

Chile

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Issues

- Military service exists
- Alternative service is not independent of the military

1 Conscription

conscription exists

Law 20.045 Art. 1º Nº 5 states that "Military duty is mandatory for all persons from 18 to 45 years of age, without distinction of sex.

Military duty may be performed in the following ways:

- Compulsory military service
- Participation in the Reserves
- Participation in mobilisation

Compulsory military service may be fulfilled by ordinary conscription, special courses or the provision of services."

Chile was one of the first countries in Latin America to introduce compulsory military service (SMO), through the Recruit and Replacement Act of 1900. Today, it is controlled by the General Directorate of National Mobilisation (DGMN) and regulated by Law 2306 of 1978. It was recently amended in 2005 (by Law 20.045), where important adjustments were made to the rules of recruitment and mobilisation of the armed forces. A strategy was implemented that emphasised the voluntary nature of military service, while not detracting from its mandatory nature.

SMO in Chile is a kind of voluntary professional and selectively compulsory recruitment—in case the quota demanded by the DGMN is not met¹—that is, by law, the lottery is undergone as a secondary process when there are not enough volunteers to fill the ranks. Although there are alternatives to military service, neither these nor conscientious objection are dissociated from the military, but feed it as exchange for services, with the added fact that it is only possible to apply for alternative service if you are pursuing certain studies. Moral, religious, ethical and/or philosophical reasons are ignored by law.

recruitment

All Chilean men between the ages of 17 and 45 are on the national military registry, but only men from 18 years of age may be part of the annual conscription database.² The service has a maximum duration of two years and may be carried out mainly in the military, or—to a lesser degree—in the navy or the air force. Women between the ages of 18 and 24 may also volunteer, but only in the army, and for a maximum of 1 year. They must have completed a minimum three

1 The number of the contingent to be quartered each year shall be determined by the President of the Republic on the proposal of the Minister of National Defense, in accordance with the requirements of the Armed Forces. Law 20045 Art. 1, Nº 11.

2 The General Directorate, at the request of the interested party, may authorize the early entry to military service, as a volunteer in ordinary conscription for up to 1 year. However, these people cannot be mobilized until they come of age. (Article 32)



years of high school, be single, childless, and in good health.³

For the purposes of the law, persons are classified in (a) conscription basis: all persons called to perform compulsory military service (b) active service: persons who have been summoned and are fulfilling some form of military duty, such as enlisted personnel of the armed forces and junior ensigns, cadet officers, cabin boys, apprentices or other students of institutional schools not forming part of the enlisted personnel, and (c) reserves: all persons up to 45 years of age with or without military instruction that may be called in case of emergency.

In principle, it is stipulated that military service is purely voluntary, however, if the quota for armed forces personnel is not met, it assumes its obligatory character and the conscription of non-volunteers through a lottery system takes place. The Civil Registry and Identification Service perform annual surveys of those at a lawful age, and through it, the random process is performed with an automatic registration of those potentially available. In April of each year, the conscription base is determined and in the month of October, non-volunteers are summoned.

postponement and exemption

Compulsory military service may be postponed for up to twelve years while pursuing higher education, for the fourth year of high school, having a scholarship or providing proof of residence abroad, and by those who have been sentenced to less than three years and one day for a felony. In the same vein, if a person has temporary a physical or mental disability, conscription is deferred.

Article 17 states that while they remain in their positions, the following shall be exempt from military duty: the President of the Republic, Ministers of State, Undersecretaries; The Comptroller General of the Republic; the directors of the Central Bank; The President of the State Defence Council, and the senior heads of the State Administration, Senators, Deputies, Ambassadors; Ministers plenipotentiaries, regional governors, governors, mayors (...) and all those who hold positions that may not be abandoned for reasons of national interest without previous approval of the President of the Republic. Mothers under the age of eighteen shall also be exempt from military duty.

Furthermore, the following are also excluded from military service:

- Persons who are declared unfit because of a physical or mental inability;
- Members of the Forces of Order and Public Security and the Gendarmerie;
- People for whom the fulfilment of military service would cause a serious deterioration in the socio-economic situation of their household, where they provide the main source of income;
- Persons who are married, are in the process of becoming parents, or have had newborn children prior to the first contingent selection lottery;
- Persons convicted of a felony, unless the General Directorate considers them to be morally fit. In any case, the amnesty annuls the grounds for exclusion;
- The descendants, by direct and collateral bloodline of victims of violations of human rights or political violence, up to the second degree. This is outlined by law No. 19.123.

2 Conscientious objection

Article 30F of the Law establishes that certain persons who have professions, occupations, trades or knowledge of interest to the Armed Forces may perform compulsory military service through the "Provision of Services" option. In addition, men who are attending the last year of secondary school, professional studies or technicians of higher level and who are summoned by the general draw will have the right to choose, only a one time, between the following alternative ways of performing military service:

- Ordinary conscription, immediately or at the end of their corresponding studies;
- An allowance, up to 180 days, of services related to their studies in those professions that are

³ Law 20,045. Art. 1 No 22.

