



QUAKER COUNCIL FOR EUROPEAN AFFAIRS

The Right to Conscientious Objection in Europe: A Review of the Current Situation

Country Report: ARMENIA

Conscription

Conscription is enshrined in Article 47 of the 1995 Constitution and is further regulated by the 1998 Law on Military Service.

The length of military service is 24 months.

All men between the ages of 18 and 27 are liable for military service. Men who have the officer level and possess specific skills may be called up for service up to the age of 35.

Young men receive pre-draft instructions at the age of 16, according to which they are registered on the call-up list and must undergo medical examination. Call-up for military service takes place at the age of 18. There are two call-up periods per year, one during spring and one during autumn.

Since 2004, students can no longer postpone their military service. Consequently, young men have first to complete military service before they can start their university studies.¹

The Law on Military Service provides for reservist obligations up to the age of 55. However, since 1995 reservists have seldom been called up in practice.²

Since 1988, Armenia has been in conflict with Azerbaijan over the territory of Nagorny Karabakh. Since 1994 there has been a ceasefire and Nagorny Karabakh is de facto, an independent territory, maintaining close contacts with Armenia. However, the situation has remained tense ever since. Armenian conscripts may be deployed in Nagorny Karabakh and adjacent occupied territories in Azerbaijan.³

Statistics

The armed forces comprise 46,000 troops, including 34,900 conscripts. Every year, approx. 32,000 young men reach conscription age; approx. 60 per cent are recruited.

Conscientious objection

Legal basis

The right to conscientious objection is legally recognized with the Armenian Law on Alternative Service. The law was adopted by the Armenian Parliament in December 2003 and entered into force on 1 July 2004.

Before 2004, the right to conscientious objection was not legally recognized. Upon accession to the Council of Europe in 2001 the Armenian government committed itself to adopt legislation on conscientious objection within three years. Although the Armenian government has managed to introduce such legislation within this deadline, the Law on Alternative Service does not comply with international standards on conscientious objection.

Scope

The Law on Alternative Service does not clearly specify which grounds for conscientious objection are legally recognized. According to Article 3: "A citizen subject to compulsory

¹ Until 1998 university graduates could perform a reduced military service of 18 months.

² Netherlands Ministry of Foreign Affairs: Algemeen Ambtsbericht Armenie (country report), July 2004.

³ UNHCR Department of International Protection: International Protection Considerations Regarding Armenian Asylum-seekers and Refugees, Geneva, September 2003.

military conscription has the right to do alternative service, if the bearing, keeping, maintaining, and using of arms contradict his religious belief or convictions."

This wording suggests that only religious grounds for conscientious objection are legally recognized. The Head of the Armenian Delegation to the Council of Europe has, however, stated that civilian service will be open to COs who refuse military service for both religious beliefs and other convictions.⁴

As the Law on Alternative Service entered into force recently (1 July 2004), it remains to be monitored how the Armenian authorities will interpret the grounds for recognition in practice.⁵

Time limits

There is a strict time limit for submitting CO applications. According to Article 4 of the Law on Alternative Service, applications must be made prior to 1 March or 1 September preceding the date of the next draft. Applications can thus not be made by serving conscripts or reservists.

There are no legal provisions for the right to conscientious objection for professional soldiers.

Procedure

According to the Law on Alternative Service, applications must be made to the local military conscription committee (Ministry of Defence). The committee conducts a personal interview with the applicant, after which it makes a decision. If the application is rejected, the committee needs to inform the applicant of its decision within ten days (Article 10).

In October 2004, the Armenian government announced that it plans to create a special committee within the central army committee that will be responsible for deciding on CO applications. According to the Ministry, local conscription committees turn out to have insufficient expertise to decide on CO applications.⁶

If the application is rejected, there is a right to appeal to the republican military conscription committee (Ministry of Defence) within ten days of receiving the rejection. Afterwards, there is a right to appeal to the court within one month (Article 11).

