

Greece:

High time to comply fully with European standards on conscientious objection

“For democratic states that respect rights and fundamental freedoms, respect for the right to conscientious objection cannot be seen as a minor issue divorced from the mainstream of protection and promotion, at international level, of human rights.”¹

Conscientious objection as a human right

The right to conscientious objection is a legitimate exercise of the fundamental right to freedom of thought, conscience and religion, enshrined in the Greek Constitution (Articles 13 and 14) and the Universal Declaration of Human Rights (Article 18), and in international human rights treaties to which Greece is a State Party, including the International Covenant on Civil and Political Rights (Article 18) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 9).

The right to conscientious objection has also been recognized in numerous Resolutions and Recommendations adopted by the UN, the Council of Europe, the European Parliament and the Organization for Security and Cooperation in Europe. All of these institutions have urged governments to ensure that individuals who object to compulsory military service on grounds of conscience have the opportunity to perform a fair, non-discriminatory, genuinely civilian alternative service. They have asked, among other things, that ² :

- information on the status of conscientious objector and the means of obtaining such status be readily available to all those liable to be conscripted to the armed forces;
- individuals be allowed to register as conscientious objectors at any time before, during or after their conscription or performance of military service;
- the alternative service be clearly civilian and that its duration be such that it cannot be considered punitive.

Amnesty International’s position on conscientious objection

Amnesty International considers a conscientious objector to be any person who, for reasons of conscience or profound conviction, refuses to perform service in the armed forces or any

¹ “Conscientious objection to compulsory military service”, Directorate General of Human Rights, Council of Europe, June 2002

² *ibid.*

other direct or indirect participation in wars or armed conflicts. This can include conscripts or professional soldiers who have developed a conscientious objection after joining the armed forces. Wherever such a person is detained or imprisoned solely because they have been denied or refused their right to register an objection or to perform a genuinely civilian alternative service which is not punitive or discriminatory in length or substance, Amnesty International considers that person to be a prisoner of conscience and calls for their immediate and unconditional release.

The situation in the European Union (EU)

Only six of the so-called EU-15 Member States (the 15 countries which were members of the EU before the enlargement on 1 May 2004) still have conscription, and they all provide for alternative civilian service. The length of alternative service is punitive in Greece as well as in Finland. The average in the five EU-15 states, other than Greece, which still have conscription is eight months' military service and ten months' alternative service; Greece has a 12-month military service and a 23-month alternative service. Greece has also only recently recognized the right to conscientious objection (in 1997).

Only 11 of the so-called EU-25 Member States (the 25 countries which make up the EU after enlargement) still have conscription. They all provide for alternative civilian service except for Cyprus, where a revision of the law is pending on this issue and where religious conscientious objectors are exempted from conscription. Estonia and Latvia also have punitive lengths of alternative service, although the Latvian government has announced that it will phase out conscription by 2007³.

Table 1: Conscription and conscientious objection in EU member states⁴

EU MEMBER STATE	CONSCRIPTION	MILITARY SERVICE	CIVILIAN SERVICE	RIGHT TO CO
Austria	Yes	8 months	12 months	Since 1974
Belgium	No (since 1992)	-	-	-
Cyprus *	Yes	26 months	No - Religious COs are exempted	Revision of law pending
Czech Republic *	No (since 2004)	-	-	-
Denmark	Yes	9 months	9 months	Since 1917

³ Ministry of Defence of the Republic of Latvia: Amendments to the Alternative Service Law to be reviewed, 20 July 2004, www.mod.gov.lv

⁴ This table was compiled on the basis of "The right to conscientious objection in Europe: A review of the current situation", Quaker Council for European Affairs, April 2005, and updated using information from official government sources.

