



# Conscience and Peace Tax International

**Internacional de Conciencia e Impuestos para la Paz**

NGO in Special Consultative Status with the Economic and Social Council of the UN

International non-profit organization (Belgium 15.075/96)

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## UPR SUBMISSION

## GREECE

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1. This submission was prepared in November 2010 on the basis of the latest information available to CPTI:

### Executive summary:

2. This submission focusses on the situation regarding military service and conscientious objection to military service in Greece.

3. Greece was very late in introducing legislation permitting conscientious objectors to apply to substitute an alternative service of a civilian nature for their obligatory military service. The arrangements for conscientious objectors to military service in Greece still fall short of international standards.

4. In particular, the following are contrary to provisions of UN Commission on Human Rights resolution 1998/77.:

a) Adequate information on the right to conscientious objection and the means of acquiring the status is not given to persons facing call up to military service. ( OP8)

b) The consideration of applications to perform alternative service on the grounds of conscientious objection is not carried out by an independent and impartial body. (OP3) Moreover some of the criteria for recognition as a conscientious objector and requirements for successful application for admission to alternative service are irrelevant and arbitrary.

c) There is evidence of discrimination between applicants based on the grounds on which their conscientious objection is based. (1998/77 OP3

d) The duration and some of the other conditions of alternative service remain discriminatory by comparison with those of military service. (OP4, OP6)

e) Conscientious objectors whose applications to perform civilian service have not been accepted are liable to sentences of imprisonment if they continue to refuse military service, and they are also subject to repeated call-up and conviction. ( OP5)

f) Those who have not performed military service, including unrecognised conscientious objectors, face continuing restrictions of certain civil rights. (OP6)

5. CPTI is also concerned about the possible situation at a time of war regarding the recognition of conscientious objection, and recruitment ages.

## Background

6. Greece operates a system of obligatory military service, applicable to all male citizens. The basic term of service has been steadily reduced in the course of recent years, from 19 months to 16 months in 2001, and to 12 months in 2003<sup>1</sup>. It now stands at nine months in the army but up to twelve months, in the navy and air force.

7. In 2005 the number of conscripts was given as 119,000 within a total armed forces' strength of 162,000. It was estimated that 85,000 men reached conscription age annually, of whom 75% actually performed military service.<sup>2</sup> With the shortening of military service the number of conscripts has dropped dramatically, being partly counterbalanced by an increase in the number of "professional", members of the armed forces. The latest estimate, for mid-2009, was of a total active strength of 156,600, including some 50,530 conscripts.<sup>3</sup> The estimate of the number of males "reaching militarily significant age annually."<sup>4</sup> is however also now much lower, standing at just over 53,000. The total male population of "military age" is estimated by the same source as 2,502,268. This implies that at any one time over 6% are engaged in active military service, a proportion reached in very few other states.

8. With the exception of Cyprus, Greece was the last member state of the European Union to make provision for alternative civilian service for conscientious objectors, doing so only in Law 2510/1997, which entered into force on 1<sup>st</sup> January 1998. The provisions for conscientious objectors under that Law were however by no means satisfactory. This was replaced by Law 3421/2005, which incorporated some improvements, but a considerable number of shortcomings still remain. CPTI has not been able to ascertain how many of these may be addressed in a new draft Law which was presented to the Greek parliament in September 2010.

## Inadequate information on the right and the means of exercising it

9. There is no specific reference to conscientious objection in some 40 pages of information materials provided to potential conscripts in Greece, although at one stage there was a statement that "applications under Law 2510/1997 are available",<sup>5</sup> a statement which is meaningless, and seemingly irrelevant, to those who do not already know the content of the law in question.

## Lack of independent assessment of claims: arbitrary grounds for non-recognition

10. In its concluding observations on the Initial Report of Greece under the ICCPR, the Human Rights Committee expressed concern that "the assessment of applications (...) is solely under the control of the Ministry of Defence", and recommended that Greece "should consider placing the assessment of applications for conscientious objector status under the control of civilian authorities."<sup>6</sup> There is no

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<sup>1</sup> Stolwijk, M., The Right to Conscientious Objection in Europe: A Review of the Current Situation, Quaker Council on European Affairs, Brussels, 2005, p.35.

<sup>2</sup> Ibid

<sup>3</sup> International Institute for Strategic Studies, London, The Military Balance 2010, pp 137 – 139.

<sup>4</sup> CIA World Factbook at <https://www.cia.gov/library/publications/the-world-factbook/geos/gr.html> consulted 31 October, 2010.

