



QUAKER COUNCIL FOR EUROPEAN AFFAIRS

The Right to Conscientious Objection in Europe: A Review of the Current Situation

Country Report: GREECE

Conscription

Conscription is enshrined in Article 4.6 of the 1975 Constitution and is further regulated by Law 731/1977, as amended in 1988 (1763/1988).

The length of military service is 12 months, and 17 months for officers.¹ Certain categories, such as children from large families and men having two or more children, may perform a shorter term of service of 3, 6 or 9 months.

All men between the ages of 18 and 50 are liable for military service. This includes all males born to either a Greek father or mother. They automatically acquire Greek citizenship, regardless of whether they wish to possess Greek citizenship and regardless of whether they also hold citizenship of another country.

Reservist obligations apply up to the age of 50. Reservists are periodically called up for reservist training.²

Since 1976 Greece is in a formal state of mobilisation, which was announced because of the Cyprus conflict and the tension with neighbouring Turkey. During periods of general mobilisation or war, the Ministry of Defence has an unlimited right to decide on matters concerning conscription (Law 1763/1988, Article 8.7).

Statistics

The armed forces comprise 162,000 troops, including 119,000 conscripts. Every year, approx. 85,000 young men reach conscription age. Approx. 75 per cent are recruited.

Conscientious objection

Legal basis

The right to conscientious objection is legally recognized with the 1997 Law on Conscientious Objection (2510/1997).³ The Law entered into force on 1 January 1998. Before 1998, the right to conscientious objection was not legally recognized.

Scope

Both religious and non-religious grounds for conscientious objection are legally recognized. According to Article 18.1 of the Law on Conscientious Objection, CO status may be granted to "those who invoke their religious or ideological convictions in order not to fulfil their draft obligations for reasons of conscience". Article 18.2 stipulates that the reasons of conscience "are considered to be related to a general perception of life, based on conscientious religious, philosophical or moral convictions, which are inviolably applied by the person and are expressed by a corresponding behaviour".

In 2000 the Greek Constitution was in fact amended, in order to ensure the constitutionality of the legal recognition of non-religious grounds for conscientious objection.

¹ This duration of military service applies to men who have been called up for service after 1 January 2003. The length of military service was reduced from 19 months to 16 months in 2001 and to 12 months in 2003.

² "Basic military service information for the Hellenes abroad", www.stratologia.gr (Greek Ministry of Defence)

³ English translation of the Law on Conscientious Objection, www.omhroi.gr/SAS/12510en.html

Time limits

There is a strict time limit for submitting CO applications. Applications can only be made before starting military service, at the latest on the day before enlistment into the armed forces.

According to Article 18.4(a) of the Law on Conscientious Objection: "those who have carried arms for whatever length of time in the Greek or foreign armed forces or in the security forces" cannot be considered as conscientious objectors. CO applications can thus not be made by serving conscripts or reservists.

Professional soldiers

There are no legal provisions for conscientious objection for professional soldiers. The Law on Conscientious Objection only applies to conscripts. In addition, Article 18.4(a) effectively excludes professional soldiers from claiming the right to conscientious objection.

In 2003 the first known case occurred of a professional soldier who asked to be discharged from the armed forces because of conscientious objection. In May 2003, he publicly announced that he refused to participate in the war in Iraq. In September 2004, he was charged for desertion and convicted by the Piraeus Navy Court Martial to three years and four months' imprisonment. His trial took place without any lawyer or witnesses for the defendant. He made an appeal and applied for postponement of his imprisonment until his appeal is judged. In October 2004, the Athens Appeal Court granted the request for postponement. In January 2005, the Piraeus Naval court sentenced him to five months' imprisonment on suspension in case of appeal.⁴

Procedure

CO applications must be made to the Ministry of Defence. The application must include a copy of the applicant's criminal record and documents proving that the applicant does not have a gun licence or a licence for hunting (Law on Conscientious Objection, Article 18.4(b) and (c)).

Applications are considered by a committee, which falls under the authority of the Ministry of Defence. The committee consists of a legal expert, two university professors who are specialized in philosophy, psychology or social science, and two military officers (one of them a psychiatrist). Applicants may be ordered for a personal interview with the committee, during which they need to prove their "stable, permanent and inviolable pacifist attitude of life and behaviour", as laid down in Article 18.2 of the Law on Conscientious Objection.

The committee makes a consultative decision, which needs to be confirmed by the Ministry of Defence. The Ministry of Defence usually accepts the consultative decisions of the committee.⁵

If the application is rejected, there is a right of appeal to the civil court within five days of receiving the decision.⁶

Substitute service

The length of substitute service is 23 months, which is almost twice the length of military service. In some cases, due to family reasons, COs are allowed to perform a shorter service of at least 15 months.

