



QUAKER COUNCIL FOR EUROPEAN AFFAIRS

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

Country Report: BULGARIA

Conscription

Conscription is enshrined in Article 59.1 of the 1991 Constitution. It is further regulated by the 1995 Law on Defence and Armed Forces.

The length of military service is 9 months, and 6 months for university graduates.¹

All men between the ages of 18 and 30 are liable for military service. Reservist obligations apply up to the age of 55.

During the last decade, the Bulgarian armed forces are being reformed and transformed to comply with NATO standards. No decision has been made on the abolition of conscription, but the government has announced a reduction of the length of military service to just 45 days by 2010. According to the Ministry of Defence, there is even a chance that a 45 day military service will be introduced before 2010.²

Statistics

The armed forces comprise 51,000 troops, including conscripts. Every year, approx. 53,000 young men reach conscription age.

Conscientious objection

Legal basis

The right to conscientious objection is included in Article 59.2 of the 1991 Constitution, according to which: "The carrying out of military obligations, and the conditions and procedure for exemption there from or replacing them with alternative service, shall be established by law."

Further provisions on conscientious objection are laid down in the 1998 Law for Replacement of Military Obligations with Alternative Service. The Law has been amended several times.

Scope

Both religious and non-religious grounds for conscientious objection are legally recognized. According to Article 3 of the 1998 Law: "All Bulgarian male citizens, liable to conscription for military service, have the right to apply for replacement of their military obligations with an alternative service as a practice of their constitutional right of freedom of conscience, freedom of thought and free choice of religion if they do not want to serve with arms."

Time limits

There is a time limit for submitting CO applications, as applications can only be made before starting military service. Applications can thus not be made by serving conscripts and reservists.

¹ The length of military service was reduced from 18 months in 1997 and from 12 months in 2000.

² 'Military service will be just 45 days in 2010', The Sofia Independent, 28 July 2004.

There are no legal provisions for the right to conscientious objection for professional soldiers.³ The 1998 Law only applies to conscripts and does not contain any provisions for professional soldiers.

Procedure

Applications must be made to the local military commander who forwards it to the Alternative Service Commission (Ministry of Welfare & Labour). This Commission consists of representatives of the Ministry of Defence, the Ministry of Religious Affairs and a medic, and is chaired by a lawyer. A personal interview may be part of the procedure, but this is not necessarily the case. The Commission takes its decisions by an open vote ballot with a two thirds majority. If the application is rejected, there is a right of appeal to an administrative court.⁴

Substitute service

The length of substitute service is 13.5 months, and 9 months for university graduates. This is one and a half times the length of military service.

Substitute service is administered by the Ministry of Welfare & Labour. It can only be performed in state institutions, more specifically "in state and municipal institutions, welfare organisations, state and municipal health service, environment protection, public utilities, civil defence, the armed forces and other sectors of the national economy which do not require the use of arms" (Article 5.1).

Substitute service cannot be performed in "trade companies, associations and foundations with idealistic or political purposes or trade unions" (Article 6.2).

The 1998 Law allows the Ministry of Defence to set an annual quota for the number of people who are allowed to do substitute service (Article 6.4).

After completing substitute service, COs are included in the reserves. In case of mobilization or war, COs may be called up to serve in the armed forces, but they may not be given "work connected to the use or carrying of arms" (Article 49.2).

Practice

Since the law on alternative service entered into force on 1 January 1999, not many applications have been made. Exact figures are not available, but the number of applications is estimated to be at most 50 per year.⁵

The right to conscientious objection is not widely known about in Bulgaria. The Bulgarian government has been criticized regularly for not fully informing conscripts about the possibility of substitute service. Most conscripts are apparently not aware about the application procedure for substitute service.⁶ Moreover, human rights observers have claimed that the application procedure is unclear.⁷

There are no figures available about the percentage of applications that is granted. In the past, CO groups have expressed concern that the inclusion of a member of the Ministry of Religious Affairs in the Alternative Service Commission might mean that religious grounds would primarily be recognized. Moreover, the Alternative Service Commission annually requires a list of religious organisations who forbid their members to bear arms. It is, however, difficult to assess to what extent applications on non-religious grounds are granted as no such applications are known to have been made.⁸

Although substitute service was introduced in 1999, it is still not organised effectively. The Ministry has not managed to find sufficient workplaces where substitute service can be

³ 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.

⁴ Youth Society for Peace and Development of the Balkans (YSPDB): Situation in the field of Conscientious Objection in the Republic of Bulgaria. Plovdiv, 2003.

⁵ Information provided by Youth Society for Peace and Development of the Balkans, June 2004.

⁶ Youth Society for Peace and Development of the Balkans (2003).

⁷ US State Department Bureau of Democracy, Human Rights and Labor: International Religious Freedom Report 2003.

⁸ Youth Society for Peace and Development of the Balkans (2004). European Bureau for Conscientious Objection: Conscript and CO in Bulgaria, 2001 www.terra.es/personal/beoc.ebco/COoverview

performed. Consequently, COs may have to wait for several years before they can actually start their substitute service. Until now, most COs have served in hospitals and as construction workers outside the armed forces.⁹

Background

Although the right to conscientious objection was included in the Bulgarian Constitution in 1991, further legislation was only introduced in 1998. Between 1991 and 1998, COs could only perform an unarmed military service within the armed forces in the so-called 'construction battalions'. During this period, 12 COs (all of them Jehovah's Witnesses) who refused to perform unarmed service, were sentenced to between 10 and 18 months' imprisonment under Article 361 of the Criminal Code for "failing to respond to call-up for military service".

Four of them made a complaint to the European Court of Human Rights, accusing the Bulgarian government of violating their constitutional right to freedom of conscience of religion by failing to adopt legislation on conscientious objection. In 2001, the European Court and the Bulgarian government agreed on a friendly settlement. According to the settlement, all criminal proceedings against COs in the 1991-1998 period have to be dismissed, substitute service will have to be of equal length as compared to military service, and substitute service needs to be civilian without military involvement.¹⁰

The Bulgarian government has only partially implemented the friendly settlement. In 2002 the government announced an amnesty for all persons who had been convicted under Article 361 of the Criminal Code between 13 July 1991 and 31 December 1998.¹¹ In 2003, the length of substitute service was reduced from twice to one and a half times the length of military service. This is still not in line with the friendly settlement, because its Article 14(b) clearly states that: "such service shall be similar in duration to that required by the law on military service then in force".

⁹ European Bureau for Conscientious Objection (2001). Youth Society for Peace and Development in the Balkans (2004).

¹⁰ European Court of Human Rights Judgments. Case of Stefanov v. Bulgaria. Application no. 32438/96. Judgment (Friendly settlement). Strasbourg, 3 May 2001. The case was originally lodged with the European Commission on Human Rights, but was transferred to the European Court of Human Rights in 1998.

¹¹ Weekly government bulletin, March 25-31, 2002. www.government.bg