



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

Country Report: MACEDONIA

Conscription

Conscription is enshrined in Article 28 of the Constitution and is further regulated by the 2001 Law on Defence.

The length of military service is 6 months.¹

All men between the ages of 18 and 27 are liable for military service. There are four call-up periods per year: in January, April, June and October.

Reservist obligations apply up to the age of 55. After completing military service, men may be called up for reservist training periodically.²

In addition to conscription into military service, all men between the ages of 18 and 60 and all women between the ages of 18 and 55 are liable for civil protection service. Citizens may be called up for civil protection service by a government decision (Law on Defence, Chapter IX). So far, the government has never issued such a call-up.³

The Macedonian government has regularly announced its intention to professionalize its armed forces in order to comply with NATO standards. According to the Strategic Defence Review, the transformation into fully professional armed forces should be completed by 2008. The Ministry of Defence has also stated its intention to reduce the length of military service to 4 months, but this will not happen before 2006.⁴ However, no concrete decisions have been made on the abolition of conscription.

Statistics

The armed forces comprise 10,890 troops, including 2,000 conscripts. Every year, approx. 19,000 young men reach conscription age.

Conscientious objection

Legal basis

Legal provisions on conscientious objection are included in the 2001 Law on Defence.⁵

Before 2001, the right to conscientious objection was very restrictively recognized, as there was only an unarmed military service for COs refusing military service on religious grounds.

Scope

Both religious and non-religious grounds for conscientious objection are legally recognized. According to Article 8 of the Law on Defence: "A conscript who refuses to carry weapons because of religious or moral reasons (conscientious objection) may serve his conscript service in the armed forces without weapons or in civilian service".

¹ The length of military service was reduced from 9 months in 2003.

² During the unrests in 2001, reservists were particularly called up by both the armed forces and police forces. (Netherlands Ministry of Foreign Affairs: Algemeen Ambtsbericht Macedonië (country report), October 2001)

³ Information provided by Peace Action Macedonia, August 2004.

⁴ 'Macedonia to abolish draft by 2008, set up fully professional army', www.csees.net (South East Europe Security Monitor), 12 June 2004.

⁵ English translation of the Law on Defence, www.morm.gov.mk (Ministry of Defence).

Time limits

There is a legal time limit for submitting CO applications. According to Article 3 of the Defence Law (as amended in 2003) CO applications need to be made by the day of receiving call-up papers. According to the Law on Defence, applications can thus not be made by serving conscripts or reservists.⁶

This time limit is, in fact, in contradiction with a ruling by the Constitutional Court in September 2002. According to the Constitutional Court, time limits for submitting CO applications are a violation of the freedom of belief, conscience and thought as laid down in Article 16.1 of the Constitution. The Constitutional Court acknowledged that conscientious objection may develop in time and that CO applications should thus be allowed to be made before, during and after military service.⁷ The Macedonian Constitutional Court is expected to discuss the constitutionality of the time limits again.

In practice, the Ministry of Defence seems to apply the time limit selectively. Some CO applications that are made by serving conscripts are rejected because they are not submitted within the legal time limit. However, if an appeal is made against such a rejection at court, the Ministry regularly takes the application into consideration.⁸

There are no legal provisions for the right to conscientious objection for professional soldiers. The provisions in the Law on Defence only apply to conscripts, as does the 2002 decision by the Constitutional Court.

Procedure

CO applications must be made to the local conscription department of the Ministry of Defence. Applicants must explain their reasons for applying for substitute service in writing. Applications are decided on by the Commission for Civilian Service (Ministry of Defence). No personal interview takes place with the applicant. The Commission needs to decide on the application within 60 days (Law on Defence, Article 10).

If the application is rejected, there is the possibility of appealing to a higher conscription commission (Ministry of Defence) within 15 days of receiving the rejection (Article 10). If the application is rejected again, there is the possibility of appeal to a civilian court.

Substitute service

The length of substitute service is 10 months. This is more than one and half times the length of military service.⁹ COs may also opt for an unarmed military service within the armed forces, which is the same length as substitute service.

