



Resolution 1166 (1998)¹

Human rights of conscripts

Parliamentary Assembly

1. In most Council of Europe member states defence is based on national military service and the people's obligation to serve their country for a period limited by law. These conscripts, like all soldiers, must be regarded as citizens in uniform.²

2. As a result, conscripts should enjoy the same rights and fundamental freedoms, in particular those conferred by the European Convention on Human Rights, and enjoy the same legal protection as ordinary citizens. This does not preclude the possibility of states providing for restrictions on the exercise of these freedoms, if these are justified according to the specific circumstances or for maintaining military discipline, but they must be in strict respect of the Convention.

3. A hearing on the rights of conscripts, organised by the Committee on Legal Affairs and Human Rights in Helsinki on 4 July 1996, clearly showed that there are considerable differences between member states regarding the legal status of conscripts and the rights they enjoy. It revealed that in several countries the application of certain articles of the Convention is restricted in an unjustifiable manner and that conscripts do not enjoy their fundamental rights in the same way as ordinary citizens.

4. The Assembly considers that many of these restrictions on the exercise by conscripts of their civil rights are unacceptable. It therefore recommends member states to make changes in their legislation or practice if it is apparent that these cannot reasonably be regarded as being in conformity with the restrictions that the European Convention on Human Rights, and the case-law of the European Court of Human Rights, allow for.

5. The Assembly invites member states to promote the application of civil and social rights which conscripts should enjoy, certainly in peacetime and as far as possible also in time of war, and, if necessary, to amend their legislation to this end. It specifically invites them:

5.1. to ensure that the procedures before military courts, where these exist, fully conform with Articles 5 and 6 of the European Convention on Human Rights, and in particular to see that there are adequate channels for lodging complaints, that proceedings are fair, that the court is impartial and independent and that any arrest and detention of conscripts is carried out in a lawful manner;

5.2. to guarantee that conscripts are not deployed for tasks not compatible with the fact that they have been drafted for national defence service, and are therefore not deployed for forced or compulsory labour in contravention of Article 4 of the European Convention on Human Rights;

5.3. to prohibit restrictions on the rights of conscripts to free speech and to free assembly and association according to Articles 10 and 11 of the European Convention on Human Rights, as far as those restrictions are not strictly justified by the needs of military service;

5.4. to protect conscripts from torture, ill-treatment, bullying and other practices that could be considered as inhuman or degrading treatment or punishment, according to Article 3 of the European Convention on Human Rights.

1. Assembly debate on 22 September 1998 (26th Sitting) (see [Doc.7979](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Jurgens). Text adopted by the Assembly on 22 September 1998 (26th Sitting).

2. National military service (conscription) exists in most Council of Europe member states. It has been abolished or never existed in Belgium, Iceland, Ireland, Luxembourg, the Netherlands and the United Kingdom, among others. France and Spain will end conscription in 2002 and 2003 respectively.



6. It invites member states to establish civilian supervision over the situation of conscripts. In particular, it recommends the institution of a body or service specialised in military matters and endowed with powers of investigation and information.
7. The Assembly encourages states to favour the creation of conscripts' associations responsible for promoting the fundamental rights of conscripts, providing legal and judicial aid for them and defending their rights, and representing their interests before the authorities.
8. The Assembly notes that there are, unfortunately, situations and practices within the armed forces of certain member states which contravene the European Convention on Human Rights, especially with regard to fair trial, forced labour, free speech, free association, and the ill-treatment of recruits and conscripts. Cruel treatment of new conscripts by older servicemen in violation of the military code, such as cases of *dedovshchina*³ in Russia, also poses a serious problem. The Assembly urgently requests the states concerned to take the necessary measures to change these situations and practices without delay.
9. The right to conscientious objection should be respected in accordance with Assembly [Resolution 337 \(1967\)](#) and Recommendation No. R (87) 8 of the Committee of Ministers.

3. The sadistic bullying of recruits by the more senior soldiers.