



QUAKER COUNCIL FOR EUROPEAN AFFAIRS

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

Country Report: GEORGIA

Conscription

Conscription is enshrined in Article 101 of the 1995 Constitution. It is further regulated by four laws on military service, which were adopted by the Georgian Parliament in 1997 and 1998.

The length of military service is 18 months.

All men between the ages of 18 and 27 are liable for military service.

Since 2002, it is possible to buy oneself out of military service for 2000 GEL (900 USD), or to postpone it by paying a sum of 200 GEL (90 USD) per year. Men who have bought themselves out of their service are assigned to the reserves and may only be called up for service during times of mobilisation.¹

In August 2004, the Georgian Parliament discussed a new draft law on military service. The law provides for a reduction of the length of military service to 12 months, and to 6 months for university graduates who have completed military training at university. According to the law, it will no longer be possible to postpone military service on paying 200 GEL per year, although it would still be possible to buy off service on paying a lump sum of 2000 GEL. No decision has been made yet as to when the law will be implemented.²

Due to the political situation, inhabitants of South Ossetia and Abkhazia are not called up for service in the Georgian armed forces. Following Georgian independence from the Soviet Union in 1991, Abkhazia and South Ossetia engaged in separatist wars. Since 1992, these regions are de facto independent from the Georgian government and operate their own armed forces and conscription systems.

Statistics

The armed forces comprise 17,500 troops, including 10,400 conscripts. Every year, approx. 42,000 young men reach conscription age; approx. 20 per cent are recruited.

The Georgian government has announced a reform of the Georgian armed forces in order to comply with NATO standards. The government has planned to reduce the size of the armed forces and increase the number of professional soldiers to two thirds of the total manpower. The abolition of conscription is not foreseen.³

Conscientious objection

Legal basis

The right to conscientious objection is legally recognized by the 1997 Law on Alternative Service.⁴

¹ Netherlands Ministry of Foreign Affairs: Algemeen Ambtsbericht Georgië (country report), February 2004.

² Ketikharulidze: Military service for everybody? New draft law seeks to make military service obligatory, but the rich can still opt out, www.messengercom.ge, 10 August 2004.

³ Schweizerisches Bundesamt für Flüchtlinge: Georgien: Wehrdienst, BFF Analysen, Bern, 22 November 2002. 'Georgia's Scarce Army Aspires NATO', www.civil.ge (Civil Georgia), 17 February 2004.

⁴ English translation of the Law on Alternative Service, appendix in: Danish Immigration Service: Report on roving attaché mission to Georgia 14-27 October 2000. Copenhagen, 2000.

The Law was supposed to enter into force in January 1998, but the government did not manage to implement it. In May 2001 the government introduced new regulations (Government Decree 170 and 171) which were aimed at implementing the Law. However, the Law on Alternative Service has still not been implemented.

Consequently, there are no application procedures for claiming the right to conscientious objection and substitute service is not available. In the following paragraphs a description is given of the legal provisions in the Law on Alternative Service; the actual practice is described in a separate paragraph.

Scope

The Law on Alternative Service recognizes both religious and non-religious grounds for conscientious objection. According to Article 4: "Those conscripts who according to the legislation must perform military service, but refuse to do so because military service of any sort is incompatible with their conscience, may be called up to perform civilian service in times of peace".

Time limits

The Law on Alternative Service provides for a strict time limit for submitting CO applications. Applications must be made within ten days of being called up (Article 7). Applications can thus not be made by serving conscripts or reservists.

Procedure

According to Article 8 of the Law on Alternative Service, applications must be made to the district military commission (Ministry of Defence). The commission needs to make a consultative decision within 20 days, which needs to be confirmed by the State Commission for Civilian Service. A personal interview may be part of the procedure.

Substitute service

Article 6 of the Law on Alternative Service envisages 36 months' substitute service. This is twice the length of military service.

Substitute service may be performed in government institutions such as environmental protection and the health sector (Article 5).

After completion of substitute service, COs remain in the reserves up to the age of 50 (Article 18). They may be called up during time of mobilisation or a state of emergency, but the Law does not specify what kind of duties they have to do.