Substitute service

The length of substitute service is 42 months. This is more than one and a half times the length of military service.⁷

Substitute service is administered by the Ministry of Defence. The Law on Alternative Service refers to substitute service as 'alternative labour service' that is to be performed outside the armed forces (Article 2). In addition, Article 16 stipulates that COs "cannot be appointed to posts designated for compulsory or contractual servants of the armed forces or other troops of the Republic of Armenia". However, the same Article states that COs "shall wear a uniform, the design and wearing procedure of which shall be defined by the Republic of Armenia government".⁸

The Law on Alternative Service does not specify exactly where substitute service may be performed. According to Article 14, the list of workplaces for substitute service is to be defined by the government. In October 2004, the government adopted Decree No. 940 on "Locations for alternative military service and alternative service uniform". According to this decree, substitute service may be performed in psychiatric hospitals, orphanages and clinics in the regions of Syunik, Gegharkunik and Tavush.⁹

The Law on Alternative Service does not contain provisions on reservist duties for COs, nor does it contain specific provisions on the right to conscientious objection during wartime.

⁴ Friedhelm Schneider: Armenian CO law slightly improved and passed - CoE reacts ambivalently, in: European Bureau for Conscientious Objection: The Right to Refuse to Kill, March 2004.

⁵ The actual wording of Article 3 is actually different from the draft law that was previously discussed in 2003. Under this draft law the right to conscientious objection only applied to members of registered religious organisations who forbid their members to bear arms.

⁶ Karine Mangasarian: Not many people desert from military service, YERKIR weekly, 29 October 2004, www.yerkir.am

⁷ The Law on Alternative Service also provides for a 36 months' unarmed military service within the armed forces.

⁸ The draft law that was previously discussed in 2003 did not clearly provide for a substitute service outside the armed forces.

⁹ Mangasarian (2004).

Practice

The Law on Alternative Service entered into force on 1 July 2004. So far, not many CO applications have been made. According to the Ministry of Defence, 20 CO applications were made during the autumn draft of 2004.¹⁰

So far, all CO applications have apparently been made by religious COs, in particular members of the Jehovah's Witnesses. At present, there are no known cases of non-religious COs applying for substitute service. Consequently, it remains unclear if CO applications that are made on non-religious grounds may be granted.

It is unclear to what extent substitute service has been organized in practice yet. By the end of 2004, all legal requirements to implement the Law on Alternative Service were reportedly in place.¹¹

No COs actually started performing substitute service during 2004. Following the introduction of Decree 940 in October 2004, some workplaces in civilian institutions are apparently available. According to the Armenian government, the first 20 COs will start their substitute service in the spring of 2005.¹²

Although the adoption of Decree 940 allows for a substitute service outside the armed forces, it remains to be monitored to what extent substitute service will be available in practice. The Ministry of Defence has regularly stated on several occasions that the model of civilian substitute service is not applicable in Armenia. The Ministry of Defence has previously stated that COs will serve in unarmed detachments within the armed forces, suggesting that members of religious denominations will serve together in specific units.¹³

Other sources have also expressed concern about the civilian nature of substitute service. According to the head of the Armenian branch of the Jehovah's Witnesses in October 2004, it is unclear what substitute service consists of and the authorities fail to inform COs about the content of substitute service. Some Jehovah's Witnesses have reportedly refused to perform substitute service for this reason.¹⁴

Consequently, it will need to be monitored closely to what extent substitute service will be available in practice for all COs.

The duration of substitute service (42 months) clearly does not comply with international standards on conscientious objection. In January 2004, the Parliamentary Assembly of the Council of Europe in fact denounced the length of substitute service as being "unacceptable and excessive" and called for a reduction of substitute service to 36 months. In October 2004, the Parliamentary Assembly again called upon the Armenian government to reduce the length of substitute service.¹⁵

However, the Armenian government has no intention of reducing the length of substitute service. The Armenian authorities have regularly defended their tough position on COs by claiming that Armenia cannot afford to introduce CO legislation that is more liberal than Azerbaijan, as long as the conflict over Nagorny Karabakh is not resolved.

Background

Ever since Armenia became an independent country in 1991, many COs have refused military service and applied for a substitute service outside the armed forces. They were mostly

¹⁰ Embassy of the USA, Yerevan: Daily Media Reviews, 11 December 2004, www.usa.am/mediareviews.html

¹¹ US State Department Bureau of Democracy, Human Rights and Labor: Country report on human rights practices 2004, 28 February 2005.