<sup>5</sup> Greek National Commission for Human Rights. Evidence submitted to the OHCHR in response to the questionnaire on "best practices concerning the right of everyone to have conscientious objections to military service" 1<sup>st</sup> October 2003, para 9.

<sup>6</sup> CCPR/CO/83/GRC, 25<sup>th</sup> April 2005, Para 15,

evidence that any action has yet been taken in this regard. All applications to perform alternative service in Greece must be defended before a Committee appointed by the Minister of Defence. Anecdotal evidence indicates that it is routinely hostile to applicants. Moreover, although its membership should include three civilians, one of whom is to act as chair, it is reported that on occasion it sits with only four members, with one of the military members acting as chair and wielding a casting vote.

11. Article 59 of Law 3421/2005 makes a number of exclusions on who may be admitted to alternative service which bear at the most only a spurious relationship to whether or not he may be considered a conscientious objector. They include: that he must never have been charged with a crime of violence, which is in blatant contradiction of the presumption of innocence required by Article 14 of the International Covenant on Civil and Political Rights; that he must never have held a firearms licence, or have been a member of a hunting club and (Para 59 3a) that he must never have served for any length of time in the Greek or any other armed forces. Indeed, whereas most States excuse from military service anyone who has already performed such service in another State, any man of Greek descent who comes to Greece having previously performed military service elsewhere is explicitly required to undertake a supplementary period of service in the Greek armed forces. Greece is not a party to the Council of Europe's Conventions on Nationality (ETS43 and ETS166) under which, since 1963, dual nationals are not subject to military service obligations in more than one state.

12. The stipulation in Para 59(3a) mentioned above for many years had the effect that no one was able to apply for recognition as a conscientious objector when called up for a period of reserve service, even if he had originally been obliged to perform military service before any legislation came into force. On April 22<sup>nd</sup> 2010, however, the Council of State, the highest domestic court, in a case concerning conversion to the Jehovah's Witnesses, ruled that regulations concerning conscientious objection must be read in such a way that a person has the right to change his religion even after having served in the military.<sup>7</sup> It remains to be seen how far the Council of State may develop the logic of this decision to strike down various other recruitment provisions and practices. At present, one particularly invidious reading of the same provision is that persons who are obliged for administrative reasons, and against their will, to remain in military barracks overnight at an early stage of the registration process before their application to perform alternative service can be lodged are regarded as having commenced military service. At least five applications to perform alternative service are known by CPTI to have been rejected in such circumstances during the year 2009.

13. Applicants are required to produce certification from the relevant authorities, including the police and the Forest Public Service that they are not subject to any of the grounds of exclusion. Moreover such documentation must accompany the application and must be submitted before the date set for call up. It is alleged that not all officials in the relevant authorities are willing to provide such documentation. In

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<sup>7</sup> European Bureau of Conscientious Objection ([www.ebco-beoc.org](http://www.ebco-beoc.org)), Report to the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament, Conscientious Objection In Europe 2009/2010, p27.

any case, bureaucratic delays frequently have the consequence that applications are rejected as out of time.

#### Discrimination between different grounds of objection

14. Applications to perform alternative service are classified by the Ministry of Defence as on “religious” or “other” grounds. Since 1998, over 99% of the applications classified as “religious” have been accepted, but only 47% as those classified as “other”.<sup>8</sup> It is believed that to be classified as on “religious” grounds an application must come from a member of a denomination with a firm pacifist doctrine; in practice almost all are from members of the Jehovah's Witnesses. Applications from practising members of the majority Greek Orthodox Church would normally be listed as “other”.

#### Punitive conditions for conscientious objectors

15. The normal duration of alternative service was set by Law 2510/1997 as twice that of military service. Those who would have been eligible because of family circumstances for shorter periods of military service were also liable to a shorter alternative service, but the discrepancies were greater.

16. In the face of criticism from the European Union and the Council of Europe Law 3257/04, made the duration of the applicable alternative service in any individual case was equivalent to one month less than twice that of military service.<sup>9</sup> The Human Rights Committee expressed its concern about this duration and recommended “The State party should ensure that the length of service alternative to military service does not have a punitive character.”<sup>10</sup> In the draft Law on Recruitment set before Parliament in September 2010 the period of alternative service is reduced to fourteen months, slightly less than one-and-a-half times as long as the standard duration of military service. This discrepancy would still normally be regarded as punitive.