The Law on Conscientious Objection also provides for an unarmed military service within the armed forces from 4 months and 15 days to 18 months. So far, no COs have chosen to perform this unarmed military service.⁷

Substitute service is administered by the Ministry of Defence. Article 21.3 of the Law on Conscientious Objection in fact stipulates that COs who are performing substitute service "are considered as quasi enlisted in the armed forces".

⁴ Amnesty International: Professional soldier Giorgos Monastiriotos is a prisoner of conscience and must be released (EUR 24/011/2004). War Resisters' International: CO sentenced to five months in prison, 18 January 2005.

⁵ Greek National Commission for Human Rights (NCHR): Answers to the UNHCHR questionnaire on conscientious objection to military service, October 2003.

⁶ War Resisters' International: Conscientious objection to military service in Greece: Human Rights shortfalls, Report for the Human Rights Committee in relation to Article 18 of the International Covenant on Civil and Political Rights, February 2005.

⁷ War Resisters' International (2005).

According to the Law on Conscientious Objection, substitute service may be performed in various institutions in the public sector. In practice, most COs perform substitute service on remote islands. Substitute service cannot be performed in Athens, Thessaloniki and four other big cities, nor can it be performed in the place of birth, origin or residence of the CO.⁸ This is, in fact, a discriminatory treatment of COs in comparison with conscripts in the armed forces, because most military units are situated within close range of big cities.

According to Article 21.5, CO status may be withdrawn in cases where the CO commits a disciplinary or criminal offence, is absent from duty, carries out trade union activities or participates in strikes.

The right to conscientious objection is not legally recognized during wartime. According to Article 24.2, substitute service may be suspended during wartime by the Ministry of Defence and COs may be called up for unarmed military service within the armed forces.

Practice

Since the Law on Conscientious Objection entered into force on 1 January 1998, approx. 150 CO applications are believed to be made per year. Most applicants are members of religious denominations who forbid their members to bear arms, in particular Jehovah's Witnesses, but there are also COs who refuse military service for pacifist secular reasons. The number of CO applications is low, which is probably partly due to the strictness of the application procedure and the harsh conditions of substitute service. Moreover, the Greek authorities have been criticized for not informing new conscripts about the application procedure for substitute service. The information for new recruits in fact merely states that "applications under Law 2510/1997" are available, but it does not give any additional details about the application procedure.⁹

It is not clear what percentage of CO applications is granted. There appears to be a discriminatory treatment of non-religious COs, with applications from Jehovah's Witnesses always being accepted if the full required documentation is present, whereas COs who do not relate their conscientious objection to membership of a particular religious denomination are often unsuccessful. According to Amnesty International, the committee has suggested the blanket rejection of applications that are made on non-religious ideological grounds.¹⁰

According to the Greek government, 758 out of 771 CO applications that had been made between 1998 and June 2003 had been granted.¹¹ It is not clear, however, if this number includes the applications that have not been taken into consideration because they were not submitted within the time limit or because they were not accompanied by the required documentation. Numerous CO applications have, in fact, been rejected because they were not submitted within the time limit or because they were not accompanied by documentation, such as a copy of the criminal record or documents proving non-ownership of a gun licence. In fact, in many cases, local authorities have reportedly refused to provide COs with these documents.¹²

It is not known how many COs are currently performing substitute service. In 1999, approx. 200 COs were believed to be performing substitute service.¹³

Since the Law on Conscientious Objection entered into force, approx. 40 COs agreed to perform substitute service, but have rejected their posting as a protest against the punitive

⁸ According to Article 19.4 of the Law on Conscientious Objection, Athens and Thessaloniki are excluded from the performance of substitute service. The other four cities were excluded in a subsequent ministerial decision.

⁹ Information provided by Greek National Commission on Human Rights, quoted in: Conscience and Peace Tax International: Comments on Paragraphs 678 to 692 of the Initial Report of Greece under Article 40 of the International Covenant on Civil and Political Rights: "The recognition of conscientious objectors", 2004.

¹⁰ Amnesty International: Europe and Central Asia. Summary of Amnesty International's concerns in the Region January-June 2004 (EUR 01/005/2004).

¹¹ United Nations Human Rights Committee: Consideration of reports submitted by states parties under Article 40 of the Covenant, Initial report Greece (CCPR/C/GRC/2004/1), 15 April 2004.

¹² Amnesty International: 15th May: International CO Day - Greece misses another opportunity to celebrate (EUR 25/002/2004). Amnesty International: The continuous harassment of conscientious objectors (EUR 25/003/2003).

¹³ War Resisters' International (2005).

duration and conditions of substitute service.¹⁴ The Greek authorities have started criminal proceedings against some of these COs.

