



QUAKER COUNCIL FOR EUROPEAN AFFAIRS

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

Country Report: MOLDOVA

Conscription

Conscription is enshrined in Article 57 of the 1994 Constitution and is further regulated by the 2002 Law on Preparation for Defence.¹

The length of military service is one year, and three months for university graduates.²

All men between the ages of 18 and 27 are liable for military service. There are two drafting periods per year, during spring (May-June) and during autumn (November-December).

Apart from medical and social reasons, exemption is possible for students who have served in military departments at education institutes. This possibility was introduced in 2002, when education institutes were allowed to set up military departments. Such departments did in fact exist when Moldova was still a part of the former Soviet Union, but they were abolished in 1992.³

In 2001 the Ministry of Defence proposed a draft bill that provided for the abolition of conscription. The bill was discussed by the Moldavian Parliament, but it was rejected. A majority in Parliament considered it to be too expensive to replace all conscripts by professional soldiers.⁴

Statistics

The armed forces comprise 6,900 troops, including 5,200 conscripts. Every year approx. 38,000 young men reach conscription age; approx. 15 per cent are recruited.

Conscientious objection

Legal basis

It is unclear how far the right to conscientious objection is legally recognized.

In 1991, the Moldavian Parliament adopted the Alternative Service Act. According to Article 3, citizens have the right to refuse the performance of military service because of their religious or pacifist beliefs, and must in this case perform alternative service.⁵

It is unclear if the Alternative Service Act has been in place ever since 1991. According to several sources, the Alternative Service Act is inapplicable in practice and the law does not provide for clear procedures whereby one can apply for substitute service. It is believed that at least during the late 1990s the law no longer applied.⁶

According to the Law on Preparation for Defence that was adopted in 2002, the Alternative Service Act will be abrogated and alternative service will in future be regulated by a separate

¹ 'Parliament cuts mandatory military service down to 12 from 18 months', BASA-Press, www.azi.md, 19 July 2002.

² The length of military service was reduced from 18 months in 2002.

³ UK Home Office Country Information and Policy Unit: Country Report, April 2004.

⁴ 'Moldavian Parliament rejects bill on contract military service', Infotag News Agency, 26 April 2001 (BBC Monitoring Service).

⁵ United Nations Human Rights Committee, Consideration of reports submitted by States parties to Article 40 of the Covenant: Republic of Moldova (CCPR/C/MDA/2000/1), 8 August 2001.

⁶ Association for Participatory Democracy (ADEPT): Parliament Activity Review July 15-19, 2002, www.e-democracy.md. Centre for Human Rights in Moldova, 1999, www.iatp.md/cpdom/en/military.htm

government resolution.⁷ The Moldavian government announced in 2002 that it would introduce a separate law on conscientious objection in the future.⁸

By 2004, no new law on conscientious objection is known to have been introduced. Different reports, however, suggest that the Law on Alternative Service is still in place (see: **Practice**).

Provisions for the right to conscientious objection are also laid down in the Law on Religion. According to Article 5, citizens who cannot fulfil military service because of confessional reasons may perform an alternative service. The Law on Religion further states that the details of alternative service are to be laid down in the Law on Alternative Service.⁹

Practice

According to a report published by the United Nations High Commissioner for Human Rights in 2003, CO applications are accepted without further inquiry.¹⁰ This is, however, not in line with actual practice, as described by several sources.

According to Artur Visotin (Head of the Alternative Service Department) in 2003, applications for alternative service must include a proof of membership of a religious organisation that forbids its members to bear arms. Applications are decided on by a recruitment commission (Ministry of Defence) and need to be made before the start of the drafting period, which suggests that applications cannot be made by serving conscripts.¹¹

According to the Head of the Alternative Service Department, the following number of applications was made during recent drafting periods:

	Applications	Granted
Autumn 2002	1,675	1,317
Spring 2003	1,436	1,213
Autumn 2003	796	unknown

According to the Ministry of Defence, 1,625 conscripts were assigned to alternative service during the autumn draft of 2004.¹²

It is not known which criteria the recruitment commission uses to decide on applications. The requirement to prove membership of a religious organisation obviously means that only members of certain religious denominations can be granted CO status. This is in clear contradiction with Article 3 of the Alternative Service Law, which does not restrict the right to conscientious objection to religious grounds.¹³

⁷ Association for Participatory Democracy (2002).

