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AUDIT OF THE MOBILISATION SYSTEM OF THE NATIONAL GUARD



AUDIT OFFICE OF THE REPUBLIC
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AUDITED ENTITIES

Ministry of Defense

National Guard

Executive Summary

The Mobilization System (MS) of the National Guard (NG), which is the subject matter of the audit of this Special Report, is the set of basic principles, methods, planning and preparation procedures for the conduct of the conscription, through the invitation of personnel from the reserve and the redistribution of the personnel allocated, as well as the requisition of the missing means, in order for the NG to acquire the required power at the desired time and place, contributing in this manner to the fulfillment of the mission of the Armed Forces when required.

During the year 2018, our Office carried out a compliance audit of the MS with the relevant Laws, Regulations and Council of Ministers Decisions, as well as the respective regulatory orders of the National Guard General Staff (NGGS) that govern its operation. This audit revealed a significant number of findings/deviations concerning the individual functions of the audited system, which showed serious weaknesses in the implementation of the provisions of the relevant legislation, giving rise, in addition to any problems in the operational readiness of the NG, to feelings of injustice and unequal treatment of the citizens of the Republic. These results were communicated, together with the appropriate recommendations, to the competent bodies (Ministry of Defense (MD) – NGGS) with the confidential audit report, dated 29.8.2018 and then, after having been properly processed as to the content of the information, they were published in the form of a Special Report (MD- NGGS/01/2019), dated 6.2.2019. By its letter dated 26.10.2018, the Ministry of Defense informed us that the necessary amendments to the legislation have been forwarded and in cooperation with the other stakeholders, the necessary corrective and improvement actions would be forwarded within a reasonable period of time, which would contribute to the upgrading of the institution of the reserve, as well as to the resolution of the various problems. In addition, it was reported to us that the NGGS had already proceeded, on the basis of the findings of this audit, to the mobilization of a significant number of reservists.

Taking into account the above, as well as the fact that a sufficient period of three years has elapsed since the notification of the results of the initial audit, our Office has carried out this follow-up audit in order to assess whether the audited entity has adequately addressed the problems/deviations that had been identified and to what extent it has implemented our recommendations.

The most important findings derived from this follow-up audit are summarized in the following points:

a. In order to resolve the issues of granting deferment/exemption, in cases not covered by the existing legislative regulations, NGGS proceeded to the preparation of an amending draft of the NG Law (Law 19(I)/2011). However, this draft has not yet been forwarded by the MD to the Legal Service for the required legislative scrutiny. Therefore, according to the provisions of the legislation, as they continue to be in force, the following decisions, which concern the granting of exemptions/deferments for the fulfillment of the obligation of reserve service to the NG, are not legally covered by the existing laws and regulations governing them:

- ◆ The Decision of the Council of Ministers (CM) to exempt foreign entrepreneurs/investors and their male children, who are naturalized exceptionally as Cypriot citizens for reasons of public interest, from the invitation for enlisting in the NG and by extension from the fulfillment of a reserve service obligation.
- ◆ The relevant Council of Ministers decisions, issued from time to time, on the regulation of issues of performance of a reserve service, such as the granting of exemption to the elected Mayors and Communes, to the citizens of the Republic of Cyprus (RC) residing in the "Strovilia" area, as well as the granting of deferment to those serving as police officers in the British Bases and those employed by the United Nations.
- ◆ The granting of a deferral of the fulfillment of the obligation of reserve service to the NG, to the prison guards of the Department of Prisons.

We suggested the forwarding of the amending bill, which was prepared for the resolution of the above, as soon as possible.

In its reply letter, dated 27.8.2021, the MD mentioned that the above procedure was not completed, as there was a change of leadership in the Ministry, so that a more extensive and detailed briefing on the amendments proposed was necessary. In addition, we were told that the aim of the Ministry of Defense is to immediately forward the proposed amendments to the Legal Service of the Republic, in order for them to be submitted to the House of Representatives for their adoption into a Law.

b. The established practice, on the side of the NGGS/DEPS to register reservists, under certain conditions, in the temporarily deleted reserve force with the indication "student abroad" and "abroad for work reasons", resulting in their non-invitation to perform a reserve service in the NG, is not considered lawful, since it is neither covered by the provisions of articles 23 and 24 of the NG Law (Law 19(I)/2011), nor is it based on a relevant Decision of the CM, on the basis of the provision of article 24(6) of the same Law.

c. Never has a procedure been initiated for the criminal prosecution of reservists who remain unlisted, in violation of the provisions of the Law (Law 19(I)/2011).