EU MEMBER STATE	CONSCRIPTION	MILITARY SERVICE	CIVILIAN SERVICE	RIGHT TO CO
Estonia *	Yes	8 months	16 months	Since 1994
Finland	Yes	6 months	13 months	Since 1931
France	No (since 2001)	-	-	-
Germany	Yes	9 months	9 months	Since 1949
Greece	Yes	12 months	23 months	Since 1997
Hungary *	No (since 2004)	-	-	-
Ireland	No (since always)	-	-	-
Italy	No (since 2004)	-	-	-
Latvia *	Yes	12 months	24 months	Since 1997
Lithuania *	Yes	12 months	18 months	Since 1990
Luxembourg	No (since 1967)	-	-	-
Malta *	No (since always)	-	-	-
Netherlands	No (since 1996)	-	-	-
Poland *	Yes	11 months	18 months	Since 1988
Portugal	No (since 2004)	-	-	-
Slovakia *	No (since 2005)	-	-	-
Slovenia *	No (since 2003)	-	-	-
Spain	No (since 2001)	-	-	-
Sweden	Yes	7,5 months	7,5 months	Since 1920
United Kingdom	No (since 1960)	-	-	-

* New EU Member States after the enlargement on 1 May 2004

The situation in Greece

Amnesty International is concerned that in Greece the alternative civilian service, both in law and in practice, continues to be of a punitive and discriminatory nature.

The organization calls for a reform of this service on the basis of European and international standards and the recommendations of the Greek Ombudsman and the Greek National Commission for Human Rights, and for an end to the persecution of conscientious objectors.

In March 2005, the UN Human Rights Committee called on Greece to improve the situation of conscientious objectors, noting that: “The Committee is concerned that the length of alternative service for conscientious objectors is much longer than military service, and that the assessment of applications for such service is solely under the control of the Ministry of Defence. The State party should ensure that the length of service alternative to military service does not have a punitive character, and should consider placing the assessment of applications for conscientious objector status under the control of civilian authorities.”⁵

Nevertheless, even after the new law 3421/2005 was passed by Parliament on 23 November 2005, Greece still has a punitive and not purely civilian alternative service and continues to treat conscientious objectors as criminals, prosecuting them in violation of their human right to conscientious objection.

In addition, conscientious objectors in Greece are usually regularly called up to military service, and every time they refuse to serve in the army a new prosecution is brought against them on grounds of disobedience, insubordination or desertion. This violates Article 14 Paragraph 7 of the International Covenant on Civil and Political Rights, which states that: “No one shall be liable to be tried or punished again for an offence for which he has been finally convicted or acquitted in accordance with the law and penal procedure of each country.”

The European Court of Human Rights in Strasbourg ruled on this issue on 24 January 2006 in the case of Turkish conscientious objector Osman Murat Ülke, who complained that he had been prosecuted and convicted on account of his convictions as a pacifist and conscientious objector. The European Court stated:⁶

“The Court noted that, despite the large number of times the applicant had been prosecuted and convicted, the punishment had not exempted him from the obligation to do his military service... The numerous criminal prosecutions against the applicant, the cumulative effects of the criminal convictions which resulted from them and the constant alternation between prosecutions and terms of imprisonment, together with the possibility that he would be liable to prosecution for the rest of his life, had been disproportionate to the aim of ensuring that he did his military service. They were more calculated to repressing the applicant’s intellectual personality, inspiring in him feelings of fear, anguish and vulnerability capable of humiliating and debasing him and breaking his resistance and will. The clandestine life amounting almost to “civil death” which the applicant had been compelled to adopt was incompatible with the punishment regime of a democratic society... Consequently, the Court considered that, taken as a whole and regard being had to its gravity and repetitive nature, the treatment inflicted on the applicant had caused him severe pain and suffering which went beyond the normal element of humiliation inherent in any criminal sentence or detention. In the aggregate, the acts concerned constituted degrading treatment within the meaning of Article 3.”

⁵ *Concluding observations of the Human Rights Committee: Greece. CCPR/CO/83/GRC*, April 2005.