- of interest to the Armed Forces;
- Participation, up to 150 days, in special military training courses.

In 1999, a case was submitted to the Inter-American Commission on Human Rights by the Center for Justice and International Law (CEJIL), the Human Rights Corporation (CODEPU), and the Chilean antimilitarist and conscientious objection group *Ni Casco Ni Uniforme* (NCNU), which was rejected by the Commission in 2005. In the absence of full legal recognition of conscientious objection, the authorities have attempted to settle the debate through the modernisation and promotion of the SMO; a military service that is voluntary where possible and only compulsory when quotas are not filled. This leaves the status of conscientious objection as a curtailed right, since even though the right is applied, whomever interposes the right to conscientious objection must compensate with a mandatory alternative civil service within the same military field, for the benefit of the Armed Forces.

One of the strategies to attract young volunteers is the introduction of national defence issues in the curriculum of the educational system. To answer the claims of many groups against the GOS, a *civic education and human rights* teaching program is implanted for instructors of conscripted soldiers. As for the financial incentives to encourage the registration of volunteers, salaries have been set for conscripted soldiers depending on hierarchical rank, ranging from \$75,158 to \$95,282.⁴ It is therefore a fairly controversial "voluntariness" when at the heart of it, there are social and economic aspects which determine the lack of opportunities and resources of the majority of those who join voluntarily. Several groups have claimed that, for the most part, military service is the only employment option for young people with high rates of unemployment and poverty.⁵

3 Draft evasion and desertion

In fact, it is implied that people who do not comply with the provisions of the Law Decree may not hold positions or jobs in the administration of the State. Articles 72 and 73 stipulate that those selected and persons classified as available who are drafted and who do not show up or do not comply with the summons from the recruiting authorities for the purposes of their selection will be considered offenders, and will suffer the penalty of temporary disqualification from holding public office. Also, people classified as available⁶, and ordered to be sent to the Civil Defence of Chile and who do not show up will be sanctioned with fines of four to eight monthly tax units.

Compliance with the penalties does not exempt or exclude you from compulsory military service, which for this purpose may only be carried out in the form of ordinary conscription (i.e., they will not enjoy the benefits of volunteers in relation to training courses, scholarships and outplacement programs, etc.) Notwithstanding the aforementioned, offenders and those who are remiss may request the commutation of the sentence by performing compulsory military service in the form of ordinary conscription for a period of two years.

4 Statistics

Statistics are of particular importance in the case of Chile considering that because of them, arguments in favour or against compulsory military service are justified. For a period of time, the authorities referred to the high degree of voluntariness as the great success of the Armed Forces model with a more civilian nature. However, everything indicates that in recent years the voluntariness has decreased considerably. According to the press, the decline has been almost half since about 2007. The figures provided by the Directorate General of National Mobilization (DGMN), reveal that in seven years the volunteers decreased from 32 thousand (100% of the contingent) to only 17 thousand. In fact, only 11,377 young people entered the service in 2015.

4 See more: http://www.serviciomilitar.cl/?page_id=2

5 See more: <http://www.rebellion.org/noticia.php?id=45328>

6 Those who were not selected in the draw but still of military age (Art 21, Law 20045)

"These numbers are consistent with the interest of wanting to perform military service, as only 34% claim they are interested in this area."⁷

Tabla N° 1. Base de Conscripción y Sorteados. Años 2007-2010.

Antecedentes	2007	2008	2009	2010
Clase	1988	1989	1990	1991
Base de Conscripción	146.593	146.064	143.527	138.707
Sorteados	97.606	70.450	70.461	54.995

Source: Defence and Armed Forces Workshop of the Equality Institute. (Available at: <http://www.tallerdedefensa.cl/opiniones/taller/articulos/servicio-militar.html>)

Tabla N°2. Voluntarios de las tres ramas. Años 2007-2010.

Antecedentes	2007	2008	2009	2010
VOLUNTARIOS	32.007	33.902	32.304	27.734
Ejército	24.743	26.415	27.267	23.444
Armada	3.353	4.319	3.015	2.350
Fuerza Aérea	3.911	3.168	2.022	1.931

Source: Defense and Armed Forces Workshop of the Equality Institute. (Available at: <http://www.tallerdedefensa.cl/opiniones/taller/articulos/servicio-militar.html>)

The charts show the evolution of the implementation of the new model until 2010. Chart 2 shows the decrease in the three branches of the armed forces, among which the Army is the most troubling. The reasons for the downturn vary between the economic growth of the country and the greater range of possibilities for young people finding work in other areas. Undoubtedly, the model is in a crisis in a population that is increasingly less interested in providing military service.

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7 See more: Latercera.com. <http://www.latercera.com/noticia/las-razones-que-han-reduccido-a-casi-la-mitad-los-voluntarios-al-servicio-militar/> Cambio21. See more: <http://cambio21.cl/cambio21/site/artic/20150619/pags/20150619111954.html>