17. Unlike military service, alternative service may not be performed in any of the major population centres. This means that the majority of conscientious objectors serve far from their homes. Article 21.5 of Law 2510/1998 was criticised by the Greek ombudsman for stipulating that disciplinary offences in the performance of alternative service could, at the sole discretion of the supervisor, result in the cancellation of conscientious objector status and reallocation to military service.<sup>11</sup> It is not known whether this anomaly has yet been rectified.

#### Imprisonment of conscientious objectors

18. Conscientious objectors whose applications to perform alternative service have been refused, including on technicalities, may if they persist in their refusal to perform military service, and although still civilians, be tried and sentenced to imprisonment by military courts for disobeying orders. Moreover, they remain liable to repeated call-up and further convictions. This is in breach of the principle of

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<sup>8</sup> Based on figures supplied to NGOs by Greek Ministry of Defence, 2<sup>nd</sup> December 2009.

<sup>9</sup> General Counsel of Jehovah's Witnesses, Submission to United Nations Human Rights Committee with regard to the Initial Report of Greece under the ICCPR, 1<sup>st</sup> March 2005.

<sup>10</sup> CCPR/CO/83/GRC, 25<sup>th</sup> April 2005, Para 15

<sup>11</sup> Greek National Commission for Human Rights, op cit, para 7.

“ne bis in idem”<sup>12</sup> It should also be noted that the Working Group on Arbitrary Detention has recently classed any detention as a result of conscientious objection as arbitrary in that it arises from the exercise of the rights and freedoms under Article 18 of the ICCPR.<sup>13</sup>

Continuing restrictions on civil rights.

19. Over and above any punishments for draft evasion or insubordination, male citizens within the age range of liability for military service who have not satisfied the requirements experience severe restrictions of their civil rights, including the eligibility for employment in the public sector, for membership of professional associations, to participate in elections as voter or candidate, to obtain a passport or leave the country, or serve on a ship which leaves Greek waters.<sup>14</sup> Moreover, some of these restrictions, for instance affecting public employment, may apply to persons whose “failure” to perform military service is because an application to perform alternative service is still under consideration.

Provisions in time of war or general mobilisation

20. Article 65 of Law 3421/2005 stipulates that alternative service may be suspended in time of war in favour of unarmed military service. This would by definition be incompatible with the objections of those involved.

21. Article 1 of Law 2510/1997, while stating that liability for obligatory military service applied from the beginning of the calendar year containing the 19<sup>th</sup> birthday, also stipulated that during times of war or general mobilisation men could be called up for obligatory military service from the beginning of the calendar year of their 18<sup>th</sup> birthday, ie at an age between 17 and 18. Such a provision would be clearly contrary to Greece's commitment under Article 2 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OPAC). Article 14 of the same Law stipulated that, also in time of war or general mobilisation, voluntary enlistment for military service, including the early performance of obligatory military service, was possible from the age of 17.<sup>15</sup> These provisions, which were still extant, are not mentioned in the Declaration lodged by Greece on ratification of the CRC-OPAC in October 2003, which simply stated that the minimum age for voluntary recruitment was 18 (an apparent reference to Article 2 of Law 2936/2001, concerning admission to “professional” service in the armed forces.) The CIA World Factbook.<sup>16</sup> however indicates that they still apply. In its initial report under the CRC-OPAC, Greece indicates that, in Law 3421/2005, Article 38 regarding “premature” recruitment and Article 39 regarding voluntary enlistment in time of war or general mobilisation, should be read as applicable only from the 18<sup>th</sup> birthday, although this is not explicit in the text. It would be reassuring if it were

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<sup>12</sup> See Human Rights Committee General Comment 32, (CCPR/C/GC32), 23<sup>rd</sup> August 2007, Para 55.

<sup>13</sup> See Opinions 2008/8 (Colombia) and 2008/16 (Turkey) in A/HRC/10/21.Add1.

<sup>14</sup> Professional soldiers and the right to conscientious objection in the European Union (Information against war, repression, and for another society No. 5 – Documentation produced for Tobias Pflüger MEP (Vereinigte Europäische Linke / Nordische Grüne Linke (GUE/NGL) Parlamentsfaktion Europäische Parlament, October 2008), p30.

<sup>15</sup> Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2004 (London, 2004),p243

<sup>16</sup> CIA World Factbook at <https://www.cia.gov/library/publications/the-world-factbook/geos/gr.html> consulted 31 October, 2010.

explicitly confirmed that no provisions now exist which would allow the age of mandatory recruitment to be brought forward in any circumstances whatsoever..