Practice

The Law on Alternative Service has never been implemented and the State Commission for Civilian Service has never functioned. Before 2001, the Ministry of Defence was responsible for the organization and administration of substitute service. Since May 2001, the Ministry of Health & Social Affairs is responsible. Both ministries have not managed to organise substitute service in practice.

Since the Law on Alternative Service entered into force in 1998, a considerable number of conscripts seem to have applied for substitute service. According to the Ministry of Defence, between 400 and 800 applications were made during 1998 and 1999 alone.⁵ More recently, 300 CO applications were reportedly made in 2002.⁶ More recent figures are not known.

The treatment of COs by the Georgian authorities is not clear. In fact in 2002, the United Nations Human Rights Committee stated in its concluding observations on Georgia's periodic

⁵ Caucasian Institute for Peace, Democracy and Development: *Army & Society in Georgia*, April 2000 and May 2000.

⁶ Andreas Speck: *Impressions from a journey through the South Caucasus*, Peace News No. 2452/September-November 2003.

report that: "It regrets the lack of clear information on the rules currently governing conscientious objection to military service".⁷

Most CO applications have apparently been made by members of religious denominations who forbid their members to bear arms, particularly Jehovah's Witnesses. Their applications have not been decided upon and they have not been called up for service. The Ministry of Defence stated in 2000 that members of religious denominations who forbid their members to bear arms can obtain a document from the Ministry, which states that they have performed an alternative to military service. This arrangement reportedly applied to Jehovah's Witnesses and Baptists, upon handing over a document proving membership of the denomination.⁸

It is not clear if this informal arrangement is still in place. However, since 1998 there have been no known cases of Jehovah's Witnesses or members of other religious denominations being prosecuted for refusal of military service.⁹

This informal arrangement has never applied to non-religious COs. This is particularly remarkable because the Law on Alternative Service does not restrict the right to conscientious objection to religious grounds.

Pending the implementation of the Law on Alternative Service, the legal position of non-religious COs has remained unclear. Many young men have reportedly joined the Jehovah's Witnesses in order to evade military service. According to some sources, this has led to a considerable growth in the membership of religious sects in Georgia.¹⁰

Nevertheless, apart from joining a religious denomination for false reasons, non-religious COs can only avoid military service by bribing draft officials or evading call-up.

Draft evasion

Draft evasion and desertion are punishable under administrative law and under the Criminal Code.

Refusing call-up for military service is punishable with one to three years' imprisonment, and up to five years in case of aggravating circumstances such as using false documents (Criminal Code, Article 81). Refusing call-up for mobilization is punishable with three to ten years' imprisonment (Article 82). Desertion is punishable with three to seven years' imprisonment (Article 256). During wartime, higher sentences apply.¹¹

Draft evasion is widespread, partly due to the poor conditions and human rights violations within the armed forces. Exact figures on the scale of draft evasion and desertion are not available, but in 2001 the Military Prosecutor filed 2,498 cases of desertion.¹²

Many cases against draft evaders and deserters are apparently dropped. In other cases they are forced to serve in so-called punishment battalions within the armed forces, where conditions may be particularly harsh. In other cases, draft evaders and deserters may be prosecuted by a military prosecutor in a civic court.¹³

⁷ United Nations Human Rights Committee: Concluding observations on the second periodic report of Georgia (CCPR/CO/74/GEO), 19 April 2002. The Human Rights Committee in fact discussed the issue with the Georgian delegation in a public meeting, but the delegation did not succeed in clarifying the issue. According to the Georgian delegation, CO applications are reviewed by the local conscription commission and finally decided upon by the State Commission for Civilian Service. However, the Georgian delegation merely referred to the provisions in the Law on Alternative Service, but not to actual practice. (United Nations Human Rights Committee: Summary record of the first part of (public) of the 1988th meeting (CCPR/C/SR.1988), 18 April 2002). According to the Georgian Public Prosecutor in 2003, the State Commission for Civilian Service had not been set up. (Austrian Red Cross/ACCORD: Reisebericht Georgien, 18-25 Mai 2003, Vienna, July 2003).

