



QUAKER COUNCIL FOR EUROPEAN AFFAIRS

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

Country Report: ESTONIA

Conscription

Conscription is enshrined in Article 124 of the 1991 Constitution and is further regulated by the 2000 Defence Forces Service Act.¹

The length of military service is 8 months, and 11 months for officers and conscripts serving in some specialist positions.

All men between the ages of 19 and 27 are liable for military service. After completion of military service, conscripts may be called up for reservist duties every five years.²

Statistics

The armed forces comprise 3,800 troops, including 1,500 conscripts. Every year, approx. 11,000 young men reach conscription age; approx. 15 per cent are recruited.

Conscientious objection

Legal basis

The right to conscientious objection is recognized in Article 124 of the 1991 Constitution, according to which: "Any person who refuses to serve in the Defence Forces for religious or ethical reasons shall be obligated to participate in alternative service, in accordance with procedures established by law".

The 2000 Defence Forces Service Act includes further provisions on conscientious objection and substitute service. The law requires the government to pass further legislation implementing the right to conscientious objection, but this has not happened.

The previous Military Service Act of 1994 contained similar provisions.

Scope

Both religious and non-religious grounds for conscientious objection are legally recognized. According to Article 4.1 of the Defence Forces Service Act: "A person eligible to be drafted who refuses to serve in the Defence Force for religious or moral reasons is required to perform alternative service pursuant to the procedure prescribed by law".³

Time limits

CO applications can only be made before starting military service.⁴ Article 76 of the Defence Forces Service Act mentions the option of a transfer from military service to substitute service, but there are no provisions for a transfer vice versa. Applications can thus not be made by serving conscripts or reservists.

¹ English translation of the Defence Forces Service Act, www.ensib.ee/toetused/Defence_Forces_Service_Act.html

² www.mil.ee (Ministry of Defence)

³ The previous 1994 Military Service Act also recognized both religious and ethical grounds for conscientious objection. (Council of Europe, Directorate of Human Rights: Compatibility of Estonian Law with the requirements of the European Convention on Human Rights, April 1997)

⁴ Rasmus Magi: The legal basis and practice of alternative service, Juridica Abstract 2001, no.5, Iuridum Foundation, Tartu, www.juridica.ee

There are no legal provisions for the right to conscientious objection for professional soldiers.⁵

Procedure

Written applications must be made to the national defence department (Ministry of Defence). The department may invite the applicant for a personal interview. If the application is rejected, there is a right to appeal with the Defence Forces Service commission or administrative court (Article 72).

Substitute service

The length of substitute service is 16 months. This is twice the length of military service.⁶ According to the Defence Forces Service Act, substitute service can be performed in "structural units in the area of government of the Ministry of Internal Affairs or the Ministry of Social Affairs and which are engaged in rescue, social care or emergency work" (Article 73). COs shall not against their will be required to handle weapons or other means of warfare (Article 76.1). After completion of substitute service, COs "shall be registered in the register of persons liable to service in the Defence Forces" (Article 78). Consequently, COs may still have to serve in the armed forces as reservists. Article 78 states that reservist duties should not violate the guarantees that are laid down in Article 76.1, which suggests that reservist duties of COs entail unarmed duties within the armed forces.

Substitute service is not available in practice. The Defence Forces Service Act requires the government to implement further regulations on the organisation of substitute service, but the government has not managed to do so. In fact, the previous 1994 Law on Military Service also required the government to pass further regulations on substitute service, but this never happened either.

Practice

The number of CO applications is believed to be low. The Estonian government stated in 1999 that less than 50 CO applications were made per year.⁷ In previous years, the number was similarly low. Between 1993 and 1995, only nine CO applications were made.⁸ Recent figures are not known, but the number is believed to be similarly low. There are no CO groups or human rights organisations campaigning on the issue. This may be explained by the fact that conscription is not enforced very strictly and only a small number of conscripts are actually needed by the armed forces.

It is not known how the application procedure functions in practice. Although the Defence Forces Service Act does not restrict the right to conscientious objection to religious grounds, the wording of Article 72.2 is confusing, as it states that the National Defence Department may make an inquiry to the religious organisation that is specified by the applicant. It is not known if this means that it is more difficult to obtain CO status on secular grounds.

As substitute service is not available in practice, most COs are in practice not called up to serve.⁹ According to the Estonian government, only 11 COs have ever performed substitute

⁵ 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.

⁶ Government Gazette 'Riigi teataja' I 2000, 63, 401. The length of substitute service was in fact increased in 2000. Before 2000, the length of substitute service was 15 months, compared to 12 months' military service. Article 74 of the Defence Forces Service Act envisages an even longer duration, stating that substitute service should be no longer than 24 months and not shorter than 16 months.

⁷ Council of Europe Committee on Legal Affairs and Human Rights (2001).

⁸ Figures provided by the Estonian Ministry of Defence, in: Tannert, C. & R. Bachmann: Military service and conscientious objection in Central and Eastern Europe in view of the extension of the European Union towards the East, Brussels, 1997.

⁹ Magi (2001). War Resisters' International: Refusing to bear arms - A world survey on conscription and conscientious objection to military service, 1998.

service. They were called up in 1996 and performed substitute service with the Estonian Rescue Board.¹⁰

¹⁰ United Nations Human Rights Committee, Consideration of reports submitted by states parties under article 40 of the Covenant: Addendum Estonia (CCPR/C/EST/2002/2), 27 May 2002.