¹² Aghvan Vardanian (Ministry of Labour), quoted in: 'Alternative military service in Armenia', www.panarmenian.net, 17 November 2004.

¹³ Sedrak Sedrakyan (Head of the Legal Department of the Ministry of Defence), quoted in: Zhanna Alexanyan: Guns and God: State offers alternative to military service for those with religious objections, www.armenianow.com, 2 July 2004.

¹⁴ Emil Danielyan: Armenia Legalizes Jehovah's Witnesses, www.hra.am (Human Rights in Armenia), 12 October 2004.

¹⁵ Parliamentary Assembly of the Council of Europe, Resolution 1361, Honouring of obligations and commitments by Armenia, 12 January 2004. Parliamentary Assembly of the Council of Europe, Resolution 1405, Implementation of Resolutions 1361 (2004) and 1374 (2004) on the honouring of obligations and commitments by Armenia, 7 October 2004.

members of religious denominations who forbid their members to bear arms. Between 2000 and 2004, approx. 170 Jehovah's Witnesses have been imprisoned for refusing military service. In many cases they received the maximum sentence of two years' imprisonment for draft evasion. Upon accession to the Council of Europe in 2001, the Parliamentary Council called upon the Armenian authorities to release all imprisoned COs. The Armenian government did release 37 Jehovah's Witnesses in June 2001, but it continued to imprison new Jehovah's Witnesses afterwards. In June 2004, the Deputy Speaker of Parliament, Tigran Torosyan, declared that all imprisoned COs would be released from prison once the Law on Alternative Service entered into force.¹⁶ The Armenian government has, however, not done so. 10 COs remained imprisoned and 17 others were released to house arrest after serving one-third of their sentences.¹⁷

The Law on Alternative Civilian Service is not applied retroactively. Consequently, CO applications that are made by conscripts who have been called up before July 2004 are not taken into consideration. During 2004, several Jehovah's Witnesses were sentenced to imprisonment for refusing military service, most of them to 18 months' or two years' imprisonment under Articles 327 and 362 of the Criminal Code for draft evasion. By January 2005, 12 Jehovah's Witnesses are imprisoned and a further two are under arrest awaiting trial.¹⁸ They were actually called up for military service in May 2004 and all expressed their willingness to perform a substitute service outside the armed forces.¹⁹

Several Jehovah's Witnesses, after their release from prison as conscientious objectors to military service, have been refused identity documents (internal passports) because they have not been given a document of registration by the military commissariat. The identity documents are necessary for such things as employment or marriage. Some Jehovah's Witnesses have been refused residency registration, a requirement in Armenia.²⁰

Besides Jehovah's Witnesses, members of other religious denominations who forbid their members to bear arms (such as Seventh Day Adventists and Pentecostals) have also refused military service. They were often allowed to do an unarmed military service within the armed forces. In fact in 2001 the Ministry of Defence issued an internal instruction that allowed members of these denominations to perform unarmed military service.²¹

This internal instruction apparently did not apply to Jehovah's Witnesses. For years the Jehovah's Witnesses have, in fact, been denied official registration by the Armenian authorities. Their refusal to perform military service was believed to be one of the reasons for the denial of registration. In October 2004, Jehovah's Witnesses finally received state registration.

Before July 2004, there have been no known cases of non-religious COs demanding to perform a substitute service outside the armed forces. It is unlikely that they would have been allowed to perform unarmed military service, as the Armenian authorities have primarily treated the issue of conscientious objection in a religious context. Moreover, the internal instruction issued by the Ministry of Defence in 2001 only applied to members of certain religious organisations. Consequently, the only way in which non-religious COs could avoid military service was by bribing draft officials or by evading call-up.

As stated above, it remains unclear if the introduction of the Law on Alternative Service in 2004 has improved the position of non-religious COs, because it remains unclear if applications that are made on non-religious grounds are granted by the authorities.

¹⁶ Felix Corley: Imprisonment, no registration and no identity documents for JW's, Forum 18 News Service, 3 August 2004.

¹⁷ US State Department Bureau of Democracy, Human Rights and Labor: Country report on human rights practices 2004, 28 February 2005.

¹⁸ 'Imprisonment of conscientious objectors to military service', www.jw-media.org, 19 January 2005.

