



QUAKER COUNCIL FOR EUROPEAN AFFAIRS

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

Country Report: POLAND

Conscription

Conscription is enshrined in Article 85 of the 1997 Constitution and is further regulated by the 1999 Law on the Obligation to Defend the Republic of Poland.

The length of military service is 10 months, and 3 months for university graduates. Instead of performing military service, students may also participate in military training during their studies.

All men between the ages of 18 and 28 are liable for military service. Reservist obligations apply up to the age of 50, but in practice most conscripts are not called up for reservist training in peacetime.

During the past decade, in its attempts to comply with NATO standards, the Polish government has reduced the size of the armed forces and increased the number of professional soldiers. The number of conscripts in the armed forces has been reduced and will be further reduced in future. The duration of military service has been reduced and will be further reduced to 9 months in 2006.¹ There are no known plans to abolish conscription.

Statistics

The armed forces comprise 87,000 troops, including 39,000 conscripts. Every year, approx. 330,000 young men reach conscription age; approx. 20 per cent are recruited.

Conscientious objection

Legal basis

The right to conscientious objection has been legally recognized since 1988 and is included in Article 85 of the Constitution, according to which "Any citizen whose religious convictions or moral principles do not allow him to perform military service may be obliged to perform substitute service in accordance with principles specified by statute".

Its present legal basis is the new Law on Alternative Service, which entered into force on 1 January 2004.

The 1999 Law on the Obligation to Defend the Republic of Poland also contains provisions on conscientious objection.

Scope

Both religious and non-religious grounds for conscientious objection are legally recognized.

Time limits

There is a time limit for submitting CO applications. Applications can only be made before starting military service, at the latest by the time of receiving the call-up order for military service. Applications can thus not be made by serving conscripts or reservists.²

¹ The length of military service was reduced from 18 to 12 months on 1 January 2004, and from 12 to 10 months on 1 January 2005. ('Shape Up or Ship Out', www.warzawvoice.pl, 28 August 2003).

² Information provided by Amnesty International Polish Section, August 2004.

There are no legal provisions for conscientious objection for professional soldiers.³ According to the Polish government, professional soldiers who develop conscientious objection may seek to dissolve their employment contract without specifying the reason, with appropriate notice. If a soldier's contract is dissolved, he needs to repay an equivalent of the costs of accommodation, board and uniforms obtained during the period of studies or instruction.⁴

Procedure

Applications must be made to the local 'voivod' (local government) commission. The commission consists of five members, three of whom must be present in order to make a decision. At least two of the commission members are specialists in ethical or religious issues. The commission conducts a personal interview with the applicant, after which it makes a decision.

If the application is rejected, it is possible to make a new CO application within six months of the first decision. If the application is rejected again, an appeal can be made to the alternative service commission at a higher level and then to the administrative court.⁵

Substitute service

The length of substitute service is 18 months, and 6 months for university graduates.⁶

Substitute service is administered by the Ministry of Labour, in cooperation with local governments. It can be performed in government institutions in areas like health care, nursing, social work and environmental protection. Substitute service may also be performed with religious organisations that have received public benefit status, and with non-governmental organisations that have been approved by the Ministry.⁷

After completing substitute service, COs are not called up for reservist duties in peacetime. According to the 1999 Law on the Obligation to Defend Poland, the right to perform substitute service is suspended during wartime. Consequently, COs may be called up for military service during wartime.⁸

Practice

It is believed that in both 2003 and 2004 approx. 4,000 CO applications have been made. Exact figures are not available.

The Polish government has, in fact, given different statistics about the number of CO applications in recent years. The following table gives the number of CO applications and the number of granted applications in recent years. The first table is based on the figures provided in Poland's periodic report to the United Nations Human Rights Committee in 2004; the second table is based on information provided by the Polish government in August 2004.⁹

	Applications	Applications granted
2000	6,327	3,991
2001	4,410	2,848
2002	4,851	2,861

	Applications	Applications granted
2000	3,372	2,361
2001	3,147	2,243

³ Exercise of the right of conscientious objection to military service in Council of Europe member states, Report Committee on Legal Affairs and Human Rights, Doc. 8809 (Revised), 4 May 2001.

