



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

Country Report: CYPRUS

Conscription

Conscription is regulated by the National Guard Law (20/1964).

Conscription is also enshrined in Article 129 of the 1960 Constitution, according to which "(1) The Republic shall have an army of two thousand men of whom sixty per cent shall be Greeks and forty per cent shall be Turks. (2) Compulsory military service shall not be instituted except by common agreement of the President and the Vice-President of the Republic."¹

Since the Turkish army invaded the northern part of Cyprus in 1974, Cyprus is divided and the northern part of Cyprus is governed by a Turkish Cypriot administration. Actual conscription practice is thus not in line with the Constitution, as the armed forces comprise more than 2,600 troops and the 60/40 per cent ratio between Greek and Turkish members is not adhered to.

The length of military service is 26 months. Young men who come from a large family (a minimum of four children) may perform a shorter 13 months' service. A reduced term of service is also possible for repatriated Cypriots who have lived abroad.²

All men between the ages of 18 and 50 are liable for military service. After completing military service, reservist obligations apply up to the age of 50. Reservist units are called up periodically.

Statistics

The armed forces comprise 10,000 troops, including 8,700 conscripts. Every year, approx. 6,500 young men reach conscription age; approx. 70 per cent are recruited.

Conscientious objection

Legal basis

In 1992, provisions for conscientious objection were included in Section 5 of the National Guard Law (Law 2/1992). There is no separate law on conscientious objection.

Although Cyprus joined the Council of Europe in 1961, it did not introduce legal provisions for conscientious objection for several decades. The Cypriot government has always defended its repressive position towards conscientious objectors by referring to the Turkish occupation of the northern part of the island.

The right to conscientious objection is, in fact, enshrined in the Constitution. According to Article 10: "No person shall be required to perform forced or compulsory labour" but this shall not include "any service of a military character if imposed or, in case of conscientious objectors, subject to their recognition by a law, service exacted instead of compulsory military service".³

¹ Constitution of the Republic of Cyprus, www.kypros.org/Constitution

² 'Information for overseas and repatriated Cypriots', www.mfa.gov.cy (Ministry of Foreign Affairs)

³ Constitution of the Republic of Cyprus, www.kypros.org/Constitution

Scope

According to Section 5 of the National Guard Law, religious, ethical, moral, humanitarian, philosophical and political motives may be accepted for a transfer to unarmed service.⁴

Time limits

CO applications can only be made before starting military service. Applications can thus not be made by serving conscripts or reservists.⁵

There are no legal provisions for conscientious objection for professional soldiers.

Procedure

Applications must be made to the Ministry of Defence, which makes a decision. No further details are known about the application procedure and the criteria that are used by the Ministry when deciding on applications.

Substitute service

Section 5 of the National Guard Law provides for a 36 months' unarmed military service within the armed forces, and a 42 months' 'unarmed military service outside the armed forces'.

It is not clear how far this 'unarmed military service outside the armed forces' can be considered to be a genuinely civilian substitute service. Although it is a non-uniformed service, the wording 'unarmed military service outside the armed forces' leaves some ambiguity concerning its non-military nature. A report issued by the Council of Europe in 2001 in fact concludes that Cyprus has no laws setting up a genuine alternative service.⁶

It is not known where 'unarmed military service outside the armed forces' can be performed and what duties it entails. In fact the service does not seem to have been organised in practice yet and so far no COs seem to have been called up for it.

In any case, after completing 'unarmed military service outside the armed forces', COs are still obliged to participate in reservist training within the armed forces.⁷

During wartime or time of mobilisation, provisions for 'unarmed military service outside the armed forces' can be suspended by a decision of the Ministry of Defence (National Guard Law, Section 5A, Paragraph 10). COs would then be incorporated into unarmed military service within the armed forces.⁸

Practice

It is not clear how far the application procedure functions in practice and how many CO applications have been made. According to the Minister of Defence in 2001, there are approx. 10 COs per year.⁹ Until 1992 COs were only allowed to do an unarmed military service within the armed forces. During the 1980s and 1990s many COs were imprisoned because they refused to perform unarmed military service. They could be sentenced to between two and fifteen months' imprisonment. Upon release, they could be called up again and, if they continued to refuse service, they were sentenced again.¹⁰

