

Romania

Issues

- Romania abolished conscription in 2007. It is unclear whether the right to conscientious objection is recognised for professional soldiers.
- With the change of the constitution to abolish conscription, also the provisions for a substitute service for conscientious objectors have been abolished.



Military recruitment

Conscription

Romania abolished conscription in peacetime in 2007, based on law 395/2005 “*regarding the suspension of conscription during peacetime and the transition to a voluntary military service*”¹.

However, conscription can be easily introduced in times of war or an emergency. According to Article 55 of the Romanian constitution, “*citizens have the right and duty to defend Romania*” and “*may be conscripted from the age of 20 up to the age of 35*”².

According to the law, Romanian male citizens still have to report to the military authorities upon turning 18, to register and for the establishment of their abilities in case of the reintroduction of conscription as outlined in Article 3 of the law.

Professional soldiers

The Romanian Armed Forces recruit professional soldiers based on Law 384/2006 “*on the status of voluntary soldiers*”. According to the law, volunteers initially sign a contract for up to four years, which can be extended by two or three years up to a maximum age of 40³.

Conscientious objection

Conscientious objection for conscripts

Until 2007, when Romania still had conscription in peacetime, Romania recognised the right to conscientious objection for conscripts. The right to conscientious objection was regulated by the 1996 Law on the Preparation of the Population for Defence (1996/46) and the 1997 Government Decree 'As regards the way of execution of the alternative service law according to the provision of Article 4 from Law 46/1996' (618/1997).

Only religious grounds for conscientious objection were legally recognised. According to Article 4 of the 1996 Law: “*Citizens who, for religious reasons, refuse military service under arms shall perform alternative utilitarian service, according to present law*”. The grounds for recognition were further restricted by Article 6.3 of the 1997 Government Decree, which stated that the right to conscientious objection only applies to “*members of religious groups that do not allow the discharge of military service under arms*”.

The religious groups concerned were named in a list that is made by the State Secretariat for Religious Denominations. The list includes the Pentecostals, Adventists, Baptists, Seventh Day Adventists and Jehovah's Witnesses.

There also was a strict time limit for submitting CO applications. Applications had to be made within 15 days of

1 Embassy of Romania: Response to War Resisters' International, 28 February 2008, TL-1078

2 Constitution of Romania 1991, as revised by Law 429/2003. <http://www.cdep.ro/pls/dic/site.page?id=339&idl=2>

3 Ministry of Defence of Romania, Press Release 497, “*Opportunities for the military profession*”, 29 November 2007, <http://english.mapn.ro/cpresa/nou.php?id=1769>

receiving call-up papers. Applications could thus not be made by serving conscripts or reservists⁴.

With the revision of the constitution by Law 429/2003 the relevant article dealing with substitute service has been abolished.

Conscientious objection for professional soldiers

It is not clear what regulations apply for the conscientious objection of voluntary soldiers. Before conscription was suspended in peacetime, serving conscripts, professional soldiers, and reservists had no right to conscientious objection.

According to the Romanian Embassy London, a “*voluntary soldier can cancel the contract at any time by resignation*”. However, if a soldier has attended professional training programmes that lasted more than 90 days, and they wish to leave before two years after completion of the training, then the costs of these trainings have to be paid back⁵ – making it almost impossible to leave prematurely.

Draft evasion and desertion

penalties

The offence of desertion as stipulated and sanctioned in Article 332 of the Penal Code is applicable to any member of the armed forces absent without any reason from his military unit or duty for more than three days. The action is punished with prison from 1 to 7 years (Law 80/1995 on the Military Personnel Status). The commander of the specific military unit must initiate penal action against an individual. However, penalties depend on the circumstances (alleviating or aggravating). In the case of desertion, if the absence is strongly motivated by objective reasons, this can be used to defend the accused⁶.

4 Quaker Council for European Affairs, The Right to Conscientious Objection in Europe, Quaker Council for European Affairs, 2005, <http://www.quaker.org/qcea/coreport/index.html>

5 Embassy of Romania: Response to War Resisters' International, 28 February 2008, TL-1078

6 Home Office: Romania. Country Report, 2004. Country Information and Policy Unit, Immigration and Nationality Directorate, http://www.ecoi.net/file_upload/panja1_02784rom.pdf