⁶ <http://www.echr.coe.int/Eng/Press/2006/Jan/Chamberjudgment%C3%9C1kevTurkey240106.htm>

Amnesty International's recommendations to the Greek authorities

Amnesty International calls for immediate amendments to Greece's legal framework to ensure that:

- alternative civilian service is not of discriminatory and punitive length. As the law currently stands, the full military service is 12 months, whilst the full alternative civilian service is 30 months. Following a decision of the Minister of Defence, the full alternative civilian service can be reduced, but it must be at least 23 months. Amnesty International considers this still to be discriminatory and of punitive length;
- the administration of alternative service, including the examination of applications and any ensuing court process, falls entirely under civilian authority. Currently the administration is under the Ministry of Defence. The Minister of Defence decides on applications, following an opinion by a special five-member committee with two military members; and the conscientious objectors, though civilians, are tried by military courts;
- conscientious objectors have the right to claim conscientious objector status at any time, both up to and after entering the armed forces. Currently they can only claim conscientious objector status before entering the armed forces;
- the right to conscientious objection applies at all times, during peace-time and in time of war. Currently, in time of war, the provisions for alternative service can be suspended following a decision of the Minister of Defence. Conscientious objectors would then be obliged to perform unarmed military service;
- the status of conscientious objector, and therefore the right to alternative civilian service, is never revoked, whether for carrying out trade union activities, for participating in a strike or for disciplinary breaches. Currently the status can be revoked for these activities, and conscientious objectors would be obliged to perform armed military service.

The organization also calls on the Greek authorities:

- to put an end to the prosecutions of conscientious objectors and allow them to recover their full civil and political rights (including that of travel abroad, the right to a passport and identity card, and the right to vote). Currently several conscientious objectors face prosecution and have been deprived of these rights;
- to ensure that, in law and in practice, conscientious objectors are not discriminated against in relation to their terms and conditions of service, or to any economic, cultural, civil or political rights. Currently conscientious objectors face clear discrimination in several fields. For example, they do not have the right to buy off some part of their service, as conscripts do. They are also not allowed to serve at the prefectures of Attica and Thessalonica, at the prefectures of their birthplace, origin or residence or in cities with high population density, while conscripts are allowed to serve anywhere;

- to eliminate the problems in the application procedure. Currently there are several problems regarding the procedure of applying for conscientious objector status, due to impediments such as strict deadlines, difficulties in acquiring the required documents, non-recognition of those who report to a military camp to postpone their service on health grounds and questionable decisions by the special committee, mainly on non-religious applicants;
- to guarantee the availability of adequate and timely information about the right to conscientious objection to military service, and the means of acquiring conscientious objector status, to all persons affected by military service. Currently the vast majority of the conscripts are still not aware of the option of performing alternative civilian service instead of military service.

How the law on alternative civilian service leads to violations of human rights

The punitive length of alternative service, discrimination and denial of the right to a fair alternative service: the case of Lazaros Petromelidis

Lazaros Petromelidis, 44, President of the Association of Greek Conscientious Objectors, refused to do the alternative service he was offered in 1998, as it was of an extremely punitive length; in his case, seven and a half times longer than the military service he would otherwise have had to perform (he could have served four months and bought off the remaining eight months of the 12-month military service, as opposed to performing a 30-month alternative civilian service with no right to buy off any part of it). His conscientious objector status was then revoked. Since then, he has regularly received call-up papers to serve in the military and has been repeatedly charged with insubordination because of his refusal, as a conscientious objector, to perform military service. He was imprisoned in May 1998, April 1999 and September 2002. In June 2003, the Appeal Military Court of Athens sentenced Lazaros Petromelidis to 20 months' imprisonment, suspended for three years, for insubordination. When he was sentenced in December 2004 by the Naval Court of Piraeus, *in absentia*, to 30 months' imprisonment for insubordination, the previous suspension of the sentence was lifted, meaning that he would have to serve a total prison sentence of 50 months once he was arrested. At his 4 May 2006 appeal hearing this conviction was upheld by the Appeal Military Court of Athens, and Lazaros Petromelidis was sentenced to five months' suspended imprisonment (which he can buy off at a rate of €4.40 (\$5.67) per day). He is free now pending his appeal to the Supreme Court of Greece.