¹⁹ Corley (19 October 2004).

²⁰ Amnesty International: Europe and Central Asia. Summary of Amnesty International's Concerns in the Region, January-June 2004.

²¹ Parliamentary Assembly of the Council of Europe, Report of the Committee on the Honouring of Obligations and Commitments by Member States, Doc. 10027, 12 January 2004.

Draft evasion

Draft evasion is widespread, which is due to several factors. Conscripts face the risk of being sent to serve in Nagorny Karabakh or adjacent territories. Poor conditions and human rights violations within the armed forces lead to many casualties. For example: approx. 100 conscripts are believed to die annually from malnutrition, bullying and accidents.²²

Draft evasion is punishable under Article 327 of the 2003 Criminal Code with a fine of 300 to 500 times the minimum salary, with detention for a term of up to two months, or with imprisonment for a term of up to two years. In case of aggravating circumstances, such as inflicting body injuries or forging documents, the maximum imprisonment is between one and five years. Desertion is punishable under Article 362 with up to five years' imprisonment.²³

Those who are sentenced to less than two years' imprisonment often serve their sentences in so-called disciplinary battalions within the armed forces. Upon release, draft evaders and deserters are still liable to complete their term of military service.²⁴

The Armenian authorities maintain a strict monitoring of draft evasion. Men who do not respond to a call-up usually receive two written warnings first. If they do not respond to these warnings, the police may arrest them.²⁵ The Military Commission reportedly visits the home addresses of men who do not respond to a written warning, although such house searches are actually not allowed by law.²⁶

The authorities maintain surveillance on draft age men to prevent them from leaving the country. In addition, the Armenian government has made an agreement with the Russian authorities on the extradition of Armenian draft evaders who are living in the Russian Federation.

Detailed figures on the prosecution of draft evaders are not available. The Ministry of Defence has however stated that 16,000 cases of draft evasion were registered between 1991 and 2000.²⁷

According to the Ministry of Justice, between 2000 and July 2002, 207 young men were sentenced on the charge of avoiding conscription.²⁸

These figures indicate that the number of people who are prosecuted in connection with evading military service is, in fact, far larger than the known cases of imprisoned Jehovah's Witnesses.

In January 2004, the Parliamentary Assembly of the Council of Europe called upon the Armenian government to release all imprisoned COs.²⁹ In October 2004, the Parliamentary Assembly again called for an amnesty for conscientious objectors who are serving prison sentences and for the release of all those who are imprisoned because they refused to perform military service.³⁰ The Armenian authorities have clearly not followed up these resolutions, as is exemplified by the cases of Jehovah's Witnesses who have remained imprisoned in 2004. Details on others who have been convicted for evading military service are not known.

In March 2004, the Armenian government announced a limited amnesty for draft evaders. The amnesty allows draft evaders to buy off criminal prosecution on the payment of a sum of 3,500 USD, which is the equivalent of one year's salary for the average Armenian. The amnesty only applies to those who fled from Armenia before 1995. Between 1988 and 1994, when the armed

²² ACCORD/UNHCR: 8th European country of origin seminar, Vienna, 28-29 June 2002 (final report).

²³ During wartime higher terms of imprisonment apply. Despite the intensity of the conflict with Azerbaijan, Armenia has never been in an official state of war. (UNHCR 2003).

²⁴ Netherlands Ministry of Foreign Affairs (2004).

²⁵ Netherlands Ministry of Foreign Affairs (2004).

²⁶ ACCORD/UNHCR (2002).

²⁷ 'Armenian MP says draft dodgers to buy themselves out', Ayots Ashkar, 28 June 2001 (BBC Monitoring Service).

²⁸ 'Jehovah's Witnesses continue to face imprisonment for religious beliefs', www.armenianow.com, 20 December 2002.

²⁹ Parliamentary Assembly of the Council of Europe, Resolution 1361.

³⁰ Parliamentary Assembly of the Council of Europe, Resolution 1405.

conflict in Nagorny Karabakh was at its height, an estimated 16,000 men fled Armenia, many of whom were draft evaders and deserters.³¹

³¹ Haroutiun Khachatrian: Amnesty for cash for diaspora draft dodgers, Eurasia Insight, www.eurasianet.org, 8 January 2004.