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IRB – Immigration and Refugee Board of Canada

Turkey: Military service, both compulsory and voluntary, including requirements, length, alternatives and exemptions; consequences of draft evasion and conscientious objection (2018–November 2020) [TUR200361.E]

Research Directorate, Immigration and Refugee Board of Canada

1. Military Service, Compulsory and Voluntary

Article 72 of Turkey's Constitution provides that

[n]ational service is the right and duty of every Turk. The manner in which this service shall be performed, or considered as performed, either in the armed forces or in public service, shall be regulated by law. (Turkey 1982)

Information on national service performed in the public service could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Article 1 of Turkey's 1927 Law No. 1111, Military Law states that "[e]very male Turkish citizen is obliged to perform his military service in accordance with this law" (Turkey 1927). Article 2 of the same law, amended in 1987, provides the following:

Military [eligibility] age for every man shall be according to his age recorded in his basic citizenship register and shall begin on 1st January of the year when he reaches the age of 20 and shall end on 1st January of the year when he reaches the age of 41. Military [eligibility] age shall mostly be for a period of 21 years, but [the period] may be extended, or reduced, by up to five years following the Chief of General Staff's Office demonstrating this to be necessary, the Ministry of National Defence proposing it and Council of Ministers decreeing it. (Turkey 1927, square brackets in original)

Sources report that in 2019 Turkey passed a law [amendment 7179 to the Law on Military Service (EBCO 14 Feb. 2020, 21)] that reduces the length of compulsory military service [for private and non-commissioned soldiers (US 5 Oct. 2020)] from twelve to six months (Al Jazeera 15 Apr. 2020; US 5 Oct. 2020). According to sources, the 2019 law also allows conscripts to voluntarily extend their service for an additional six months for a [monthly (MEMO 16 Apr. 2020)] salary of [at least (*Daily Sabah* 25 June 2019)] 2,000 Turkish lira (TRY) [C\$339] (*Daily Sabah* 25 June 2019; MEMO 16 Apr. 2020). Sources state that the service term for reserve officers, who are selected among university or college graduates, remains at twelve months (*Daily Sabah* 25 June 2019; US 5 Oct. 2020). A copy of this law could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

1.1 COVID-19

Sources report that the Turkish military has delayed conscription in 2020 due to the coronavirus pandemic (Al Jazeera 15 Apr. 2020; *Daily Sabah* 24 Sept. 2020; Duvar 15 Apr. 2020). In April 2020, media sources stated that citizens who were conscripted in November 2019 [1] would have their discharge delayed by ["at least" (Al Jazeera 15 Apr. 2020)] one month (Al Jazeera 15 Apr. 2020; Duvar 15 Apr. 2020).

1.2 Treatment of Recruits

Information on the treatment of recruits was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

According to sources, "[r]ecent" statistics (Netherlands July 2019, 12) or statistics after 2015 (UK Sept. 2018, para. 2.4.9) on suicides in the military are not available (Netherlands July 2019, 12; UK Sept. 2018, para. 2.4.9). The US Department of State's *Country Reports on Human Rights Practices for 2019* indicates that "[s]ome military conscripts endured severe hazing, physical abuse, and torture that sometimes resulted in death or suicide" (US 11 Mar. 2020, 7).

2. Alternatives and Exemptions

Article 10 of Turkey's Law No. 1111 of 1927, Military Law, amended in 1984, provides the following:

8. According to the Turkish Armed Forces Health Aptitude Regulation, those whose [level of] physical capability is not suitable for military service shall be exempted from military service.

10. Those immigrants who have completed their 22nd year before coming to Turkey, or who are understood to have already completed their military service in the country of origin and who have obtained Turkish citizenship, shall not be made soldiers.

12. Refugees and those who are not citizens of the Turkish Republic shall not be made soldiers. (Turkey 1927, square brackets in original) [2]

In a 2017 response to the Organization for Security and Co-operation in Europe (OSCE), Turkey, citing Law No. 1111, indicates the following exemptions from military service:

those who are not physically or mentally fit for military service are exempted from this obligation if documented by a health report provided by a competent authorized hospital. ...brothers of those who have died and for both brothers and sons of martyrs who fell victim to terrorism during their military service. Those categories of citizens are not enlisted unless they declare that they voluntarily want to be enlisted.

Turkish citizens who have gained Turkish citizenship by way of migration and who have enlisted or accomplished their military service in the state that they have migrated from, are also exempted from military service. (Turkey 14 June 2017, 14)

According to sources, individuals can receive exemptions from military service by "declaring" (EU Nov. 2016, 37) or "proving" (Australia 10 Sept. 2020, para. 3.93) their "homosexuality" (Australia 10 Sept. 2020, para. 3.93; EU Nov. 2016, 37). For further information on the treatment of persons with diverse sexual orientation and gender identity and expression (SOGIE) in Turkey, see Response to Information Request TUR200360 of November 2020.