Even under the new law 3421/2005, which permitted Lazaros Petromelidis to apply again for alternative civilian service, he would still have to serve a punitive and discriminatory alternative civilian service of 17 months; if he were not a conscientious objector he would serve nine months military service, of which he would be entitled to buy off seven and a half months. The repeated prosecutions and convictions of Lazaros

Petromelidis contravene his right to perform an alternative civilian service that is not discriminatory or punitive in nature and length and violate Article 14 Paragraph 7 of the International Covenant on Civil and Political Rights.

Amnesty International calls on the Greek authorities to stop the repeated opening of legal proceedings against Lazaros Petromelidis and to amend the legal framework to ensure that conscientious objectors are not repeatedly prosecuted.

Violation of the right to claim conscientious objector status at any time: the cases of professional soldier Giorgos Monastiriotis, reservist Nikos Baltoukas and religious conscientious objector Boris Sotiriadis

Giorgos Monastiriotis, 26, who had joined the Greek Navy on a five-year contract, refused to follow his unit when the frigate “Navarino” on which he was serving was sent to the Persian Gulf in May 2003. He cited conscientious reasons and declared his resignation from the Navy. In his public refusal in May 2003, he stated that: “I refuse on grounds of conscience to participate in or contribute by any means to the relentless massacre of the Iraqi people... My refusal is also a minimal act of solidarity with the Iraqi people as well as to the peaceful sentiments of the Greek people.” In September 2004 Giorgos Monastiriotis was arrested and sentenced to 40 months’ imprisonment for desertion by the Naval Court of Piraeus. He was taken immediately to prison in Corinth, where he remained imprisoned for 22 days until his temporary release pending an appeal hearing. In January 2005 he was sentenced again by the Naval Court of Piraeus, in violation of Article 14 Paragraph 7 of the International Covenant on Civil and Political Rights. He was convicted to five months’ suspended imprisonment for desertion which was suspended pending appeal. Giorgos Monastiriotis is expecting his appeal hearing on 31 October 2006 at the Appeal Military Court of Athens. Giorgos Monastiriotis’ convictions constitute a violation of his right to change his beliefs and develop a conscientious objection after joining the armed forces.

Amnesty International urges the Greek authorities to cease the prosecutions against Giorgos Monastiriotis and to amend the legal framework so that the right to conscientious objection is recognized for professional soldiers.

Nikos Baltoukas, 38, had served his military service in the Greek army in 1990-91. When he was called up for a five-day reservist military service on 31 October 2004 he refused to report, on grounds of conscience “imposed by my ideological identity and my class position”, as he stated in his declaration. On 18 May 2005 he was sentenced to a suspended 15-month prison term for insubordination by the Military Court of Xanthi; a conviction which violated his right to develop a conscientious objection despite his serving in the armed forces in the past. In his appeal hearing on 30 March 2006 he was declared innocent by the Military Court of Appeal in Thessaloniki. However in November 2005 Nikos Baltoukas was called up again for reservist military service, so a second prosecution may be brought against him for his conscientious objection, in violation of Article 14 Paragraph 7 of the International Covenant on Civil and Political Rights.

Amnesty International urges the Greek authorities not to launch a new prosecution against Nikos Baltoukas and to amend the legal framework so that the right to conscientious objection is recognized for reservists.

Boris Sotiriadis, 38, is of Greek origin and had served his military service in the former Soviet Union, where he was living. Later he became a Jehovah's Witness. Since he immigrated to Greece to remain in the country permanently, he was obliged to perform military service, according to the law on conscription. When the Greek army summoned him to report for military service at Avlona Military Camp on 1 August 2005, he presented himself but refused to serve in the army on the grounds that it conflicted with his religious beliefs. He asked to serve alternative civilian service instead. However, as Greek law does not permit this for those who have already served in the armed forces, he was charged with disobedience. Boris Sotiriadis was later sent to Didimoticho Military Camp where he also presented himself but refused to serve, citing religious conscientious objection, and again asked to serve alternative civilian service. He was refused once again and sent to the Military Court of Xanthi, on a second charge of disobedience, in violation of Article 14 Paragraph 7 of the International Covenant on Civil and Political Rights. On 22 August 2005 he was sentenced to three and a half years' imprisonment without suspension. He remained imprisoned until 20 September 2005, when the Military Court of Appeal in Athens granted his release pending his appeal hearing, which is set for 1 June 2006. Meanwhile, the hearing on the first charge of disobedience will be held at the Military Court of Athens on 24 May 2006. Boris Sotiriadis' convictions constitute a violation of his right to change his religious beliefs and develop conscientious objection according to his new religion.

