



QUAKER COUNCIL FOR EUROPEAN AFFAIRS

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

Country Report: UKRAINE

Conscription

Conscription is enshrined in Article 65 of the 1996 Constitution and is further regulated by the 1999 Law on Military Duty and Military Service.

The length of military service is 18 months, 24 months in the navy, and 12 months for those who have completed higher education. The Ministry of Defence has announced that the length of service will be reduced to 12 months in 2005.¹

All men between the ages of 18 and 25 are liable for military service. Reservist obligations apply up to the age of 40, and up to the age of 60 for officers.²

Upon gaining independence in 1991, Ukraine inherited the second largest armed forces in Europe, having 750,000 troops, most of them conscripts. The Ukrainian government has embarked on a transition plan to a professional army. The government aims to gradually increase the number of professional soldiers in the armed forces and to abolish conscription by 2015.³ However, the transition into a professional army does not seem to have developed as scheduled, as the Ukrainian armed forces seem to have problems attracting sufficient contract soldiers.⁴

Statistics

The armed forces comprise 300,000 troops, including 250,000 conscripts. Every year approx. 380,000 young men reach conscription age; approx. 20 per cent are recruited.

Conscientious objection

Legal basis

The right to conscientious objection is enshrined in Article 35.3 of the 1996 Constitution, according to which: "If performance of military service is contrary to the religious beliefs of a citizen, the performance of this duty shall be replaced by alternative (non-military) duty".

Further regulations on conscientious objection are laid down in the 1999 Law on Alternative Civilian Service. The Law replaced the previous 1992 law.⁵

Scope

The right to conscientious objection only applies to members of officially registered religious denominations who forbid their members to bear arms. According to Article 2 of the Law on Alternative Civilian Service: "Citizens of Ukraine who have genuine religious beliefs, who are members of religious organisations which conform to the legislation, and whose confessional

¹ Representative of Ministry of Defence, quoted in: 'Defence Ministry says some 50,000 dodging conscription in Ukraine', Unian, 2 April 2004. In the past, the Ukrainian government has also announced a reduction of the length of military service, but it did not implement this.

² 'Military status there will be more contracts in the army', Rabochaya Gazeta (Kiev), 11 August 1999.

³ Ministry of Defence: The state programme of the Ukrainian armed forces reform and development until 2005, www.mil.gov.ua

⁴ 'Autumn draft campaign', Kiev Narodni Armiya, 2 October 2003.

⁵ United Nations Human Rights Committee, Consideration of Ukraine's periodic report to the Human Rights Committee (CCPR/C/UKR/99/5), 16 November 2000.

beliefs do not allow them to use arms and serve in the military force, are accorded the right to alternative service”.

The respective religious organisations are listed in the “List of religious organisations, whose doctrine prohibits using weapons” (Resolution 2066/1999), which replaced a previous list of 1992 (Government Decree 360/1992). The list includes Seventh Day Adventists, Baptists, Adventists-Reformists, Jehovah’s Witnesses and the Charismatic Christian Church.⁶

Time limits

There is a time limit for submitting CO applications. Applications must be made within six months of receipt of call-up papers. Applications can thus not be made by serving conscripts and reservists.

Procedure

Applications must be made to the alternative service committee at the regional office of the Ministry of Labour & Social Policy. The committee consists of representatives of different government structures, including the armed forces and the committee for religious affairs. Applications must include a document signed by a religious minister of a denomination that is included in the government list of 1999. The committee checks the authenticity of the documents and may ask for additional information. Usually, no personal interview takes place.⁷

Substitute service

The length of substitute service is 27 months, and 18 months for those who have completed higher education. This is one and a half times the length of military service.⁸

Substitute service is administered by the Ministry of Labour & Social Policy. It can be performed in government institutions, such as health care, social welfare and municipal projects. Substitute service may not be performed with non-governmental organisations, with the exception of the Ukrainian Red Cross.⁹

According to a Ukrainian human rights organisation, most COs are employed by local governments as street sweepers and construction workers.¹⁰ Working conditions may be harsh and payment is low. According to the secretary of the alternative service committee, this is done deliberately: “Since it is impossible to have a board of experts verify one’s true beliefs, the law provides conditions in which these beliefs can be put to the test”.¹¹

Human rights groups have repeatedly claimed that COs, as well as conscripts in the armed forces, are commonly employed to refurbish and build private houses for army and government officials.¹²

Practice

In 2002, 2,864 COs were performing substitute service. All of them were members of a religious organisation that is included in the government list of Resolution 2066/1999.¹³

As the Law on Alternative Civilian Service explicitly restricts the right to conscientious objection to religious grounds, non-religious COs have no chance of obtaining CO status.

In 2001, the United Nations Human Rights Committee in fact called upon the Ukrainian government to “widen the grounds for conscientious objection in law so that they apply,

⁶ Inna Sukhorukova: Absence of a law does not free one from its execution, Prava Ludny 08/2002, Informative Bulletin of the Kharkiv Group for Human Rights Protection, www.khpg.org.

⁷ Mykhailo Zubar: If one’s convictions preclude service in the army, there is an alternative’, The Day, August 2002, www.day.kiev.ua/DIGEST/2002/08/1-page/1p1.htm

⁸ In 1999, the length of substitute service was reduced from 36 months (twice the length of military service). It is not known if the planned reduction of the length of military service in 2005 will mean that the length of substitute service will be reduced accordingly.

⁹ Zubar (2002).

¹⁰ Sukhorova (2002).

¹¹ Zubar (2002).

¹² US State Department: 2001 Country Report on Economic Policy and Trade Practices.

¹³ Zubar (2002).

without discrimination, to all religious beliefs and other convictions and that any alternative service required for conscientious objectors be performed in a non-discriminatory manner".¹⁴

The Ukrainian government is, however, not known to be considering widening the grounds for recognition. Consequently, non-religious COs can only avoid military service by bribing draft officials or by not responding to call-up orders.

There is one known case of a conscript who openly declared himself as a CO for secular pacifist reasons. In 2000, Andrij Tvardijevych did not respond to his call-up order. When he found out that he would be prosecuted, he told the prosecutor he refused military service for secular pacifist reasons. In July 2000, he was fined 530 Hrivnas and sentenced to one year's provisional imprisonment under Article 72 of the Criminal Code for evading military service.¹⁵

Draft evasion

Draft evasion is punishable under Article 72 of the Criminal Code with one to three years' imprisonment.

Draft evasion is widespread in the Ukraine. According to the Ukrainian Ministry of Defence in April 2004, between 1996 and 2004 48,624 cases of draft evaders aged 18 to 25 had been sent for prosecution to the Ministry of Justice.¹⁶ It is not known how many draft evaders have been prosecuted by the Ministry of Justice.

¹⁴ United Nations Human Rights Committee, Concluding observations of the Human Rights Committee: Ukraine (CCPR/CO/73/UKR), October 2001.

¹⁵ Amnesty International: Concerns in Europe: July - December 2000 (EUR 01/001/2001). Friends of Andrij Tvardijevych: A CO needs help, Rundbrief KDV im Krieg, September 2000, Connection e.V., Offenbach.

¹⁶ 'Ministry says some 50,000 dodging conscription in Ukraine', Unian, 2 April 2004.