

# Kyrgyzstan

## Issues

- Conscription exists, and only members of specific religious denominations can be recognised as conscientious objectors
- Substitute service is discriminatory, being longer than military service



## 1 Conscription

### *conscription exists*

Conscription is enshrined in art. 24 of the Constitution, which states: "Citizens of the Kyrgyz Republic have the right and obligation to defend the motherland. Citizens perform military service as established by law".<sup>1</sup>

The legal basis of conscription is the 1992 Law On general military duties, amended in 1994. [1]

Military service can be performed both in the Kyrgyz armed forces and Kyrgyzstani-Russian Border Force, which is under Russian command.

### *military service*

All men between the ages of 18 and 27 are liable for military service.

The length of military service is 12 months, and 9 months in the case of university and college graduates.<sup>2 3</sup>

There are reservist obligations.

### *postponement and exemption-*

Postponement is possible for students.

Exemption is possible for medical and domestic reasons. Those exempted for certain domestic reasons (such as having children or having lost a brother who died while performing military service) must perform substitute service.

The authorities have a list of illnesses which can lead to exemption from military service. This list is secret as the authorities fear that conscripts would otherwise falsify medical documents in order to get exempted.<sup>4</sup>

### *recruitment*

There are two call-ups a year, between April and June and between October and December<sup>5</sup>

1 1994 Law on Alternative Service (German translation).

2 1994 Law on Alternative Service (German translation).

3 Youth Human Rights Group Bishkek 1998. Alternative Service in the Kyrgyz Republic. Bishkek, Kyrgyzstan.

4 1994 Law on Alternative Service (German translation).

5 Shishlevskiy, Valentin 1995. 'Kyrgyzstan and its armed forces: A review', in: Asian Defence Journal, 1/1995.

## 2 Conscientious objection

### *legal right*

The right to conscientious objection is not enshrined in the Constitution.<sup>6</sup>

The right to conscientious objection is recognized under the 1994 Law on Alternative Service, but only religious grounds are accepted. Art. 1 entitles members of 'registered' religious denominations who forbid their members to bear arms and service in the Armed Forces to perform substitute service, which is twice the length of military service.

Those exempted from military service on certain domestic grounds (see: postponement and exemption) must also perform substitute service.

### *right for whom*

Applications cannot be made while serving.<sup>7</sup>

### *procedure and practice*

Written applications must be made to the local call-up commission, which makes a decision. (1994 law, art. 6)

There is a right to appeal. When an application is turned down by the local call-up commission it is possible to make an appeal to the Oblast call-up commission. If this appeal is unsuccessful it is possible to appeal to a civilian court. (art. 8)

The government annually stipulates how many conscripts may perform substitute service. (art. 5)

Little is known about how the procedure works in practice. Evidently many conscripts are allowed to perform substitute service (see: Annual statistics), but it must be noted that most are assigned to substitute service because they are exempted from military service for domestic reasons. [3]

According to a Kyrgyz NGO, applications to perform substitute service for other than religious reasons are seldom granted.<sup>8</sup>

### *substitute service*

The length of substitute service is 24 months, and 18 months in the case of university and college graduates - twice the length of military service. (art. 2)

Substitute service is performed in the economy of Kyrgyzstan (art. 11) and can be any civilian task. [3] Anyone performing substitute service must hand over 20 per cent of his salary to the Ministry of Defence – thus a substantial military tax replaces uniformed service.

People can be re-assigned from substitute service to reserve service when medical reasons preclude continuance of substitute service, when domestic circumstances change or when they go abroad. (art. 16)

Although figures for alternative servicemen are released, it is not known how many have at any stage applied, successfully or unsuccessfully, for recognition as conscientious objectors.

## 3 Draft evasion and desertion

### *penalties*

Evading military service is punishable by a fine (equivalent to between 200 and 500 the amount of minimum wage) or three months' to two years' imprisonment (art. 351 of the 1997 Criminal Code).<sup>9</sup>

Previously avoiding military service was punishable under art. 74 of the old criminal code, by one to three years' imprisonment, between three and five years' if it was accompanied by falsifying

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6 Kangas, Roger D. 1996. 'With an Eye on Russia, Central Asian Militaries Practice Cooperation', in: Transition, 9 August 1996., RFE/RL, Prague.

7 Youth Human Rights Group Bishkek 1998. Alternative Service in the Kyrgyz Republic. Bishkek, Kyrgyzstan.

8 Youth Human Rights Group Bishkek 1998. Alternative Service in the Kyrgyz Republic. Bishkek, Kyrgyzstan.

9 Youth Human Rights Group Bishkek 1998. Alternative Service in the Kyrgyz Republic. Bishkek, Kyrgyzstan.

medical documents.<sup>10</sup>

### *practice*

Draft evasion and desertion are widespread, prompted by poor conditions and human rights violations within the armed forces. South Kyrgyz separatism is another cause of draft evasion: officers from northern Kyrgyzstan often refuse to serve in the southern part of the country. [1] [3]

No information is available on how draft evasion and desertion are actually monitored, but some persons have evidently been prosecuted for avoiding military service. In 1995 and 1996 there were known to be 12 such cases, with sentences handed out of up to 18 months' imprisonment under art. 74 old criminal code. It is not clear whether these were cases of draft evaders tracked down by the authorities or of COs whose application for substitute service were rejected and consequently refused to perform military service.<sup>11</sup>

## 5 History

After gaining independence in 1991 Kyrgyzstan at first considered having no armed forces, but instead depending on Russian and the CIS (Commonwealth of Independent States) forces for national security. However, in the following years Kyrgyzstan did establish its own armed forces.<sup>12</sup>

In 2012, the Supreme Court of Kyrgyzstan looked at the constitutionality of the Military Service Law, following a complaint from ten Jehovah's Witnesses. The complaints it noted were:

"(a) this service requires to pay money directly to the Defence Ministry for support of the military and military activity;

(b) places the conscientious objector under the direct control and supervision of the military; and

(c) enlists the conscientious objector in the Armed Forces as an 'obligated reservist'"

It found all three complaints justified and ordered immediate amendment of the relevant legislation<sup>13</sup>. Although an amendment to the law has been suggested as a result of this, it does not fully respond to the Court – and the conscientious objectors' – complaints with the current system<sup>14</sup>.

Following its consideration of Kyrgyzstan's Second Periodic Report under the Universal Periodic Review, the United Nation's Human Rights Committee stated: "The Committee reiterates its previous concerns about the limiting of conscientious objection to military service only to members of registered religious organizations whose teaching prohibits the use of arms and the stipulation of a shorter period of military and alternative service for persons with higher education. The Committee notes the State party's initiative to amend the Law on Universal Conscription of Citizens of the Kyrgyz Republic on Military and Alternative Service."<sup>15</sup>

## Acknowledgements

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10 Youth Human Rights Group Bishkek 1998. Alternative Service in the Kyrgyz Republic. Bishkek, Kyrgyzstan.

11 Youth Human Rights Group Bishkek 1998. Alternative Service in the Kyrgyz Republic. Bishkek, Kyrgyzstan.

12 1994 Law on Alternative Service (German translation).

13 Corley, F. "Kyrgyzstan: Who can be a conscientious objector?", [Forum 18 News Service \(www.forum18.org\)](#) 25<sup>th</sup> February 2014.D

14 Brett, D. International Fellowship of Reconciliation and Conscience and Peace Tax International, UPR Submission, Kyrgyzstan, Jan/Feb 2015.

15 Ibid.