All known cases of COs are members of religious denominations who forbid their members to bear arms, in particular Jehovah's Witnesses. Since 1997 Jehovah's Witnesses have apparently not been called up for service, pending the introduction of a substitute service outside the armed forces. In 2001 the Ministry of Defence announced that it would start calling up COs for 'unarmed military service outside the armed forces'. According to the Ministry of Defence, COs who had not been called up during previous years were to be called up as well. According to

⁴ Amnesty International: Cyprus. Summary of Amnesty International's human rights concerns (EUR 17/10/1994).

⁵ Amnesty International: Cyprus. Conscientious objector status must be amended (EUR 17/001/2002).

⁶ 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.

⁷ Amnesty International (EUR 17/001/2002).

⁸ Amnesty International (EUR 17/001/2002).

⁹ Defence Minister Socratis Hasikos, quoted in: 'Cyprus gets tough on conscientious objectors', Reuters, 28 June 2001.

¹⁰ 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.

the Ministry, a total number of 300 COs were to be called up for service.¹¹ However, it is not known if these 300 COs have been called up in practice, nor is it known for what kind of service they have been called up.

In 2002, the European Committee of Social Rights judged that the length of 'unarmed military service outside the armed forces', being more than one and a half times the length of military service, is a violation of Article 1.2 of the European Social Charter. According to the Committee, the length of substitute service is a violation of "the right of the worker to earn his living in an occupation freely entered upon".¹² Nevertheless, the Cypriot government has not showed any intention of reducing the length of 'unarmed military service outside the armed forces'. In November 2002, there were five trials against five reservists who refused to participate in reservist military exercises and claimed their right to conscientious objection. The Ministry of Defence rejected their CO applications because the National Guard Law does not allow reservists to apply for CO status. Two of the COs on trial had actually been tried in the past for refusing military service. In November 2002, their cases were suspended pending a revision of the National Guard Law.¹³ So far, the National Guard Law has not been revised. Pending a revision of the law, the legal position of reservist COs remains unclear.

Most COs are members of the Jehovah's Witnesses. It is not known how CO applications that are made on non-religious grounds would be treated by the authorities, although the National Guard Law does not specifically restrict the right to conscientious objection to religious grounds.

TURKISH REPUBLIC OF NORTHERN CYPRUS

Since the Turkish army invaded the northern part of Cyprus in 1974, the northern part of Cyprus is ruled by a Turkish Cypriot administration. In 1983, it proclaimed 'The Turkish Republic of Northern Cyprus' (TRNC). The entity has not been recognized by any country except Turkey.

TRNC has its own armed forces and conscription system. Conscription is included in Article 74 of the Constitution and is regulated by the 2000 Military Service Law (59/2000).¹⁴ All men between the ages of 19 and 30 are liable for military service. The length of military service is 15 months. A reduced term of service is possible for those who are considered as Turkish Cypriot citizens and who reside abroad.¹⁵

The right to conscientious objection is not legally recognized. In 1993, there was one known case of a conscientious objector. He was sentenced to 39 months' imprisonment, but he was released early.¹⁶ There are no known recent cases of COs.

¹¹ 'Defence Ministry to call up conscientious objectors', www.cyprus-mail.com, 29 September 2001; 'Government bows on conscientious objectors', www.cyprus-mail.com, 19 July 1998.

¹² Council of Europe, European Committee of Social Rights, Conclusions XVI - Vol. 1, November 2002.

¹³ Amnesty International (EUR 17/001/2002). US State Department Bureau of Democracy, Human Rights and Labor: Country Report on Human Rights Practices 2003.

¹⁴ Extracts of the law on military service of the TRNC, www.ebco-beoc.org/northern_cyprus.html

¹⁵ Coalition to Stop the Use of Child Soldiers: Child Soldiers Global Report 2004.

¹⁶ War Resisters' International: Refusing to bear arms - A world survey on conscription and conscientious objection to military service, 1998.