Amnesty International urges the Greek authorities to cease the prosecutions against Boris Sotiriadis and to amend the legal framework so that the right to conscientious objection is recognized for former soldiers.

Problematic application procedure for alternative service not under a purely civilian authority: cases of Dimitris Pitsikalis and Kyriakos Kapidis

Dimitris Pitsikalis, 25, applied for alternative civilian service on religious grounds as a Jehovah's Witness on 17 May 2000, but could not complete the application procedure because the authorities cancelled the postponement of the deadline which they had already given, and his application was rejected. Dimitris Pitsikalis appealed to the State Council against the rejection of his application and he is awaiting the decision. Meanwhile he has been declared to be insubordinate and he is at risk of arrest.

Amnesty International urges the Greek authorities to accept the application of Dimitris Pitsikalis for alternative service and to amend the legal framework to ensure that the application procedure is not problematic.

Kyriakos Kapidis, 31, claimed conscientious objection on ideological grounds in May 2003. His application to perform alternative civilian service was rejected on 5 April 2004 because he "did not present his views about why he opposes military service

convincingly as part of a general outlook on life and did not present evidence of activities and lifestyle characteristically led by ideological convictions that would prevent him from carrying out his military duties”, according to the opinion of the special committee, which is partially composed of military personnel. Kyriakos Kapidis appealed to the State Council in May 2004 against the rejection of his application for conscientious objector status. He is awaiting the decision.

Amnesty International urges the Greek authorities to recognize the right of Kyriakos Kapidis to perform a genuinely civilian alternative service that is not punitive or discriminatory in length or substance and to amend the legal framework so that the examination of a request to perform alternative civilian service is carried out by an entirely civilian authority.

Continuing harassment and restriction of civil and political rights: case of Dimitris Sotiropoulos

Dimitris Sotiropoulos, 40, Board Member of the Association of Greek Conscientious Objectors, declared his conscientious objection in March 1992, after he was called up for military service. The military authorities informed him that there was no provision for alternative civilian service and charged him with insubordination. He received three summonses by the police, was banned from leaving the country and was summoned to report before Thessaloniki Military Court on charges of insubordination in November 1992. In July 1993 Dimitris Sotiropoulos was summoned again, and again he declared his conscientious objection. His passport was seized in September 1993, and two attempts to arrest him were made in June and August 1994. The police attempted to arrest him again recently, on 10 March and 11 April 2006.

Amnesty International urges the Greek authorities to put an end to the harassment of Dimitris Sotiropoulos and to amend the legal framework so that all conscientious objectors recover their full civil and political rights (including that of travel abroad, the right to a passport and identity card, and the right to vote).

Prosecution of conscientious objectors before the introduction of a law on alternative service: case of Giorgos Koutsomanolakis

Giorgos Koutsomanolakis, 46, had been initially charged with insubordination in 1979, at a time when there was no alternative civilian service in Greece, because as a Jehovah's Witness he refused to serve military service on religious grounds. He fled Greece and was granted political asylum in Germany, where he has been living since then. Giorgos Koutsomanolakis was arrested and detained on 12 May 2005 on the Greek island of Rhodes while visiting his parents, and on 16 May he was transferred to Korydallos prison, Athens. He remained imprisoned until his trial on 23 May 2005, when he was sentenced to a suspended 24-month prison term for insubordination by the Military Court of Athens. He is expecting his appeal hearing on 1 June 2006 at the Appeal Military Court of Athens.

Amnesty International urges the Greek authorities to cease the prosecution against Giorgos Koutsomanolakis and to amend the legal framework so that legal proceedings against all conscientious objectors who declared their conscientious objection before the introduction of alternative civilian service are discontinued.