



## QUAKER COUNCIL FOR EUROPEAN AFFAIRS

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

#### Country Report: FINLAND

##### Conscription

Conscription is enshrined in Article 127 of the 1999 Constitution and is further regulated by the 1998 Military Service Law (19/1998).

The length of military service is 180, 260 or 362 days, depending on the rank attained and the branch of the armed forces where service is performed. Approx. 50 per cent of all conscripts perform a 180 days' military service.

All men between the ages of 18 and 30 are liable for military service.

Reservist obligations apply up to the age of 50 and up to the age of 60 for officers. According to the Military Service Law, reservist training lasts between 40 and 100 days. In practice reservists are called up for considerably shorter periods of time.<sup>1</sup>

Apart from medical and social reasons, exemption is granted to the citizens of the Ahvenanmaa (Åland) islands. This is a so-called demilitarised area, of which the population is Swedish speaking. The majority of its population has stated in the past that it wants to be part of Sweden.

Since 1985, Jehovah's Witnesses are legally exempt from service in peacetime, on providing proof of membership and participation in its activities.

##### Statistics

The armed forces comprise 24,500 troops, including 11,500 conscripts. Every year, approx. 34,000 young men reach conscription age; approx. 80 per cent are recruited.

There are no plans to abolish conscription. According to the Defence White Paper of 2004, the conscription system will remain in place and not be significantly reformed, although the number of conscripts that will actually be called up for service will be slightly reduced in the future.<sup>2</sup>

##### Conscientious objection

###### Legal basis

The right to conscientious objection has been legally recognized since 1931. Its present legal basis is the 1991 Civilian Service Act (1723/91).<sup>3</sup>

###### Scope

Both religious and non-religious grounds for conscientious objection are legally recognized. According to Article 1 of the Civilian Service Act: "A person liable for military service who avers that serious reasons of conscience founded on religious or ethical conviction prevent him from carrying out the service laid down in the Military Service Act will in peacetime be exempted from such service and assigned to civilian service as provided for in this Act".

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<sup>1</sup> War Resisters' International: Imprisonment of conscientious objectors in Finland. Report for the Human Rights Committee in relation to Article 18 of the International Covenant on Civil and Political Rights, September 2004.

<sup>2</sup> Ministry of Defence: Defence White Paper 2004, [www.defmin.fi](http://www.defmin.fi)

<sup>3</sup> English translation of the Civilian Service Act, [www.motherearth.org/hermaja/en/act.php](http://www.motherearth.org/hermaja/en/act.php)

### **Time limits**

There are no time limits for submitting CO applications. Applications can thus be made before, during and after military service (Civilian Service Act, Article 6).

Serving conscripts must apply to the regimental commander, after which they must be released from duty immediately. Reservists must apply to the commander of the military province or to the non-military service training centre in Lapinjärvi.<sup>4</sup>

There are no legal provisions for conscientious objection for professional soldiers.<sup>5</sup> The Civilian Service Act only applies to conscripts and it contains no provisions for professional soldiers.<sup>6</sup>

### **Procedure**

Applications must be made to the Ministry of Defence. Applications can be made with a standard application form that is available from the Ministry. Since 1987, there is no personal interview during the application procedure. Consequently, applications are almost automatically granted.

### **Substitute service**

The length of substitute service is 395 days. In 1998, the length of military service was reduced from 240 days to 180 days (for most conscripts). The duration of substitute service remained the same, which means that substitute service now lasts more than twice as long as military service.

Substitute service is administered by the Ministry of Labour. It can be performed with both government institutions and non-governmental (non-profit) organisations. Most COs perform their substitute service in social and health care institutions, public offices, schools, universities, libraries and cultural institutions.

There is a lack of places where substitute service can be performed. The Civilian Service Act stipulates that the Ministry of Labour is responsible for the assignment of workplaces, but in practice most COs find a workplace themselves. If a CO does not manage to find a workplace in time, he is obliged to serve in a special training centre in Lapinjärvi.<sup>7</sup>

After completing substitute service, COs have no reservist duties during peacetime. The legal position of COs in wartime is not quite clear. Article 1 of the Civilian Service Act stipulates that COs are assigned to substitute service during peacetime, but the law does not specify the position of COs during wartime. According to the Military Service Law, COs must join the defence effort during wartime, but the law does not specify what kind of service they are supposed to do. Consequently, it remains unclear if COs may be called up for military service during wartime.<sup>8</sup>

### **Practice**

In recent years, the number of CO applications is relatively stable at between 2,000 and 2,500 per year. Almost all applications are granted. According to the Finnish government in 1999: "neither the grounds for the application nor the personal conviction are interpreted in any way".<sup>9</sup>

### **Total objectors**

Since the length of substitute service has become twice as long as military service in 1998, the number of total objectors has increased significantly. Since 1999, approx. 70 COs declare themselves total objectors annually. Some total objectors protest in particular against the

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<sup>4</sup> [www.aseistakieltaytyjaliito.fi](http://www.aseistakieltaytyjaliito.fi) (Finnish Union of Conscientious Objectors)

<sup>5</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.