We suggested that, for those who did not comply with their obligations, after the expiry of the deadline for the individual enlisting settlement, based on the press releases of the Ministry of Defense, the necessary legal measures should be taken, in consultation with the Military Prosecutor's Office, to ensure the correctness and effectiveness of the handling during the process of filing criminal complaints for the offence of failing to enlist.

d. There continue to be significant deficiencies/weaknesses in the performance of all kinds of military orders to reservists (ICS, depositions, residence verification), especially from some Police Stations. We also informed the Chief of Police about the matter.

e. We identified a number of reservists falling under the category of Politically Exposed Persons (PEP), who are still registered in the temporarily deleted force of the reserve with the indication "student abroad" and "abroad for work purposes", without this being justified based on data from

the Social Insurance File, resulting in them not being called for reserve service in the NG.

Also, a number of reservists were identified who fall under the category of PEP, who are assigned to the Rest of the Force (RF) of the reserve, which entails reduced obligations, even though they are of physical capacity I1, and, based on their age, at the material time of their placement in the NG, they did not appear to have fulfilled the necessary conditions.

Although our Office in no way implies that the obligations of these persons for a reserve service differ from those of the rest of the citizens of the Republic, the reason for this investigation is the increased risk that arises for their favorable treatment, a fact that is also demonstrated by the findings of the audit.

We have suggested that these cases should be examined and, where it is clear that it is necessary, measures should be taken for the enlisting of these persons as soon as possible.

f. The newly-established computerized system for locating non-enlisted reservists, for the purpose of their recruitment, when they proceed for any reason to Police Stations, through the presentation of an Individual Call Sheet (ICS), seems to be working, since there have already been very positive results. With its application at all points of entry in the Republic, these benefits are expected to multiply.

g. Of the total reservists of the RF, 51% concern reservists who have been placed/moved directly in the specific category, regardless of age limit, due to their enlisting, by the responsible health committees, to the categories of physical ability I3 and I4. However, the Special Control Committee provided for by the Law has never been set up to confirm the decisions of these health committees.

We suggested that a Special Committee for the Control of the decisions of the Classification Committee and the Committee for the Examination of Physical Ability, concerning the health examination of reservists, should be appointed, based on the provisions of article 37 of the NG Law (Law 19(I)/2011) and that the gradual/partial referral of the I3 reservists for their review is scheduled, in coordination with the Ministry of Health, even by sampling, by a Special Medical Council, based on the provisions of article 34 of the above Law.

h. According to data from the NGGS, by March 2021 there were a total of 440 unlisted conscripts recorded, for all active classes of the NG. Although each unlisted conscript is sued every time his class is called, out of a total of 1.054 criminal complaints for failing to enlist, during the period 2018 to 28.2.2021, only two (a percentage of 0.19%) have been brought to justice for trial by the competent Military Court, while 678 cases (64%) are pending in the Police. Of the total of 239 cases referred to the Military Public Prosecutor's Office, 198 were closed (a percentage of 83%). We would like to point out that, according to data from the NGGS, out of the total of 5.138 criminal complaints for unlisted conscripts for the years 2011 - 2020, 2.677 (a percentage of 52%) are pending in the Police.

We have expressed the view that more effective measures should be taken, either to settle these cases or to punish them in an exemplary manner, on the basis of the provisions of the legislation.

i. Out of the total of 1.467 criminal complaints against reservists for failing to enlist, during the

period 2018 to 28.2.2021, only 544 (a percentage of 37%) have been brought to Justice for trial by the responsible Military Court. Of the total of 924 cases referred to the Military Public Prosecutor's Office, 281 were closed (a percentage of 30%).

We have suggested that more effective measures should be taken to punish the rebellious people in an exemplary manner, on the basis of the provisions of the legislation.

From the follow-up audit, we found out that taking into account the findings and recommendations of our previous audit, the NGGS and the MD took a series of actions that contributed to the improvement of the Mobilization System.

The most important of these are summarized below:

- ◆ A thorough audit of the reservists, who, based on the findings of our previous audit, should not have been registered, either in the temporarily deleted reserve force or in its RF, was carried out by the NGGS and, at the same time, the necessary corrective measures were taken.
- ◆ The NGGS achieved to obtain updated data from the Social Insurance Services, through which the extraction of safe conclusions is ensured.
- ◆ Press releases were issued by the MD, by which all unlisted reservists were called for enlisting settlement within a predetermined deadline. Within two months of this announcement, 2.814 reservists appeared for conscription settlement.

We suggested whether the publication of the above announcement in the Official Gazette of the Republic should be considered, if appropriate, from a legal point of view.

- ◆ A computerized system was put in place, through which the Police prints and then serves on unlisted reservists, who proceed for any reason to Police Stations, their Individual Call Sheets (ICS), for their conscription settlement. The system is expected to be operational soon at all checkpoints of citizens during their movement outside the territory of the RC (i.e., at airports and ports), as well as during their passage through the occupied territories.

Our Office suggested that the MD examine, the possibility of extending the ability of locating the unlisted reservists in the Citizen Service Centers

- ◆ A bill was submitted to the House of Representatives on 8.1.2021, providing for the extrajudicial settlement of the offence of failing to enlist as a reservist.