

Cyprus

Republic of Cyprus

Issues

- Cyprus still maintains conscription. The recognition of the right to conscientious objection does not meet international standards.
- The right to conscientious objection is not recognised for professional soldiers, nor for serving conscripts.



Military recruitment

Conscription

Conscription is 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.

Conscription is regulated by the National Guard Law of 1964. Presently, conscription service lasts for 25 months, based on a decision of the Council of Ministers No.57068/8 of January 2003². On 17 December 2008, the Council of Ministers decided to reduce the length of military service to 24 months³.

According to the law, all male Cypriots are obliged to perform military service from 18 years until 50 years.

Those who belong to the Maronite, Armenian and Latin Communities were in the past exempted from their service in the National Guard, unless they declared that they wished to enlist in the National Guard (Voluntary Enlistment)⁴. However, an amendment to the National Guard Law abolished this exemption, and from 1 January 2008 on members of those communities are also being conscripted⁵.

The enlistment of conscripts is initiated by a decision of the Council of Ministers and is implemented in two intakes in the months of January and July of each year.

Professional soldiers

All Cypriot citizens – men and women – can join the National Guard voluntarily, initially on a three year contract, which can be extended for further three year terms,

1 Constitution of the Republic of Cyprus, 1960, http://www.servat.unibe.ch/icl/cy00000_.html, accessed 9 April 2008

2 Ministry of Defence of the Republic of Cyprus: Conscription service. http://www.mod.gov.cy/mod/mod.nsf/dmlservice_en/dmlservice_en?OpenDocument, accessed 09 April 2008

3 European Bureau for Conscientious Objection: Conscientious Objection in Europe during 2008, Report to the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament, 22 September 2009; Cyprus military service reduced ..., International Coordinating Committee "Justice For Cyprus", 18 December 2008, <http://news.pseka.net/index.php?module=article&id=9473>, accessed 25 September 2009

4 CyprusNet.com: Cyprus National Guard, http://www.cyprusnet.com/content.php?article_id=2810&subject=standalone, accessed 9 April 2008

5 Embassy of the Republic of Cyprus in The Hague: Cabinet proposes amendment to National Guard law, 20 June 2007, <http://www.mfa.gov.cy/mfa/embassies/hagueembassy.nsf/All/FC9C730353591BE2C125730900489A84?OpenDocument>, accessed 9 April 2008; Cyprus Mail: Minorities conscripted for the first time, 11 January 2008, <http://www.cyprus-mail.com/news/main.php?id=36940&archive=1>, accessed 9 April 2009

depending on the needs of the National Guard⁶.

Conscientious objection

Conscientious objection for conscripts

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. The National Guard Law was last amended by law No 61(1)/2008 from 18 July 2008, which especially effected the right to 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"*⁷.

According to article 5A, *"(1) Those conscripts, who for reasons of conscience refuse to fulfil the obligation to military service invoking their religious or ideological convictions, can be recognised as conscientious objectors.*

*(2) The reasons of conscience raised must be derived from a general perception of life, based on conscientious religious, philosophical or moral convictions, which are inviolably implemented by the person and are expressed by holding a respective attitude"*⁸.

Paragraph 3 excludes certain categories of persons from applying for conscientious objection, e.g. those holding a firearm license or those with convictions or pending trials for certain crimes related to violence and firearms.

The application for conscientious objection, together with the required supporting documents, is submitted to the competent Recruitment Office, and the decision is taken by the Minister of Defence, following a procedure outlined in the law⁹. This includes a Special Committee appointed by the Minister of Defence, which consists of 5 members – two "high officers of the Force", a law officer, and two university professors in philosophy, social or political sciences, or psychology¹⁰. The Special Committee might call the applicant for interview, but can also decide without interview.

Substitute service

Article 5B of the National Guard Law sets out a formula for calculating the length of substitute service, based on the length of military service. For conscientious objectors performing substitute service, service will be nine months longer if the military service would have been 18 months, and 8 months longer if military service would have been 12 month or more, but less than 18 months.

In case of "special military service", which according to article 5Γ para 2 is unarmed service in the military, the service is 5 or 4 months longer, depending on the length of

6 CyprusNet.com: Cyprus National Guard, http://www.cyprusnet.com/content.php?article_id=2810&subject=standalone, accessed 9 April 2008

7 Constitution of the Republic of Cyprus, 1960, http://www.servat.unibe.ch/icl/cy00000_.html, accessed 9 April 2008

8 European Bureau for Conscientious Objection: Conscientious Objection in Europe during 2008, Report to the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament, 22 September 2009

9 Alexia Tsouni: Response to first draft of report, Email, 9 April 2008

10 National Guard Law, article 5Z, quoted after: European Bureau for Conscientious Objection: Conscientious Objection in Europe during 2008, Report to the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament, 22 September 2009

normal military service.

In both cases reservist obligation equal to the ones for conscripts apply, according to article 5I of the National Guard Law.

Substitute service is performed in posts of the public domain and consists of serving in services of public utilities or undertaking public duties within the field social care and environmental protection.

During wartime or time of mobilisation, provisions for substitute can be suspended by a decision of the Ministry of Defence (National Guard Law, Article 5IΓ). COs would then be incorporated into unarmed military service within the armed forces¹¹.

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 year¹². 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 again¹³.

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 the Ministry, a total number of 300 COs were to be called up for service¹⁴. 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 paragraph 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*"¹⁵. Nevertheless, the Cypriot government has not shown 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 Law¹⁶. 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.

11 National Guard Law, Article 5IΓ, according to European Bureau for Conscientious Objection: Conscientious Objection in Europe during 2008, Report to the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament, 22 September 2009

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

13 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.

14 '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.

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

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

Conscientious objection for professional soldiers

The Republic of Cyprus does not recognise the right to conscientious objection for serving conscripts, nor for professional soldiers who joined the National Guard voluntarily.

The regulations for leaving the National Guard prematurely are presently not known.

Draft evasion and desertion

The penalties for draft evasion and desertion are set out in the National Guard Law. However, the exact provisions are presently unknown.

A reservist omitting or neglecting to conform without a reasonable excuse to any call up order or not turning up to the fixed dates defined in the order, the proof burden is at the expense of the interested party. The reservist is guilty of a tort (desertion) and is liable to imprisonment not exceeding the two (2) years or a money penalty not exceeding five hundred (500) CP or to both sentences included¹⁷.

No information on practice is available.

Turkish Occupied Territories

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 recognised by any country except Turkey.

TRNC has its own armed forces and conscription system. Conscription is included in Article 74 of the Constitution, which states: "*National service in the armed forces shall be the right and sacred duty of every citizen*". It is further regulated by the 2000 Military Service Law (59/2000)¹⁸. 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 abroad¹⁹.

The right to conscientious objection is not legally recognised. In 1993, there was one known case of a conscientious objector. He was sentenced to 39 months' imprisonment, but he was released early²⁰. Although there are no known recent cases of COs, a new initiative for the right to conscientious objection has been founded in autumn 2007²¹.

17 National Guard Law, Article 22A, <http://www.mod.gov.cy/mod/mod.nsf/All/4CDDCD232B2D03C2C22572C8002342CF?OpenDocument>, accessed 9 April 2008

18 Extracts of the law on military service of the TRNC, http://www.ebco-beoc.org/northern_cyprus.htm, accessed 9 April 2008

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

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

21 Cyprus Mail: Turkish Cypriots dare to oppose the 'military myth', 9 December 2007, <http://www.cyprus-mail.com/news/main.php?id=36427&archive=1>, accessed 9 April 2008