⁴ United Nations Human Rights Committee, Consideration of reports submitted by states parties under Article 40 of the Covenant, Fifth periodic report Poland (CCPR/C/POL/2004/5), 26 January 2004.

⁵ Amnesty International Polish section (2004).

⁶ In 1999, the length of military service was reduced from 18 to 12 months, but substitute service was only reduced from 24 to 21 months. The new 21/12 ratio, as well as the 18/10 ratio that has been in place since 2004, are thus far more punitive than the 24/18 ratio that was in place before 1999.

⁷ Amnesty International Polish section (2004).

⁸ Amnesty International Polish section (2004).

⁹ United Nations Human Rights Committee (CCPR/C/POL/2004/5). Information provided to Amnesty International Polish section by Polish Ministry of Interior, August 2004.

2002 3,153

2,394

As the statistics show, the Polish application procedure is rather strict and only approx. 60 per cent of applications are granted. This has been the case ever since the early 1990s. Considering the percentage of recognized CO applications, Poland has, in fact, the strictest application procedure of all European countries having CO legislation.

Until 2004 CO applications were decided on by a commission that consisted of both civilian and military members. Under the new Law on Alternative Service that entered into force in 2004, the commission no longer has military members. It is not yet clear if this means that applications will be granted more liberally.

There is a shortage of places where substitute service can be performed. This has actually been the case ever since substitute service became available in the early 1990s. In 2000, 1,420 COs were assigned to substitute service, 1,803 in 2001, and 1,780 in 2002.¹⁰

As these statistics show, the number of COs who are assigned to substitute service is far less than the number of recognized COs. Consequently, COs may have to wait for several years before they can start substitute service. According to the Polish government, by 31 December 2002 there were 9,181 COs waiting for an assignment to start their substitute service.¹¹ Eventually, they may also get exempt from service altogether or get transferred to the reserves.¹²

In November 2004, the United Nations Human Rights Committee called upon the Polish government to reduce the length of substitute service. The Committee noted that the duration of substitute service was 18 months, compared to 12 months' military service and stated that the Polish government "should ensure that the length of alternative service to military service does not have a punitive character".¹³

Background

In the past, Polish CO groups have regularly claimed that CO status is mostly granted to absolute pacifists and members of religious denominations who forbid their members to bear arms.¹⁴ During the 1990s there were dozens of Roman Catholic COs whose applications were rejected and who continued to refuse military service. They were sentenced to fines and imprisonment for "refusing to perform military service". The most recently known case occurred in 1998 when a CO was sentenced to six months' imprisonment. His CO application was rejected on the ground that the Roman Catholic religion does not constitute sufficient grounds for conscientious objection.¹⁵

Since 1999, there are no known similar cases of COs being imprisoned.

¹⁰ United Nations Human Rights Committee (CCPR/C/POL/2004/5).

¹¹ United Nations Human Rights Committee (CCPR/C/POL/2004/5).

¹² Amnesty International Polish section (2004).

¹³ United Nations Human Rights Committee, Concluding observations of the Human Rights Committee: Poland (CCPR/CO/82/POL/Rev.1), 5 November 2004.

¹⁴ Radek Rzehak (Amnesty International Poland CO group): Conscientious Objection to Military Service in Poland, Youth Action for Peace: Voluntary Service as a Tool for awareness raising about Conscientious Objection in East and West, Barcelona 21-26 February 2000 (seminar report).

¹⁵ Amnesty International: Marcin Petke, a possible prisoner of conscience (EUR 37/002/1998), Concerns in Europe January-December 1999 (EUR 01/001/2000).