



War Resisters' International

“War is a crime against humanity. I am therefore determined not to support any kind of war, and to strive for the removal of all causes of war.”
WRI declaration

War Resisters' International is an international network with 83 affiliated organisations in 42 countries. It aims to:

- ▶ connect and support war resisters around the world
- ▶ promote nonviolent action to remove the causes of war

Conscientious objection in Estonia

Report to the Human Rights Committee, 97th session

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Conscientious objection in Estonia

Issues

- A genuinely civilian substitute service for conscientious objectors is not available.
- Estonia does not recognise the right to conscientious objection for professional soldiers.

Military recruitment

Conscription

Conscription is enshrined in article 124 paragraph 1 of the constitution, according to which "*Estonian citizens have a duty to participate in national defence on the bases of and pursuant to procedure provided by law*"¹. It is further regulated by the 2000 Defence Forces Service Act².

The duration of the compulsory military service is 8 or 11 months, depending on the education and the position in the Defence Forces³. After completion of military service, conscripts may be called up for reservist duties every five years.

Only approximately 1,500 of a total of 3,800 Armed Forces personnel are made up of conscripts⁴.

Professional soldiers

The Defence Forces Service Act 2000 also includes regulations for "contract service". Estonian citizens only who are at minimum 18 years old can apply to join the Estonian Defence Forces (Article 79). According to article 83, a contract can either be for a fixed term, or unspecified.

Conscientious objection

Conscientious objection for conscripts

The right to conscientious objection is enshrined in article 124 paragraph 2 of the Estonian constitution, which states that "*a person who refuses to serve in the Defence Forces for religious or moral reasons has a duty to perform alternative service pursuant to procedure prescribed by law*"⁵.

According to article 3 paragraph 6 of the Defence Forces Service Act, "*refusal to serve in the Defence Forces on religious or moral grounds does not release the person concerned from performance of the duty to serve in the Defence Forces*". However, according to article 4 paragraph 2 of the same law, "*alternative service shall be conducted pursuant to the procedure provided for in this Act and legislation issued on the basis thereof.*"

The application procedure is outlined in article 72. According to this article, the Defence Forces Agency decides on an application for conscientious objection. To "verify the justification", the "*Defence Forces Agency shall: 1) collect explanations from the person eligible to be drafted and those closest to him; 2) make inquiries of the place of study or work of the person eligible to be drafted and of the religious organisation specified by him.*"

1 Constitution of the Republic of Estonia, <http://www.president.ee/en/estonia/constitution.php?gid=81915>, accessed 2 May 2008

2 Defence Forces Service Act 2000, <http://www.legaltext.ee/text/en/X40039K10.htm>, accessed 1 May 2008

3 Estonian Defence Forces: Compulsory military service, http://www.mil.ee/index_eng.php?s=ajateenistus, accessed 2 May 2008

4 U.S. Department of State, Bureau for European and Eurasian Affairs: Background Note: Estonia, October 2007, <http://www.state.gov/r/pa/ei/bgn/5377.htm>, accessed 2 May 2008

5 Constitution of the Republic of Estonia, <http://www.president.ee/en/estonia/constitution.php?gid=81915>, accessed 1 May 2008

It is also possible to request further documents or to call the applicant for an interview. If an application is rejected, an appeal either to the Defence Forces service commission or to a court is possible.

According to article 73 of the Defence Forces Service Act, "*persons in alternative service shall serve in structural units determined by the Government of the Republic which are in the area of government of the Ministry of Internal Affairs or the Ministry of Social Affairs and which are engaged in rescue, social care or emergency work*". Read together with article 3, however, the character of substitute service remains unclear.

After completion of substitute service, COs "*shall be registered in the register of persons liable to service in the Defence Forces*" (Article 78). Consequently, COs may still have to serve in the armed forces as reservists. Article 78 states that reservist duties should not violate the guarantees that are laid down in Article 76 paragraph 1, which suggests that reservist duties of COs may entail unarmed duties within the armed forces.

The length of substitute service is 16 months⁶. This is twice the length of military service⁷. In 2003, the United Nations' Human Rights Committee stressed its concern "*that the duration of alternative service for conscientious objectors may be up to twice as long as the duration of regular military service*", and pointed out that Estonia "*is under an obligation to ensure that conscientious objectors can opt for alternative service, the duration of which is without punitive effect*"⁸.

