



The Institution of Human Rights Ombudsman of Bosnia and Herzegovina

NO: Oi-K-10/17

Date: 27 January 2017

**United Nations
Office of the High Commissioner of Human Rights**

Subject: Analysis of the issue of the Conscientious Objection in military service, new developments, best practices and remaining challenges in respect of the Human Rights Council Resolution 20/2 on "Conscientious objection to military service"

Re: Your letter dated 11 January 2017

Dear Madam or Sir,

As a reply to your letter dated 11 January 2017 in which you asked us to provide you with an analysis of the issue involving the conscientious objection in military service, new developments, best practices and remaining challenges in respect of the HRC Resolution 20/2, in respect of Bosnia and Herzegovina we can highlight the following:

Following the adoption of the Law on Service in Armed Forces of Bosnia and Herzegovina ("Official Gazette of Bosnia and Herzegovina", no.: 88/05, 53/07, 50/08, 59/09, 74/10, 42/12 and 41/16) in 2005 Bosnia and Herzegovina started with professional military service and abandoned the previous mandatory conscription.

Therefore, due to the fact that persons serving in the Armed Forces of Bosnia and Herzegovina (hereinafter referred to as: AF BiH) apply for service on their own free will, there was no registered cases of invoking the conscientious objection.

In respect of persons serving in the Armed Forces of BiH and their possibility to invoke the conscientious objection, we may say that, although this possibility has not been foreseen by law, in practice, this could be done. The Law on Service in Armed Forces of Bosnia and Herzegovina provides that persons contracting to serve in the Armed Forces of BiH may terminate their contract prior to the date mentioned in the contract.

Every year a number of persons terminate their contracts, mostly due to their finding of another job, so all those who would not want to serve because of conscientious objection, enjoy the equal opportunity to do it.

Another piece of legislation that could be relevant in this matter is the Law on Participation of Members of Armed Forces of Bosnia and Herzegovina, Police Officers, Civil Servants and Other Employees in Peace Support Operations and Other Activities Abroad ("Official Gazette of Bosnia and Herzegovina", no. 14/05) governing the participation of the Armed Forces of Bosnia and Herzegovina in the operation outside of Bosnia and Herzegovina where the current practice

indicates that only those who have expressed their interest take part in these operations. For that reason there were no reported cases of anybody refusing such participation based on the conscientious objection.

With regard to the issue of granting asylum to persons who may be subject to persecution in their countries due to their refusal to serve in the armed forces of their country because of conscientious objection, we can point out that so far we were not aware of such cases. We would like to mention that in respect to migration flows and processes Bosnia and Herzegovina is a transit country to Western Europe, so that a relatively small number of asylum seekers is present in Bosnia and Herzegovina. Institution of the Ombudsman monitors the status and rights of persons who are under international legal protection or who seek it, and our representatives are visiting the places provided for their stay.

According to our case-law no asylum seeker has ever asked for asylum based on the fear of being prosecuted because of their refusal to serve in the armed forces of their country due to the conscientious objection.

In case that the Ombudsman receives a complaint related to this, it will be tackled taking into consideration jurisprudence of the European Court of Human Rights, as well as international conventions, and various documents of international organizations relating to this topic, and if we find the grounds for such a complaint we will indicate this to the competent authorities.

Ombudspersons of Bosnia and Herzegovina:



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