⁸ Danish Immigration Service (2000).

⁹ Before 1998, there were some known cases of Jehovah's Witnesses who were sentenced and imprisoned for refusing military service.

¹⁰ Austrian Red Cross/ACCORD (2003). Caucasian Institute for Peace, Democracy and Development: Army & Society in Georgia, April 2000.

¹¹ Netherlands Ministry of Foreign Affairs (2004).

¹² 'On the situation of Protection of Human Rights and Freedoms in Georgia', Report of the Public Defender of Georgia, Tbilisi, 2002.

¹³ Since 2000 there are no military courts in Georgia (Danish Immigration Service 2000).

According to the Ministry of Defence, 167 draft evaders and deserters were imprisoned in September 2002.¹⁴ More recent figures are not available.

In the past, several amnesties have been announced for draft evaders and deserters. The most recent amnesty was announced during the autumn of 2000 and applied to men who deserted from the armed forces before 22 December 2000. The amnesty law was believed to apply to approx. 4,500 draft evaders and deserters.¹⁵ Although they were freed from criminal prosecution, they remained liable for military service and may consequently still be called up to serve. It is believed that only one third of them actually made themselves known to the military authorities.¹⁶

ABKHAZIA

The self-declared Republic of Abkhazia has its own armed forces, which are believed to comprise approx. 5,000 troops, and its own conscription system.

Military service is compulsory for all men between the ages of 18 and 27. Reservist duties apply up to the age of 60.¹⁷

In December 2003, the Defence Minister declared that its armed forces would become fully professional under a reform programme to be completed by 2007.¹⁸ By June 2004, conscription was still in place.¹⁹

The right to conscientious objection is not legally recognized and there is no possibility of performing a substitute service outside the armed forces. Between 1995 and 2000, at least 30 Jehovah's Witnesses were imprisoned for refusing military service. In 1995 the Abkhazian authorities actually banned the Jehovah's Witnesses as an illegal organisation. Their refusal to do military service was considered to be an attempt to undermine state security.²⁰

The latest known case of a CO being prosecuted occurred in December 2002, when a Jehovah's Witness was sentenced to four years' imprisonment. He was released early in April 2003.²¹

SOUTH OSSETIA

South Ossetia has its own armed forces, which are believed to comprise 6,000 troops. At least until 2002 there was a conscription system and all ethnic Ossetians had to complete an 18 months' military service. There was no possibility of performing a substitute service outside the armed forces.²²

In 2002, the South Ossetian authorities announced the abolition of conscription and its plans to turn its forces into a professional army.²³ According to the South Ossetian authorities in August 2003, the armed forces are now fully professional.²⁴

¹⁴ War Resisters' International: The Right to Conscientious Objection to Military Service in selected member states of the Organisation for Security and Cooperation in Europe. Report to the OSCE Supplementary Meeting on Freedom of Religion or Belief 17-18 July 2003, Hofburg, Vienna.

¹⁵ 'Georgian Parliament declares amnesty for deserters', Georgian Television, Tbilisi, 28 December 2000 (BBC Monitoring Service).

¹⁶ Human Rights Information and Documentation Centre: Monthly Bulletin 1 (47), Tbilisi, January 2003.

¹⁷ Amnesty International: Armenia. "Respect my human dignity": Imprisonment of conscientious objectors (EUR 54/06/99).

¹⁸ Coalition to Stop the Use of Child Soldiers: Child Soldiers Global Report 2004.

¹⁹ 'Abkhazia declared the beginning of conscription', www.adygeanatpress.ru, 2 June 2004.

²⁰ Tatyana Titova: Four year jail sentence for Jehovah's Witness, Keston News Service, 12 December 2000.

²¹ Felix Corley: Jehovah's Witnesses still banned and Georgian Orthodox still barred, Forum 18 News Service, 27 April, 2004.

²² Schweizerisches Bundesamt für Flüchtlinge (2002).

²³ Schweizerisches Bundesamt für Flüchtlinge (2002).

²⁴ Coalition to Stop the Use of Child Soldiers (2004).