



QUAKER COUNCIL FOR EUROPEAN AFFAIRS

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

Country Report: SWITZERLAND

Conscription

Conscription is enshrined in Article 59 of the 1999 Constitution. It is further regulated by the 1995 Federal Law on the Armed Forces and Military Administration (LAAM) and the 1995 Ordinance on Recruitment of Conscripts (OREC).

The Swiss army is primarily a militia army. The standing forces are relatively small, but the reservist forces form an important component. In fact, the Swiss Ministry of Defence claims that the armed forces are capable of full mobilisation within 72 hours. Consequently, the abolition of conscription is not foreseen. According to a 2000 government report on the future of the armed forces, conscription is to be maintained in the future.

All men between the ages of 19 and 26 are liable for basic military training. The length of basic military training is 21 weeks, and 18 weeks in some exceptional circumstances.

After basic military training, all men have reservist duties up to the age of 34, and up to 50 for officers. Reservist duties consist of 6 or 7 refresher training periods of a maximum of 17 days each. The total length of military service thus amounts to 260 days.¹ Reservist duties also include home maintenance of equipment, a rifle and ammunition.

Those who are legally exempt from service (for medical or social reasons) must pay a substitute military tax up to the age of 50. The tax is two per cent of taxable income and is at least 150 CHF. Refusal to pay military tax is punishable on each occasion by one to ten days' imprisonment.²

Statistics

The armed forces comprise 25,000 troops, including 22,000 conscripts. Every year, approx. 40,000 young men reach conscription age; approx. 70 per cent are recruited.

In recent years, fewer and fewer conscripts are actually called up for service. In 2000, only 16.7 per cent of eligible conscripts were legally exempt from service; in 2003 this had risen to 30.1 per cent.³

Conscientious objection

Legal basis

The right to conscientious objection is legally recognized with the 1996 Law on Civilian Service. In 1999, the right to conscientious objection was included in the new Constitution. According to Article 59: "Every Swiss man must render military service. The statute shall provide for an alternative service".

¹ This length of military service applies to conscripts who are drafted after 1 January 2004. In 2004, the length of military service was reduced from 300 days and the maximum age for reservist duties was lowered from 55 to 42 years. www.vbs.admin.ch (Ministry of Defence)

² War Resisters' International: Refusing to bear arms - A world survey on conscription and conscientious objection to military service, 1998.

³ '28.000 Franken für ein abgelehntes Gesuch', Beratungsstelle für Militärverweigerung und Zivildienst: Zivilcourage No.9 / December 2004, www.zivildienst.ch

Scope

Both religious and non-religious grounds for conscientious objection are legally recognized. According to Article 1 of the Law on Civilian Service: "Those liable for compulsory military service who can credibly assert that performing military service is incompatible with their conscience, must perform civilian substitute service".

Time limits

There are no time limits for submitting CO applications. Applications can thus be made before, during and after military service (by reservists).

If an application is made by a serving conscript, it usually takes two weeks before the application is processed. During this period, the applicant is not released from the army.

Applications cannot be made by people who are too old for reservist training or by those who are legally exempt from service for medical or other reasons.

There are no legal provisions for the right to conscientious objection for professional soldiers.⁴

Procedure

Applications must be made to the Central Civilian Service Authorities (Ministry of Economic Affairs). Applications must include a curriculum vitae, a motivation letter and an expression of willingness to perform substitute service. A personal interview takes place with a commission. Its members are civilians who have been selected and appointed by the Ministry. If the application is rejected, there is a right of appeal to the Ministry of Economic Affairs.

Substitute service

The length of substitute service is 390 days. This is one and a half times the length of military service. Substitute service may be performed in one period, or spread over several shorter periods of a minimum of 26 days each.⁵

It is also possible to apply for an unarmed military service within the armed forces, which has the same length as basic military training but does not include reservist duties. The application procedure for unarmed military service is the same as for substitute service.

Substitute service is administered by the Ministry of Economic Affairs. It can be performed in any public or private body that serves the public interest, such as social welfare, the health sector and environmental protection.

After completion of substitute service, COs are liable for 'extraordinary civilian service'. COs may only be called up for extraordinary civilian service during time of war or emergency; it consists of unarmed duties within the armed forces.

Practice

Since the Law on Civilian Service came into force in 1996, the number of CO applications has been relatively stable with between 1,500 and 2,000 per year. The following table gives the number of decisions on CO applications in recent years, and the number and percentage of granted applications:⁶

1999	1,996	1,619 (81.1 %)
2000	1,401	1,175 (83.9 %)
2001	1,781	1,393 (78.2 %)
2002	2,039	1,653 (81.1 %)
2003	2,412	1,958 (81.2 %)

⁴ 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.

⁵ Parallel to the reduction of military service, the duration of substitute service was reduced from 450 to 390 days in 2004.

⁶ Zivilcourage No.9 / December 2004.

As these statistics indicate, approx. 80 per cent of applications are granted. An application may be rejected if the motives of the applicant are considered to be mainly political, if the commission doubts the credibility of the applicant or if it considers that the applicant does not practise his convictions in his daily life.

Decision-making by the commission can be rather strict, which was exemplified by the case of Marino Keckeis in 2001. His application was rejected because he failed to convince the commission of his conscientious beliefs. He continued to refuse military service and was sentenced by military court to five months' imprisonment, although he repeatedly stressed that he was willing to perform substitute service. During his imprisonment he went on hunger strike and after three months in prison, he was released early. His case attracted considerable international attention. In fact, Amnesty International considered the rejection of his application to be "due to a very limited interpretation of conscientious objection".⁷

In 2002, Swiss CO groups started a campaign to abolish the personal interview during the application procedure. The issue was discussed by the Swiss Parliament in 2003, but Parliament decided to keep the individual examination of CO applications in place.

Total objectors

The following table gives the number of conscripts who have been sentenced for refusing both military service and substitute service:⁸

1999	61
2000	110
2001	64
2002	100
2003	74

Under the Law on Civilian Service, total objection is punishable by up to 18 months' imprisonment. In practice, total objectors are sentenced to lower terms. Those who have been sentenced to less than three months' imprisonment can opt for a 'free labour' sentence. In this case, one does not have to stay in prison although the sentence remains included in one's criminal record.⁹

COs who are members of a religious community that forbids its members to bear arms and who refuse to apply for CO status, are usually sentenced to forced completion of substitute service. This clause of the Law on Civilian Service was obviously introduced to facilitate Jehovah's Witnesses. They refuse to apply for substitute service but comply with it if they are sentenced to it.

Background

Switzerland was one of the last Western European countries to recognize the right to conscientious objection and provide for a substitute service outside the armed forces. Before 1996, the treatment of COs was harsh. During the 1980s and 1990s, approx. 360 COs were imprisoned each year.

The Law on Substitute Service that was adopted in 1996 is the result of years of campaigning by Swiss peace groups. The decision to pass a CO law was in fact made by a referendum.¹⁰ In a referendum that was held in 1991, an 82.5 per cent majority voted in favour of amending the constitution, which allowed for a substitute service outside the armed forces. This amendment allowed for the drafting of the Law on Substitute Service, which was eventually passed by the Swiss Parliament in 1995.

⁷ Amnesty International: Amnesty International urges the immediate release of conscientious objector Marino Keckeis (EUR 43/002/2002).

⁸ Zivilcourage No.9/December 2004.

⁹ www.zivildienst.ch (Beratungsstelle für Militärverweigerung und Zivildienst).

¹⁰ In Switzerland, anyone may call for a referendum to be held, providing that a sufficient number of signatures is collected.