measures to be taken by the recruitment-incorporation commission, the way to invite the person to the military center, the content of the invitation, indicate the deadlines and the body before which the recruits can appeal the decision of the commission the inclusion of the mention regarding the suspension of the incorporation decision during the examination appeal, indicating the recruit's right to be informed about the recruitment process in a language he understands.

State Commission for Incorporation:

- Complete and objective investigation of requests regarding the violation of the rights of individuals in the recruitment incorporation process, as well as appeals against the decisions of the recruitment-incorporation commissions;
- Alerting recruitment incorporation commissions about the importance of examining recruits' files separately, in detail, objectively, and thoroughly, according to the particular situation of each person, through the lens of respecting the rights guaranteed by Law, including the right to human dignity, education, freedom of thought and conscience and the right not to be subjected to arbitrary decisions by state bodies.

However, up to the current stage, concrete actions on the submitted Recommendations have yet to be carried out, and the Ombudsman Institution continues the monitoring process.

Finally, the Ombudsman notes that the recruitment-incorporation process should be carried out according to clear, transparent procedures that do not affect citizens' rights and legitimate interests in military custody.

Digitally signed by Panico Ceslav
Date: 2023.02.07 21:43:19 EET
Reason: MoldSign Signature
Location: Moldova



Your Sincerely,

Ceslav PANICO
People's Advocate (Ombudsman) of the Republic of Moldova