



QUAKER COUNCIL FOR EUROPEAN AFFAIRS

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

Country Report: ROMANIA

Conscription

Conscription is enshrined in Article 55 of the Constitution, as amended in 2003, and is further regulated by the 1996 Law on the Preparation of the Population for Defence (46/1996).

The length of military service is 8 months, and 4 months for university and college graduates.¹ All men aged between the ages of 20 and 35 are liable for military service. Reservist obligations apply up to the age of 50.

The Romanian government has announced that it plans to abolish conscription in 2007. The transformation into fully professionalized forces in order to comply with NATO standards has been planned for some time. Since the 1990s, the size of the Romanian armed forces and the number of conscripts has been reduced significantly. In 2003 the Ministry of Defence announced that a bill had been drafted to gradually phase out conscription by 2007.² It is not known if and when this bill has been discussed by the Romanian Parliament. In 2003 the Constitution was in fact amended in order to allow for the abolition of conscription.³

Statistics

The armed forces comprise 97,000 troops, including 29,600 conscripts. Every year, approx. 170,000 young men reach conscription age; approx. 35 per cent are recruited.

Conscientious objection

Legal basis

The right to conscientious objection is regulated by the 1996 Law on the Preparation of the Population for Defence (1996/46) and the 1997 Government Decree 'As regards the way of execution of the alternative service law according to the provision of Article 4 from Law 46/1996' (618/1997).

Scope

Only religious grounds for conscientious objection are legally recognized. According to Article 4 of the 1996 Law: "Citizens who, for religious reasons, refuse military service under arms shall perform alternative utilitarian service, according to present law".

The grounds for recognition are further restricted by Article 6.3 of the 1997 Government Decree, which states that the right to conscientious objection only applies to "members of religious groups that do not allow the discharge of military service under arms".

The religious groups concerned are named in a list that is made by the State Secretariat for Religious Denominations. The list includes the Pentecostals, Adventists, Baptists, Seventh Day Adventists and Jehovah's Witnesses.⁴

¹ The length of military service was reduced from 12 to 8 months in 2003.

² "Romanian government to draft new bill on military service", www.setimes.com, 7 November 2003.

³ Article 55 of the Constitution now reads that "The terms for doing military service shall be set up in organic law". Previously, Article 51 read that "Military service is compulsory for all Romanian citizens". (Law No. 429/2003 on the Revision of the Constitution of Romania, www.cdep.ro)

⁴ UK Home Office Asylum and Appeals Policy Directorate: Country Assessment, April 2004.

Time limits

There is a strict time limit for submitting CO applications. Applications must be made within 15 days of receiving call-up papers. Applications can thus not be made by serving conscripts or reservists.⁵

Procedure

Applications must be made to the Ministry of Defence. The applicant must state in his application to which church or religious group he adheres. The Ministry of Defence checks the application with the State Secretariat for Religious Denominations. Applications are only granted if the mentioned religion is included in the government list.

If the application is rejected, there is no right to appeal with the civil court.⁶

Substitute service

The length of substitute service is 12 months, and 6 months for high school graduates. This is one and a half times the length of military service.⁷

Substitute service is administered by the Ministry of Defence. According to Government Decree 618/1997, substitute service can be performed in public institutions, independent administrations and trade companies working in social and medical assistance, industrial construction, and protection of the environment, agriculture and forestry (Article 2.2).

Practice

It is not known how many CO applications are made.

According to the Ministry of Defence, between 1991 and 1998, 1,670 conscripts had applied for an alternative service. Most of them were members of the Jehovah's Witnesses and other religious denominations who forbid their members to bear arms. Pending the introduction of Government Decree 618/1997, their call up for service was postponed, but they were supposed to be called up for substitute service by 1998. It is not known how many CO applications have been made since 1998, nor is it known how far substitute service has been organised in practice.

In 2000 there were 29 known cases of Jehovah's Witnesses who refused to perform substitute service. They had reservations about its length and nature as, at that time, substitute service lasted twice as long as military service. Moreover, they felt discriminated against because ordained priests of officially recognized religious organisations are legally exempt from military service.

Court rulings were inconsistent. Some of them were charged under Article 354 of the Criminal Code for failure to report for military service; some of them were acquitted. In October 2001, the Supreme Court ruled that the failure to report for substitute service is not provided for in the Criminal Code.⁸ Since this Supreme Court ruling there have been no new cases of Jehovah's Witnesses refusing to perform substitute service.

Some of the Jehovah's Witnesses concerned actually lodged a complaint with the European Court of Human Rights. They accused the Romanian authorities of discrimination because ordained ministers of officially recognized religious organisations are legally exempt from military service. Their cases are believed to be still pending.

There are no known cases of conscripts claiming the right to conscientious objection on non-religious grounds. Under the present legislation, they would clearly not be able to obtain CO status and they would not be allowed to perform substitute service.

⁵ Amnesty International: Conscientious objectors face imprisonment (EUR 39/06/00).

⁶ 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.

⁷ The length of substitute service was reduced in 2003. Before 2003, substitute service lasted twice as long as military service.

⁸ Amnesty International: Conscientious objectors face imprisonment (EUR 39/06/00), Concerns in Europe: January-June 2001 (EUR 01/003/2001), Concerns in Europe: July-December 2001 (EUR 01/002/2002).

The Romanian government has been under national and international pressure to recognize secular pacifist grounds for conscientious objection. In 1998 the National Coalition for Civil Service was formed. The Coalition is a network of youth and human rights organisations campaigning for CO legislation that complies with international standards. At the end of 1998, the Coalition had 70 member organisations representing 70,000 people.⁹

In 1999, the United Nations Human Rights Committee expressed its concern that Romania “did not provide for the right to conscientious objection without discrimination” and called upon the Romanian government to amend its practice.¹⁰

However, the Romanian government has never been willing to widen the grounds for recognition and include secular pacifist grounds for conscientious objection.

Consequently, the only way for non-religious COs to avoid military service is by bribing draft officials or by evading call-up. Draft evasion is punishable by a fine of between 500,000 and 3 million lei. Furthermore, failure to report for military service is punishable by one to five years’ imprisonment under Article 354 of the Criminal Code.¹¹

⁹ Alex Badinici (Youth Action for Peace Romania): The Beginning of the Conscientious Objectors Campaign in Romania, in: Youth Action for Peace: Voluntary Service as a Tool for awareness raising about Conscientious Objection in East and West, 21-26 February 2000 Barcelona, (seminar report).

¹⁰ United Nations Human Rights Committee: Concluding Observations of the Human Rights Committee. Romania (CCPR/C/SR.1777), 28 July 1999.

¹¹ UK Home Office (2004).

