



## QUAKER COUNCIL FOR EUROPEAN AFFAIRS

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

#### Country Report: ALBANIA

##### Conscription

Conscription is included in Article 166 of the 1998 Constitution. It is further regulated by the Law on Military Service in the Armed Forces (7526/1991), Law 7978/1995 and the Law on Military Service (9047/2003).<sup>1</sup>

The length of military service is 12 months, and 6 months for university graduates.<sup>2</sup>

All men between the ages of 19 and 32 are liable for military service. Reservist obligations apply up to the age of 55.<sup>3</sup>

It is possible to buy oneself out of military service by paying a sum of money, the amount of which is to be determined by the government (Law 7987/1995, Article 15). At present the sum is set at 300,000 lek<sup>4</sup>, the equivalent of approx. 2,400 Euros. As such a sum is well beyond the means of most young men, buying oneself out of military service is not a realistic option for most men.

##### Statistics

The armed forces comprise 22,000 troops. The number of conscripts in the armed forces is not known. Every year approx. 37,000 young men reach conscription age.

##### Conscientious objection

###### Legal basis

In 1998, the right to conscientious objection was included in the new Constitution. According to Article 166 of the 1998 Constitution: "The citizen who for reasons of conscience refuses to serve with weapons in the armed forces, is obliged to perform an alternative service, as provided by law". Article 167 further stipulates that citizens performing alternative service "enjoy all the constitutional rights and freedoms, apart from cases when the law provides otherwise".

Provisions on conscientious objection are included in the 2003 Law on Military Service (Law 9047/2003), but it is not clear to what extent these provisions have been implemented.

Consequently, it is not clear if there are application procedures for claiming the right to conscientious objection and if substitute service has been organised in practice.

Before 2003 there were no legal provisions for conscientious objection.

###### Scope

According to the Constitution and the Law on Military Service, both religious and non-religious grounds for conscientious objection are legally recognized. According to the Albanian

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<sup>1</sup> United Nations Human Rights Committee, Consideration of reports submitted by states parties under Article 40 of the Covenant: Initial report Albania (CCPR/C/ALB/2004/1), 16 February 2004.

<sup>2</sup> According to the website of the Ministry of Defence, university graduates may perform a six months' military service ('Recruitment for the completion of military service'), [www.mod.gov.al](http://www.mod.gov.al). According to another source, the Albanian Parliament decided in 2003 that university graduates need to complete one month of military service. ('Albanian Parliament approves amended law on military service', Albanian Radio, 10 July 2003, BBC Monitoring Service)

<sup>3</sup> [www.mod.gov.al](http://www.mod.gov.al)

<sup>4</sup> [www.mod.gov.al](http://www.mod.gov.al)

government in 2004, the Law on Military Service ensures that citizens “who for religious or conscience reasons may not serve armed in the military forces” may fulfil substitute service.<sup>5</sup>

### **Time limits**

It is not known if there are any legal time limits for submitting CO applications.

### **Procedure**

According to the Law on Military Service, CO applications are decided on by a commission of the Ministry of Defence.<sup>6</sup>

According to a media report of August 2003, CO applications are to be decided on by a commission consisting of representatives of several ministries, including the Ministry of Defence, and representatives of religious organisations.<sup>7</sup> The inclusion of representatives of religious organisations in the commission seems to suggest that religious grounds for conscientious objection may be treated favourably. However, it is not known if this commission has actually been set up nor is it known how the grounds for recognition are interpreted in practice.

### **Substitute service**

According to the Law on Military Service, the length of substitute service is 12 months, which is the same length as military service.<sup>8</sup>

According to the Law on Military Service, substitute service is administered by the Ministry of Defence and the Ministry of Labour & Social Affairs and it may be performed in hospitals, social work, humanitarian organisations, environmental protection or fire-fighting.<sup>9</sup>

### **Practice**

As outlined above, it is not clear how far the application procedure is actually functioning. Substitute service does not seem organised in practice yet.<sup>10</sup>

The right to conscientious objection does not seem widely known about in Albania. Since the legal provisions on conscientious objection were introduced in 2003, not many CO applications have been made. The first four CO applications were reportedly made in June 2004.<sup>11</sup> It is not known if these applications have been accepted and it is not known if these COs have been called up to perform substitute service.

During the 1990s there were several cases of Jehovah’s Witnesses who refused to perform military service. Some were sentenced for failure to respond to call-up for military service, which is punishable under Article 16 of the 1995 Military Criminal Code with a fine or up to two years’ imprisonment. By 2000, there were 14 known cases of Jehovah’s Witnesses who had refused to perform military service. Three of them were sentenced to six months’ imprisonment for draft evasion. On release, they were called up again and again refused to serve.<sup>12</sup>

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<sup>5</sup> United Nations Human Rights Committee (CCPR/C/ALB/2004/1).

<sup>6</sup> ‘Conscientious objection in Albania’, in: European Bureau for Conscientious Objection, The Right to Refuse to Kill, December 2004.

<sup>7</sup> Amnesty International: Concerns in Europe and Central Asia July-December 2003 (EUR 01/001/2004).

<sup>8</sup> European Bureau for Conscientious Objection (2004).

<sup>9</sup> European Bureau for Conscientious Objection (2004). United Nations Human Rights Committee, Consideration of Reports submitted by states parties under Article 40 of the Covenant: Initial Report Albania, Summary record of the 2230th meeting (CCPR/C/SR.2230), 25 October 2004.

<sup>10</sup> During the United Nations Human Rights Committee discussion on Albania’s state report in October 2004, the Albanian delegation did not clarify if substitute service was available in practice, but only mentioned that the Constitution allowed COs to perform substitute service (United Nations Human Rights Committee CCPR/C/SR.2230).

<sup>11</sup> European Bureau for Conscientious Objection (2004).

<sup>12</sup> 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.

Since 2000, there have been no known cases of Jehovah's Witnesses being imprisoned for refusing military service.<sup>13</sup>

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<sup>13</sup> During the United Nations Human Rights Committee's discussion on Albania's state report in 2004, one committee member asked if certain COs, such as Jehovah's Witnesses, had been sentenced to prison terms. This question was, in fact, not answered by the Albanian delegation. (United Nations Human Rights Committee CCPR/C/SR.2230)