In practice, there are not many applications for conscientious objection. During the period of 1995-2001, only in 1996 11 conscientious objectors served their substitute service in the Tallinn Military Rescue Company (under the Estonian Rescue Board)⁹.

According to the third periodic Estonian state report to the Human Rights Committee, in 2005, there were no persons in substitute service; in 2006 there were 2 such persons and in 2007 11 of 65 applications for substitute service were granted¹⁰. No more details about the conditions or place of service are known.

Conscientious objection for professional soldiers

The right to conscientious objectors is not recognised for professional soldiers.

According to article 109, "*a regular member of the Defence Forces is required to give at least two months' advance notice of his or her wish to terminate the contract.*" However, according to article 120, "*the active service contract of a regular member of the Defence Forces shall not be terminated and he or she shall not be released from active service during a state of emergency or a state of war. In the event of mobilisation, all regular members of the Defence Forces are deemed to be mobilised in the Defence Forces as of the declaration of mobilisation*". This in fact makes it impossible to leave the Armed Forces in times of war or emergency, when a conflict of conscience is most likely to arise.

Draft evasion and desertion

Draft evasion and desertion are punishable under the criminal code¹¹.

6 Human Rights Committee: Consideration of reports submitted by States Parties under article 40 of the Covenant, Third periodic reports of States parties: ESTONIA, CCPR/C/EST/3, 2 April 2009, http://www2.ohchr.org/english/bodies/hrc/docs/CCPR.C.EST.3_AUV.doc, accessed 19 August 2009

7 Government Gazette 'Riigi teataja' I 2000, 63, 401. The length of substitute service was in fact increased in 2000. Before 2000, the length of substitute service was 15 months, compared to 12 months' military service. Article 74 of the Defence Forces Service Act envisages an even longer duration, stating that substitute service should be no longer than 24 months and not shorter than 16 months.

8 Concluding observations of the Human Rights Committee : Estonia. 15/04/2003, CCPR/CO/77/EST, [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.CO.77.EST.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CCPR.CO.77.EST.En?Opendocument), accessed 2 May 2008

9 Consideration of reports submitted by states parties under article 40 of the Covenant , Addendum , ESTONIA (Comments by the Government of Estonia on the concluding observations of the Human Rights Committee), 25 May 2002. [http://www.unhcr.ch/tbs/doc.nsf/0/c293b32c79b5f13bc1256c4e00301c81/\\$FILE/G0242273.pdf](http://www.unhcr.ch/tbs/doc.nsf/0/c293b32c79b5f13bc1256c4e00301c81/$FILE/G0242273.pdf), accessed 2 May 2008

10 Human Rights Committee: Consideration of reports submitted by States Parties under article 40 of the Covenant, Third periodic reports of States parties: ESTONIA, CCPR/C/EST/3, 2 April 2009, http://www2.ohchr.org/english/bodies/hrc/docs/CCPR.C.EST.3_AUV.doc, accessed 19 August 2009

11 Penal Code (consolidated text Jan 2007), <http://www.legaltext.ee/en/andmebaas/tekst.asp?loc=text&dok=X30068K7&keel=en&pg=1&ptyyp=RT&tyyp=X&query=penal>, accessed 1 May 2008

According to article 215¹ of the Defence Forces Service Act, "*Failure by a person eligible to be drafted to report for compulsory military service is punishable by a fine of up to 300 fine units or by detention*".

Failure by a reservist to participate in training exercises can be punished by a fine of up to 300 fine units or by detention, according to article 215²¹².

According to article 439, desertion, defined as "*unauthorised departure from a military unit or any other place of service with the intention to evade service in the Defence Forces*" is punishable by 1 to 5 years' imprisonment in peacetime, and 2 to 10 years' imprisonment during a state of emergency or war.

Article 440 deals with draft evasion, or "*evasion of service in Defence Forces*". According to this article, "*a person who evades service in the Defence Forces by causing an injury to himself or by having an injury caused to him by another person, or by simulating an illness, falsifying documents or using any other fraud shall be punished by 1 to 5 years' imprisonment*."

"*The same act, if committed with the intention to evade performance of duties related to service in the Defence Forces, is punishable by up to 3 years' imprisonment.*"

"*An act provided for in subsection (1) or (2) of this section, if committed during a state of emergency or a state of war, is punishable by 2 to 10 years' imprisonment*".

No information on practice is available.

12 Defence Forces Service Act, 14 March 2000,

http://www.ensib.ee/toetused/Defence_Forces_Service_Act.htm, accessed 19 August 2009