⁸ BASA-Press (19 July 2002).

⁹ Olivier de Schutter (University of Louvain): Expert opinion on the conformity of the Law on Religion of the Republic of Moldova with the European Convention on Human Rights, Council of Europe, SG/Inf (2002) 30, 18 September 2002.

¹⁰ This is the conclusion drawn by the United Nations High Commissioner based on a Moldavian government response. As the text of the government response is not publicly available, it is not known which information the Moldavian government submitted. (United Nations Commission on Human Rights, Civil and Political rights, including the question of conscientious objection to military service, report of the Office of the High Commissioner for Human Rights (E/CN.4/2004/55), 16 February 2004).

¹¹ 'Alternative service becomes less attractive', BASA-Press, www.azi.md, 5 November 2003.

¹² '2004 Autumn Military Draft Gets Underway', Infotag News Agency, www.azi.md, 2 November 2004.

¹³ During the discussion on Moldova's periodic report with the United Nations Human Rights Committee in 2002, when asked if only religious grounds for conscientious objection are legally recognized, the Moldavian delegation answered that pacifism constituted grounds for conscientious objection. The delegation member added that he needed to contact the relevant authorities for further details on the grounds for recognition (United Nations Human Rights Committee, Summary record of the first part (public) of the 2030th meeting: Republic of Moldova (CCPR/C/SR.2030), 25 July 2002).

It is not known of which religious denominations one must be a member in order to be able to obtain CO status. According to one source, members of ten out of the nineteen religions that are registered in Moldova may be recognized as COs.¹⁴

Many young men reportedly specifically join certain religious organisations in order to avoid military service. In fact, the government has reacted to this phenomenon and has forbidden young men to join religious pacifist organisations during drafting periods (May-June and November-December).¹⁵

Substitute service

Moldova's concept of substitute service is different from other European countries. There is no substitute service available which is comparable with other countries. Instead, COs may continue their regular jobs and pay 25 per cent of their salaries to the state.¹⁶ It is not known what consequences this has for students or unemployed people and if this limits their right to conscientious objection.

It is unclear for how long the obligation to pay 25 per cent of one's salary to the state lasts. According to the Law on Alternative Service, the duration of alternative service is 24 months. Most sources in fact maintain that the length of substitute service is 24 months.¹⁷ However, the Moldavian government stated in 2002 that the length of alternative service is 12 months, which is the same length as military service.¹⁸

TRANSNISTRIA

In 1991 separatist groups in Transnistria declared a 'Dniester Republic' between the Dniester River and Ukraine. It declared independence from Moldova in 1991, but it has not been internationally recognized.

The Dniester Republic has its own armed forces and conscription system. Conscription is enshrined in Article 48 of the Constitution, according to which "Defence of the Pridnestrovskaya Moldavskaya Respublika is a sacred duty for everybody". The 2000 Law on Universal Military Service requires men over the age of 18 to undertake military service for 18 months.¹⁹ All residents of Transnistria are allegedly obliged to serve in the Transnistrian army, including those who have citizenship of another country.

There are no legal provisions for conscientious objection and substitute service.²⁰

¹⁴ Ilona Kiss: Rights of conscripts in peacetime: Obstacles to and opportunities for providing judicial and non-judicial remedies in East European and Central Asian countries, Geneva Centre for the Democratic Control of Armed Forces (DCAF), Working Paper Series No.62, August 2002.

¹⁵ Kiss (2002). Liliana Gurez: Dedovhtschina - The fear of Moldavian recruits!, www.azi.md, 31 March 2003.

¹⁶ BASA-Press (2 November 2003). War Resisters' International (1998).

¹⁷ UK Home Office (2004). BASA-Press (2 November 2003). According to the Moldovan mission to NATO in 2004, COs undertake alternative civil service for 24 months in state institutions and special units (Coalition to Stop the Use of Child Soldiers: Child Soldiers Global Report 2004).

¹⁸ Information provided by the Moldovan delegation to the United Nations Human Rights Committee (United Nations Human Rights Committee CCPR/C/SR.2030).

¹⁹ Coalition to Stop the Use of Child Soldiers (2004).

²⁰ UK Home Office (2004).