

Military Service with Restrictions

**Report by the Parliamentary Control of the Administration for the
attention of the National Council Control Committee**

of 6 September 2024

Key terms



Military service, civil protection and civilian service

All Swiss men are required to perform military service. Anyone who is found fit to serve in the military but is unable to reconcile military service with their conscience can apply to do civilian service instead. Anyone who is unfit to perform military service is assigned to civil protection.

Recruitment

All Swiss men are liable for military service from the age of 18. Based on various examinations and tests, a decision is made during the recruitment process whether the conscript must serve in the military and receives a weapon.



Fit for military service with restrictions

Anyone who, for medical reasons, is unable to shoot or march for long periods is not automatically unfit for military service, but may be declared fit for service with restrictions. This means these conscripts only perform certain functions. This is known as 'assignment based on individual capability'.

Nosologia Militaris

The *Nosologia Militaris* is an internal directive issued by the Armed Forces Surgeon General. It sets out the medical criteria for determining fitness and indicates to what degree a person with a certain diagnosis can perform military service.



The main points at a glance

Legal equality is not guaranteed when assessing fitness for military service with restrictions. In addition, there are various legal issues regarding fitness for military service. The assessment procedures in the recruitment centres, however, are well organised and efficient.

The Control Committees of the Federal Assembly (CC) commissioned the Parliamentary Control of the Administration (PCA) on 25 January 2023 to evaluate military service with restrictions. The FDFA/DDPS sub-committee of the National Council Control Committee (CC-N) decided that the evaluation should focus on the military service fitness assessment.

To this end, the PCA examined the provisions for assessing fitness for military service. The PCA conducted a documentary analysis of procedures, an online survey among staff at all six recruitment centres, and 26 interviews. It also commissioned a statistical analysis of military service fitness decisions and a legal opinion. The most important results are presented below.

Overall, the military service fitness assessment is well organised and efficient

Every year, some 35,000 people are examined at six recruitment centres to determine whether they are fit for military service. Within two to three days, doctors must determine whether a person is medically able to withstand the mental and physical stress of military service and is fit for service. The PCA found that the medical examinations are appropriate and that the information available is adequate for assessing fitness. The procedures ensure that tests and examinations are not duplicated and that the decision as to whether a conscript is fit is made before he is assigned a function during basic training (full report, section 4.2). The statistical analyses support the finding that fitness decisions are not systematically influenced by organisational factors. For example, the number of conscripts found to be fit for service is stable in the months prior to the start of basic training. In addition, the number of conscripts participating in a recruitment cycle has no effect on fitness decisions (section 5.2).

Fitness for military service with restrictions is not assessed uniformly

The PCA interviewed doctors at the recruitment centres, as they are the ones who decide whether a person is fit for military service. The majority of them stated that the categories of fitness for service with restrictions were well defined and easy to apply (section 3.2).

However, based on its documentary analysis and the above-mentioned legal opinion, the PCA reached a different conclusion. It found that the medical provisions are not specific enough. For example, the provisions mention fitness for military service with restrictions on lifting, carrying and marching, but they do not contain criteria for distinguishing between a minor and a significant restriction (section 3.2). There are also no provisions regarding the formal induction of doctors into their work at the recruitment centres (section 4.1.2). Finally, there are no provisions regarding quality assurance. This means that the consistency of fitness decisions and processes in the

recruitment centres are not systematically checked against data (section 4.1.3). The statistical analysis commissioned by the PCA also showed that the prevalence of fit-for-service-with-restrictions decisions – i.e. the proportion of conscripts deemed fit for service with restrictions – varies greatly between recruitment centres (section 5.1). Moreover, fit-for-service decisions are very often revised following an appeal, which raises questions about their objectivity (section 5.3.1). Overall, the PCA concludes that the provisions do not ensure a uniform assessment of fitness for military service with restrictions.

Fitness assessments do not always meet the legal requirements

In all six recruitment centres, the legal requirements are not being met in two areas that are central to the fitness assessment. First, the fit-for-service decision should be made by a board consisting of at least two doctors who are members of or employed by the armed forces. The chair of this board should inform the conscript of its decision. In practice, however, this has not been the case for some time: the decision is often made by individuals (section 4.1.1).

Second, the exchange of information between the various units of the recruitment centre involved in the fitness assessment does not meet the legal requirements. The unit responsible for personnel security screening, which conducts security background investigations, has systematically shared information on individual conscripts with recruitment centre doctors and vice versa. However, information on a person's criminal convictions or health is particularly sensitive personal data on which the law imposes strict requirements. The personnel security screening unit may only share information if there is evidence that a conscript poses an immediate security risk. And doctors are only released from their duty of confidentiality if there is evidence that a conscript poses a threat through the use of his personal service weapon. A 2014 directive does not mention these requirements, but gives the impression that there are virtually no restrictions on sharing information. According to the legal opinion commissioned by the PCA, the 2014 directive does not comply with the law. The exchange of information and the related directive are therefore unlawful (section 3.3).

Fitness for military service and the right of appeal are not sufficiently enshrined in law

All Swiss men of legal age are required to perform military service. A fitness assessment determines whether a conscript is fit for service or must pay an exemption tax. Despite the importance of this decision, the criteria for assessing fitness for military service are not clearly defined in law, according to the legal opinion commissioned by the PCA. They are not even broadly defined in an ordinance and are therefore not publicly available (section 3.1).

In the event of an appeal against a fit-for-service decision, the law excludes the right of appeal to a higher instance. Although this is legal, neither the Federal Council nor the legislature has ever justified it. According to the legal opinion, this restriction of the right of appeal should be more justifiable from a constitutional point of view. It is also problematic that the law does not grant the right of appeal to conscripts who

have been assessed as unfit for military service during the recruitment procedure, although in practice they are granted this right (section 3.4).

The full report is available in French, German and Italian (www.parl.ch).