Anadolu Agency (AA) [3] reports that "citizens born on or before 2000 will be required to complete just 21 days of military service and will be exempt from serving for the remaining five months" by paying a fee of 33,230 TRY [C\$5,635] for citizens living in Turkey or 5,442 euros (EUR) [C\$8,437] for citizens living outside of Turkey (AA 13 July 2019). Similarly, sources report that after the first month of training, the 2019 law allows conscripts to purchase an exemption for the remaining five months of service for 30,000 TRY [C\$5,086] (*Daily Sabah* 25 June 2019) or 31,000 TRY [C\$5,131] (Australia 10 Sept. 2020, para. 3.92; US 5 Oct. 2020). According to a country information report on Turkey by the Australian Department of Foreign Affairs and Trade (DFAT), "[t]his applies only to those called up after the introduction of the new law. Those already considered draft evaders are not eligible for the new law and buy-out scheme" (Australia 10 Sept. 2020, para. 3.92).

Sources report that university students may delay their conscription to complete their studies (Australia 10 Sept. 2020, para. 3.93; Turkey 14 June 2017, 14), if they are not over the age of 35 (Turkey 14 June 2017, 14). Further information on deferral of military service could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Draft Evasion and Conscientious Objection

A 2019 report on military service in Turkey by the Netherlands's Ministry of Foreign Affairs notes that "[t]he law distinguishes between three types of evasion of military service: evasion of registration/screening (*yoklama kaçaklığı*), failure to report for actual service (*bakaya*), and desertion (*fırar*)" (Netherlands July 2019, 9, italics in original).

Sources report that Turkey does not recognize conscientious objection to military service (Australia 10 Sept. 2020, para. 3.95; EBCO 14 Feb. 2020, 19; Turkey 14 June 2017, 13). Article 63(1)(A) of Turkey's Law of 1930 on Absentee Conscripts, Draft Evaders, Persons Unregistered [For Military Service], and Deserters provides the following:

Those who without an acceptable excuse are, during peacetime, absentee conscripts, draft evaders or unregistered [for military service] and of whom the first contingent of peers or friends with whom they have been processed have been sent off, and those reserve recruits who have been called up and [are absent] without excuse, and [in all the preceding cases] starting from the date of their peers being sent off...

- arrive within seven days shall be imprisoned for a term of up to one month;
- are arrested [within seven days] shall be imprisoned for a term of up to three months;
- arrive from between seven days to three months shall be imprisoned for a term ranging from three months to one year;
- are arrested from between seven days to three months shall be imprisoned for a term ranging from four months to one-and-a-half years;
- arrive after three months shall be imprisoned for a term ranging from four months to two years;
- are arrested after three months shall be punished with term of heavy imprisonment ranging from six months to three years. (Turkey 1930, square brackets and ellipsis in original)

The European Association of Jehovah's Witnesses, in a report submitted to the OSCE, states that the government "prosecutes [Jehovah's Witnesses who are conscientious objectors] and penalizes them with repeated fines and threats of imprisonment" and adds that the "Ministry of National Defence sends letters to their employers to make sure that they lose their jobs" (The European Association of Jehovah's Witnesses 19 Sept. 2019, 3). The 2019 annual report of the European Bureau for Conscientious Objection (EBCO), "an umbrella organisation for national associations of conscientious objectors" (EBCO n.d.), states that "conscientious objectors fac[e] ongoing arrest warrants; a life-long cycle of prosecutions and imprisonment, and a situation of 'civil death' which excludes them from social, cultural and economic life" (EBCO 14 Feb. 2020, 20). The same source further reports that

[o]bjectors are still criminalised as call-up/draft evaders. An unlimited arrest warrant is issued and due to this arrest warrant, they are detained on any occasion when they have to present their ID to the police or gendarmerie, a situation which frequently occurs. On the first detention, the objector is given an administrative fine. But every subsequent detention opens a new criminal case, which can lead to a prison sentence of anything from 2 months to 3 years. To avoid arrest and detention, objectors are forced to live an underground life.

In the event that the government declares a military mobilization, conscientious objectors risk being charged with desertion, which is subject to the death penalty under Article 63 of the Military Criminal Code. (EBCO 14 Feb. 2020)

According to Australia's DFAT,

[t]hose who do not present for registration at a military recruitment branch are issued a fine, and fines continue to be issued for the period authorities consider an individual has evaded conscription. Fines increase in value as the number of years of avoidance increases. While the law allows for imprisonment as punishment for avoiding military service, DFAT understands it is not used in practice. Non-payment of fines in Turkey can, in theory, result in asset seizures and withholding of salary and pensions. In practice, there are a very large number of conscription evaders and the state lacks capacity to follow-up on most cases. Prison is not used as a penalty for unpaid fines in Turkey. Turkish men who are resident overseas are not required to do military service while they hold a foreign work permit. Those who do not hold such a permit are considered draft evaders and may be subject to considerable fines upon their return. (Australia 10 Sept. 2020, para. 3.95)

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] According to Duvar, an online "independent gazette" based in Turkey, conscription "occurs twice a year, in spring and autumn" (Duvar 15 Apr. 2020).

[2] Law No. 1111 of 1927, Military Law, available on UN Refworld, contains "only selected provisions" (Turkey 1927). A complete copy of the law could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

[3] BBC indicates that Anadolu Agency (AA) is a "state-run news agency" (BBC 8 Oct. 2018).

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