



QUAKER COUNCIL FOR EUROPEAN AFFAIRS

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

Country Report: NETHERLANDS

Conscription

In 1992 the Dutch Parliament decided to suspend conscription. The last conscripts were called up for military service in 1996. Since January 1997 the armed forces consist of professional soldiers only.

Conscription is still included in Article 97 of the Constitution, according to which: "All Dutch nationals who are capable of doing so shall have a duty to cooperate in maintaining the independence of the state and defending its territory... This duty may also be imposed on residents of the Netherlands who are not Dutch nationals". According to Article 98: "To protect its interests, the State shall maintain armed forces which consist of volunteers and which can also consist of conscripts... Compulsory service in the armed forces and the power to postpone the call-up in active service shall be regulated by an Act of Parliament".

With the suspension of conscription in 1997 the Law on Conscription was amended. Young men are still registered for military service at the age of 17. They receive a notice of registration from the Ministry of Defence, but they are not called up for medical examination or military service.

Conscription may be re-enforced during wartime or time of emergency. In that case, all registered conscripts up to the age of 45 may be called up for military service.¹

Conscientious objection

The right to conscientious objection has been legally recognized since 1920. Its further legal basis was laid down in the 1962 Law on Conscientious Objection.

During the 1980s, approx. 3,000 CO applications were made per year, which was approx. 8 per cent of eligible conscripts. During the last years of conscription the number of COs actually increased, as many applicants tried to delay their call-up for service hoping that they would not be called up at all.²

The right to conscientious objection is included in Article 99 of the Constitution, according to which: "The conditions on which exemption is granted from military service because of serious conscientious objection shall be specified by Act of Parliament".

Following the suspension of conscription in 1997, the Law on Conscientious Objection was amended.³

When conscription applied, CO applications could only be made after medical examination. Consequently, only conscripts who were declared fit for military service were able to make a

¹ European Bureau for Conscientious Objection/Heinrich Böll Foundation: European Union without compulsory military service - Consequences for alternative service, 2000.

² European Bureau for Conscientious Objection/Heinrich Böll Foundation (2000).

³ Wet van 22 mei 2003 tot wijziging van de wet gewetensbezwaren militaire dienst in verband met de kaderwet dienstplicht, Staatsblad van het Koninkrijk der Nederlanden 255, 2003.

CO application. Following the suspension of conscription, young men are no longer called up for medical examination. This means that young men have no possibility of making a CO application, although all registered conscripts may be called up for military service if conscription is re-established.

In the late 1990s, Dutch peace groups started a campaign to enable people to be registered as conscientious objectors during peacetime. During the discussion on the Law on Conscientious Objection by the Parliamentary Defence Commission in 2002, several political parties in fact called upon the Ministry of Defence to enable men to claim the right to conscientious objection during peacetime. However, the Ministry of Defence did not want to introduce such a register. The Ministry considered it to be too expensive to make the necessary administrative efforts to set up such a register.

Since the suspension of conscription, one conscript has actually tried to obtain recognition as a conscientious objector. After receiving information about his registration, he made a CO application to the Ministry of Defence. His application was, however, not taken into consideration by the Ministry.⁴

Professional soldiers

The Law on Conscientious Objection applies to both conscripts and contract soldiers. According to Article 3, reasons of conscientious objection by both conscripts and the military may be considered by the Ministry of Defence as deep and profound.

It is not known if there is an application procedure for professional soldiers who wish to be discharged from the armed forces because of conscientious objection. It is believed that, in the past, several professional soldiers who asked to be discharged from the armed forces because of conscientious objection were granted honourable leave.⁵ There are no known recent cases of professional soldiers seeking discharge because of conscientious objection.

According to the Ministry of Defence in 2004, professional soldiers who have conscientious objection to particular campaigns of the armed forces, for example deployment in Iraq, do not have the right to claim conscientious objection to participation in these particular campaigns. According to the Ministry, professional soldiers who have conscientious objection to a particular army campaign may only seek discharge from the armed forces.⁶

⁴ State Secretary of Defence: Voorstel van wet houdende wijziging van de Wet Gewetensbezwaren militaire dienst in verband met de Kaderwet Dienstplicht (25 990), 23 November 2002.

⁵ War Resisters' International: Refusing to bear arms - A world survey on conscription and conscientious objection to military service, 1998.

⁶ Information provided by the Netherlands Ministry of Defence, November 2004.