



**Permanent Mission of Greece  
to the Office of the United Nations  
and other International Organizations  
in Geneva**

**URGENT**

**Ref. No.: 6175.4/AS 1237**

### **VERBAL NOTE**

The Permanent Mission of Greece to the United Nations Office and other International Organizations in Geneva presents its compliments to the United Nations Human Rights High Commissioner Office and with reference to the latter's letter of 11.7.2019, has the honour to hereby attach the contribution of the Greek Ministry of National Defence on Conscientious Objectors.

The Permanent Mission of Greece to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the United Nations Human Rights High Commissioner Office the assurances of its highest consideration.

Geneva, 14.8.2019



**United Nations Human Rights  
High Commissioner Office  
Email: [registry@ohchr.org](mailto:registry@ohchr.org)**

**TO:** Ministry of Foreign Affairs HELLENIC NATIONAL DEFENCE GENERAL STAFF  
D4 Dte for Human Rights B STAFF DTE/B4 (LEGAL CORPS DTE)  
3, Akadimias Str. MILITARY LAW ENFORCEMENT SECTION  
10671, Athens, Greece Tel.: +30 210 6574196  
F.429.39/114/22595

**INFO:** HNDGS/B STAFF DTE/B4/2 D.5202  
Athens, 01 Aug 2019

**SUBJECT:** Conscientious Objectors

**REF.:**

- a. Constitution of Greece
- b. Penal Code
- c. Military Penal Code
- d. Code of Criminal Procedure
- e. L.3421/05 "Recruitment of Greek Nationals and other provisions" (GG A 302),
- f. N.4609/19 "Regulations with Regard to Armed Forces Personnel Welfare, Recruitment, Military Justice, and other provisions" (GG A 67)
- g. F.420/79/81978/D.300/21-12-2005 Minister of National Defence Decision (GG B 1854), as now in force
- h. F.420/82/81981/D.303/22-12-2005 Joint Ministerial Decision of the Ministers of National Defence and Economics and Finance (GG B 1854)
- i. F.429.1/19/281812/D.396/04-03-2011 Joint Ministerial Decision of the Ministers of Finance and National Defence
- j. F.429.1/42/217818/D.4199/23-06-19 Alternate Minister of National Defence Decision (GG B 2699)
- k. SEC.42998/23 Jul 2019/MFA/D4 Dte for Human Rights

1. Kindly be informed, following ref (k) and in response to the letter of the UN Special Rapporteur on freedom of religion or belief of 11 July 19 concerning the legal framework governing the status of conscientious objectors in our country, of the following:

a. The military service obligation, in accordance with art 4, par. 6 of ref (a), is universal and compulsory, within the framework of State security. It applies to all Greek citizens, from 1 January of their nineteenth (19<sup>th</sup>) year of age to 31 December of their forty-fifth (45<sup>th</sup>) year of age, in accordance with article 1 of ref (e).

b. Military service is primarily armed service, served in the units and services of the Armed Forces. However, pursuant to the implementation of international law (European Convention on Human Rights, International Convention on Civil and Political Rights, European Social Charter), citizens who claim religious or ideological beliefs may be recognised as conscientious objectors and serve an alternative service.

c. With the recent L.4609/19 and the resultant Ministerial Decisions, the law in ref (e) was amended to eliminate the different treatment of conscientious objectors compared to individuals serving a military service; the relevant amendments are the following:

(1) The length of alternative service served by conscientious objectors became equal to the length of military service in the Armed Forces; the length of service for conscientious objectors is as follows:

(a) Twelve (12) months for those who would be full military service individuals, if they served a military service.

(b) Nine (9) months for those who would be nine (9)-month reduced military service individuals, if they served a military service.

(c) Six (6) months for those who would be six (6)-month reduced military service individuals, if they served a military service.

(d) Three (3) months for those who would be finally discharged from the Armed Forces if they served military service after completing three (3) months of actual military service.

(2) It is stressed that the length of military service is twelve (12) months in the Air Force and the Navy and nine (9) months in the Army. Consequently, the length provided for alternative service is equal to the length of military service.

(3) The makeup of the five-member committee examining and providing recommendations to the Minister of National Defence on applications by citizens for conscientious objector status was amended (art. 23 L. 4609/19) by increasing the number of university professors from two (2) to three (3) and reducing the number of Armed Forces Officers from two (2) to one (1), in compliance with the provisions of the European Convention on Human Rights and the case-law of the European Court of Human Rights (*Papavasilakis v. Greece*, application No. 66899/14) and the Council of State (CoS 1318/2017), as well as to provide more guarantees for impartiality. The participation of a single Officer in the committee makeup is deemed not to affect the independence and impartiality of the committee.