Substitute service is administered by the Ministry of Defence. According to Article 9 of the Defence Law, substitute service can be performed in health, humanitarian and welfare organisations and in the fire brigades. Substitute service may also be performed in non-governmental organisations. At present, two humanitarian NGOs are approved as workplaces by the Ministry of Defence.¹⁰

Article 81.2 of the Law on Defence stipulates that after completing substitute service COs have reservist duties in the civilian protection system up to the age of 55. In practice, COs have so far not been called up for reservist duties.¹¹

The Law on Defence contains no specific provisions on the right to conscientious objection during wartime.

⁶ The 2001 Law on Defence originally stipulated that CO applications need to be made within 15 days of receiving call-up papers for military service.

⁷ Decision of the Constitutional Court of the Republic of Macedonia, 12 September 2002.

⁸ Peace Action Macedonia (2004).

⁹ In 2003, the length of military service was reduced from 9 to 6 months, but the length of substitute service was only reduced from 14 to 10 months. As the 14:10 ratio is more punitive than the 9:6, the length of substitute service thus became more punitive in 2003.

¹⁰ Regional Network for Conscientious Objection 'Objection for Peace': To Europe Through Conscientious Objection and Civilian Service, Report Regional Conference, Sarajevo, September 2004.

¹¹ Peace Action (2004).

Practice

Legal provisions on conscientious objection were introduced in 2001. Between 2001 and 2003 very few CO applications were made, but since 2003 the number of applications is increasing. The Ministry of Defence has not published any detailed figures on the number of CO applications. It is estimated that between 200 and 300 CO applications were made in 2003, and approx. 1,000 in 2004.¹²

Although the Ministry of Defence does not inform new conscripts about the possibility of applying for substitute service, the number of applications is believed to be increasing. According to CO groups, in 2004 the number of CO applications is reportedly increasing by 30 per cent at each call-up period.¹³

Detailed figures on the number of applications granted are not available. According to the Macedonian government, 652 out of 680 applications that had been made until April 2004 had been granted.¹⁴

The government has not issued more recent figures on the percentage of granted applications. CO groups have expressed concern that applications are getting granted more restrictively, which is possibly a reaction of the Ministry of Defence to the growing number of applications.¹⁵

The first COs started substitute service in January 2003. By September 2004, 41 institutions have been accepted as workplaces by the Ministry of Defence. They include medical and social work institutions, territorial fire brigades and two humanitarian NGOs. In practice, most COs perform hygienic and cleaning duties for the most part of their service. The background and education of COs is not taken into account when making the assignment for substitute service.¹⁶

Background

Before 2001, the right to conscientious objection was very restrictively recognized. Under the previous 1992 Defence Law only religious grounds for conscientious objection were recognized and it only provided for an unarmed military service within the armed forces. There were several known cases of COs who refused to perform unarmed service and were consequently sentenced to imprisonment. If they continued to refuse to serve on release, they could be prosecuted and imprisoned again.¹⁷

Draft evasion

Failing to respond to a call-up for military service is punishable under Article 168 of the Law on Defence by a fine of 5,000 to up to 30,000 dinars or up to two months' imprisonment. Draft evasion is also punishable under Article 341 of the Criminal Code.¹⁸

In practice, most draft evaders seem to be sentenced to a fine, after which they may still be called up for service.¹⁹ In July 2003 the government announced an amnesty for all those who had evaded military service during the previous ten years. The amnesty law reportedly applied to 12,369 draft evaders. 7,730 of them were ethnic Albanians.²⁰

Albanian conscripts in particular have tried to avoid military service. Since 2002, the number of Albanians in the armed forces seems to have increased.

¹² Peace Action (2004).

¹³ Peace Action (2004).

¹⁴ Peace Action (2004).

¹⁵ Peace Action (2004).

¹⁶ Regional Network for Conscientious Objection (2004).

¹⁷ Amnesty International and Helsinki Committee for Human Rights of the Republic of Macedonia: Joint appeal to the Macedonian government for amendments to the defence law which will guarantee the rights of conscientious objectors in the spirit of international standards (EUR 65/011/00).

¹⁸ Swiss Refugee Council: Report on the political, human rights, humanitarian and security situation in Macedonia, Schweizerische Flüchtlingshilfe SFH, Bern, August 2001.

¹⁹ Netherlands Ministry of Foreign Affairs (2001).

²⁰ Amnesty International: Annual Report 2004.