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Conscientious objection

## A matter for the courts

In Switzerland conscientious objection is the Achilles Heel of national defence. We do not know how many people really refuse to serve. The only way of measuring potential objectors is via the number of court martials. However, there are in reality far more than this. But how many more? In 1992, 433 people were condemned by military courts (42 less than in 1991). This amounts to about 1.4% of recruits. Measured against all military personnel, it will still be an insignificant percentage even after the planned army reform has reduced the total by one-third to about 400,000.

But what would happen if there was an alternative to compulsory military service, which would imply a free choice between military and civilian service? Would this be harmful to national defence? After 20 years spent discussing these problems, no solution has yet been found; and Switzerland stands alongside Greece as the only European countries with no alternative to military service.

### Civilian service: a compromise

But with the end of the Cold War in 1989 some movement has been detected – and a solution could be in sight. On May 17, 1992, Swiss voters said Yes to a civilian service and agreed to supplement Article 18, paragraph 1, of the federal constitution (“Every male Swiss citizen must perform military service”) with the sentence, “The law makes provision for an alternative civilian service”. It took many parliamentary de-

bates, two popular initiatives (both rejected between 1977 and 1984) and the opening of the Iron Curtain before a compromise could be found – which will presumably lead to a definitive solution in the end.

Until this happens, conscientious objectors who are able to justify their views on ethical grounds will no longer be given prison sentences. Assessment of the grounds of objection will still be carried out by military courts. In cases where the ethical grounds are accepted, the old prison sentence will be replaced by a sanction which will not figure in the central criminal register. This will take the form of compulsory work in the public interest which will last one and a half times longer than military service. This may be performed in either public or private enterprises, usually in the health or social fields, in environmental protection or in assistance in cases of disaster. Such compulsory work will not liberate “genuine” conscientious objectors from payment of the military tax or from the civil protection service which is compulsory for all Swiss citizens who do not perform military service. The latter will still have to be carried out after the compulsory work period.

This set of regulations – known as the Barras Law after the former chief auditor of the Swiss army – was introduced on July 1, 1991, as a transitional solution. In 1991, 100 conscientious objectors took advantage of it, and last year there were 236 (more than 50% of applicants). Other objectors, i.e. those with political reasons and those whose conscientious objections are not accepted,



Objectors have also to perform civil protection. (Photo: Prisma)

will continue to go to prison. Unarmed military service remains possible for those whose conscience does not permit them to bear arms.

### The main matter of dispute

The main problem between objectors and the political parties is not so much the question of setting up a civilian service as such but rather that of the criteria for admission to it. The objectors refuse to accept any form of “conscience test” – above all by military judges. They are in favour of free choice between military and civilian service. But the majority of politicians will have nothing at all to do with this idea. They are ready to introduce a civilian service on two conditions: it should last longer than military service, and the reasons for objection should be tested. The centre-right parties are not prepared to consider the introduction of a civilian service for politically motivated objectors or those whose conscientious objections are not recognised. This means that the present transitional arrangement could continue for some considerable time – particularly since it seems perfectly satisfactory to a broad range of political figures.

Pierre-André Tschanz

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