A CO who does not report for substitute service in time becomes an 'Anipótaktos' (objector to conscription) and may be prosecuted under military law and lose his CO status. This section of the Greek Law on Conscientious Objection is confusing, because it leaves COs in a 'legal limbo' situation in which it is unclear if they are to be prosecuted by the civilian or military authorities.¹⁵

Refusing substitute service is considered as 'insubordination' and is punishable by up to six months' imprisonment during peacetime. Upon release, COs may again be called up for military service.¹⁶

The practice of trying COs for more than one case of draft evasion or insubordination is, in fact, a violation of Article 14.7 of the International Covenant on Civil and Political Rights, according to which "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 continuing harsh treatment of COs is best exemplified by the case of Lazaros Petromelidis. Petromelidis has been persecuted since 1992 when he declared his conscientious objection, when the right to conscientious objection was not yet legally recognized. In 1999 he was recognized as a conscientious objector but he refused to perform substitute service because of its punitive nature. His CO status was withdrawn and he was consequently called up for military service again, which he again refused. Over the years, Petromelidis has been passed through a dozen trials, has been jailed three times and was sentenced to a 20 month suspended sentence in 1999. In December 2004, Petromelidis was eventually sentenced to 30 months' imprisonment for two charges of insubordination dating from 1999 and 2003.¹⁷

Draft evasion

Apart from the COs mentioned above, there are a considerable number of draft evaders who have not responded to their call-up for military service. Many of them may be considered as COs, particularly because the right to conscientious objection was not legally recognized until 1998.

Thousands of draft evaders have changed address and live in hiding in Greece. Many draft evaders have in fact left Greece in order to avoid call-up for military service. Officials estimate their number as between 8,000 and 35,000, but CO groups have estimated the number of draft evaders as between 40,000 and 70,000.¹⁸

Draft evaders remain liable for criminal prosecution up to the age of 51. In exceptional circumstances draft evaders may be allowed to enter Greece for a maximum period of 15 days or three months, providing they can prove evidence of serious personal or family reasons.¹⁹

Draft evaders can buy off criminal prosecution, on the condition that they complete military service. The payment is at least 100,000 GDR (approximately 300 Euros) per month of military service, which must be paid as a lump sum.²⁰

Background

Greece has a long history of repression of COs. Since the 1950s, approx. 3,500 COs have been imprisoned. Initially most COs were members of the Jehovah's Witnesses, but since the 1980s there was also a growing number of COs who are inspired by secular, pacifist or other motives.

¹⁴ 'Conscientious objection in Greece', Joint Statement of War Resisters' International and European Bureau for Conscientious Objection, February 2004. Amnesty International (EUR 25/003/2003).

¹⁵ War Resisters' International (2005).

¹⁶ War Resisters' International (2005).

¹⁷ Amnesty International: Petromelidis's Promethean trials (EUR 25/015/2004). Regular updates on the case Petromelidis are available at: www.wri-org/co/cases/petromelidis-en.htm

¹⁸ War Resisters' International: Refusing to bear arms - A world survey on conscription and conscientious objection to military service, 1998.

¹⁹ 'Basic military information for Hellenes abroad', www.stratologia.gr (Ministry of Defence).

²⁰ www.mod.gr (Ministry of Defence)

Although the right to conscientious objection is legally recognised since 1998, the Law on Conscientious Objection is clearly not in line with several international standards on conscientious objection. Both the Greek Ombudsman and the National Commission on Human Rights have called for a reduction of the duration of substitute service and have urged the removal of the application procedure and substitute service from the Ministry of Defence.²¹

Over the years, the Greek government has been urged on numerous occasions by several inter-governmental bodies to bring its policy towards COs in compliance with international standards on conscientious objection.

In 2001, the European Parliament adopted a resolution in which it called on Greece to recognise the right to conscientious objection to military service without restrictions and without reference to any religious grounds, to introduce forms of alternative service which do not last longer than compulsory military service and to immediately release all those serving prison sentences in this connection.²²

In 2001, the European Committee of Social Rights concluded that the duration of substitute service amounts to a disproportionate restriction on "the right of the worker to earn his living in an occupation freely entered upon" and is a violation of Article 1.2 of the European Social Charter, as substitute service keeps COs away from the labour market for an amount of time which is disproportionately longer than conscripts in the armed forces.²³

In 2003, the European Parliament in its Annual Report on Fundamental Freedoms called upon Greece to recognize the right to conscientious objection without restrictions, to introduce a substitute service that is of equal duration to military service and to release all those serving prison sentences in this connection.²⁴

²¹ Greek Union of Conscientious Objectors: Greek Conscientious Objector, already repeatedly punished, to be court-martialed, www.omhroi.gr

²² European Parliament Resolution 2001/2014.

²³ European Committee on Social Rights, Decision on the merits, Complaint 8/2000. The collective complaint was submitted by the Quaker Council for European Affairs 'Collective Complaint on Greece to the Council of Europe under the Social Charter' (registered as 8/2000).

²⁴ European Parliament: Report by the Network of Experts on the Situation of Fundamental Rights in the European Union in 2002, January 2003.