<sup>6</sup> War Resisters' International (2004).

<sup>7</sup> [www.aseistakieltaytyjaliito.fi](http://www.aseistakieltaytyjaliito.fi)

<sup>8</sup> War Resisters' International (2004).

<sup>9</sup> United Nations Commission on Human Rights, 56th session, Civil and political rights including the question of conscientious objection to military service, Report of the Secretary-General submitted pursuant to Commission resolution 1998/77 (E/CN.4/2000/55), 17 December 1999.

punitive length of substitute service, others are unconditional total objectors. Since 1999, 49 total objectors have been adopted as prisoners of conscience by Amnesty International.<sup>10</sup>

Total objectors may be sentenced according to two different laws, depending on whether they first applied for legal recognition as conscientious objectors or not. Total objectors who obtain CO status and subsequently refuse to perform substitute service are sentenced for civilian service offences under Article 26 of the Civilian Service Act. Total objectors who did not apply for CO status are usually sentenced for refusing military service under Article 39 of the Military Service Law.

Most total objectors are sentenced to 196 days' imprisonment, which is half the length of substitute service. Total objectors are usually imprisoned in open prisons.<sup>11</sup>

The following table gives the number of total objectors that has been sentenced to imprisonment in recent years:<sup>12</sup>

1998	33
1999	53
2000	44
2001	61
2002	76

By November 2004, 25 total objectors were serving prison sentences.<sup>13</sup>

The case of Jussi Hermaja is of special interest. He applied for asylum in Belgium, the only country within the European Union that accepts asylum applications from other EU Member States. His application was rejected by both the Foreigners Department and the Commissariat for Refugees. In 2004, the Raad van State rejected Hermaja's appeal. If Hermaja returns to Finland, he would be sentenced to imprisonment, but so far the Finnish state has not called for Hermaja's extradition. Hermaja has also made an appeal against the rejection of his asylum request with the European Court of Human Rights. His case is still pending.<sup>14</sup>

### Background

The current controversy about the punitive length of substitute service is actually not new for Finland. Between 1987 and 1991, substitute service also lasted twice as long as military service, which also resulted in an increasing number of total objectors.

Since 1998, the Finnish Parliament has twice discussed a reduction of the length of substitute service but there was no majority to do so. In November 2004, the United Nations Human Rights Committee called upon the Finnish government to reduce the length of substitute service. In addition, the Committee also called for a clear legal protection of the right to conscientious objection during wartime and for an equal treatment between Jehovah's Witnesses and other total objectors, as since 1985 Jehovah's Witnesses are legally exempt from service altogether.<sup>15</sup>

Remarkably enough, the punitive length of Finnish substitute service has not been condemned by the European Parliament or the Parliamentary Assembly of the Council of Europe. In 2003 the Council of Europe Committee of Ministers stated that it agrees with the Assembly that alternative service should be neither a deterrent nor punitive in character, but it also stated that "in certain cases, the less onerous duties of civilian service may justify a longer duration

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<sup>10</sup> A regularly updated list of imprisoned total objectors is available at: [www.wri.org/news/htdocs](http://www.wri.org/news/htdocs) and [www.aseistakieltaytyjaliito.fi](http://www.aseistakieltaytyjaliito.fi)

<sup>11</sup> War Resisters' International (2004).

<sup>12</sup> Finnish district court statistics, quoted in: War Resisters' International (2004).

<sup>13</sup> War Resisters' International: The Broken Rifle, No.64 / November 2004.

<sup>14</sup> Regular updates on the case of Hermaja are available at: [www.motherearth.org/hermaja](http://www.motherearth.org/hermaja)

<sup>15</sup> United Nations Human Rights Committee, Concluding Observations and Recommendations (CCPR/CO/82/FIN/2004), 5 November 2004.

than that of military service” and that member states enjoy a certain discretion on the length and organisation of the alternative service.<sup>16</sup>

The draft version of the 2003 Report on Fundamental Freedoms in the European Union did contain comments on the punitive length of the Finnish substitute service. These comments were however voted out by a 366/143/22 votes majority. A majority of the European Parliament apparently agreed with the Finnish Socialist MEP Ulpu Ilvari, according to whom it is “a matter for every country to judge for themselves how alternative service is organised and not the EU”.<sup>17</sup>

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<sup>16</sup> Council of Europe, Council of Ministers, Reply by the Chairman of the CoM to Written Question No. 417 on “Conscientious objection in Greece and Finland” by Lord Russell-Johnston (CM/AS (2003) Quest417 final, 10 January 2003.

<sup>17</sup> European Bureau for Conscientious Objection: The Right to Refuse to Kill, October 2003.