(4) Individuals who have submitted an application and have been recognised as conscientious objectors may now, by virtue of art. 23 par. 4 of L. 4609/19, receive a deferment before reporting for duty to the assigned authority, in accordance with articles 18, 19, 19<sup>A</sup>, 20, 21, 22, 23, 25, 27, 28 of L. 3421/05. These deferments are mainly student deferments (to study in educational institutions and schools of all levels) and enlistment deferments of permanent residents abroad and naturalised citizens. After the end or discontinuation of the deferment period, individuals must reapply for conscientious objector status. The purpose of the reapplication process is to examine whether the reasons for the wish not to serve a military service still continue to apply, given the fact that it might be a very long time period between the deferment and the enlistment dates. For example, if a draftee is recognised as a conscientious objector at the age of 19 and then receives a student deferment to study in university, he will be called up for enlistment at the age of 28, unless he discontinues the deferment at his own will; if he then receives a deferment for a PhD, he will be called up for enlistment at the age of 31, i.e. after 12 years. Similarly, if someone is recognised as a conscientious objector and receives a deferment as permanent resident abroad, his deferment essentially is for an indefinite time period and may be discontinued either upon his own application or if he loses permanent resident abroad status.

(5) Individuals recognised as conscientious objectors serve an alternative service in public sector authorities to provide community services to areas outside their place of residence. With the new legal framework, they can request service in another authority, including close to their place of residence,

after five (5) months instead of seven (7) until recently, in case of family, financial, and social problems of the individual. It is also notified that the same legal framework also applies to individuals serving a military service, who enlist in Armed Forces Units outside their place of residence and may be transferred after five (5) months.

(6) Conscientious objectors are now entitled to five (5) days of parental leave for every living child (art. 23 par. 5) to protect the institution of family.

(7) The Minister of National Defence may no longer suspend the provisions for alternative service during wartime (art. 23 par. 6), since individuals, whose beliefs prevent them from serving a military service and, as a consequence, can not bear arms, even during wartime, may offer other services outside the Armed Forces.

(8) In case of appeal against a rejection of an application for conscientious objector status, the Minister of National Defence automatically grants suspension without further action by the individual in order to prevent, until the examination of the appeal, his being declared a draft evader (art. 23 par. 7).

(9) The law now provides that the State must pay travel expenses to conscientious objectors called to report to public sector authorities for their alternative service, as well as upon their discharge from such authority or when they are called to appear before a military authority (e.g. Recruiting Service, Exemption Committee) (art. 23 par. 8).

(10) Finally, by virtue of art. 23 par. 9, the beneficial provisions for enlisted employees and workers also apply proportionately to conscientious objectors serving an alternative service, in accordance with the constitutional principle of equality of rights of all Greek citizens.

d. Regarding the matter of the conscientious objector being declared a draft evader, kindly be informed of the below legal framework on draft evasion that applies both to conscientious objectors, as well as to individuals serving a military service:

(1) If their application for conscientious objector status is rejected, the individuals must enlist in the Armed Forces with the next enlistment series starting one month after the issuing of the relevant rejection decision, in accordance with art. 4 par. 2 of ref (g). In case of non-enlistment on a certain date or until a certain deadline in the enlistment units, they are declared draft evaders, in accordance with the provisions of art. 51 par. 1 of ref (e). Additionally, those recognised as conscientious objectors who do not report to their assigned authority until the assigned deadline are also declared draft evaders. These individuals lose their right to serve an alternative service.

(2) In accordance with art. 51 par. 5 of ref (e), those declared draft evaders face the penalties provided by the Military Penal Code, a €6,000 fine, and the deprivations and prohibitions provided by articles 53 and 54 of the aforementioned law in reference. A Joint Ministerial Decision of the Ministers of Finance and National Defence state the fine amount imposed on draft evaders, the process, as well as all details required for the payment thereof.

(3) It is stressed that individuals serving an alternative service do not obtain military status, therefore, in case of culpable actions committed, they are not subject to the jurisdiction of military courts, but that of common criminal courts. However, in the case of commitment of the military offence of draft evasion (for the reasons aforementioned in the above paragraph), and only for this act, they are subject to the jurisdiction of military courts. Individuals who do not submit an application for conscientious objector status and are condemned for denial to serve military service are sentenced to imprisonment for a time period equal to or greater than the length of the alternative service they would serve had they been recognised as conscientious objectors and, upon release, in accordance with art. 65 par. 1 of ref (e), they are exempt from call ups to join the Armed Forces.

(4) The offence of draft evasion is a "conduct", genuine omission, perpetual offence and, as such, perpetually flagrant. Its perpetration continues until a certain event puts an end to this perpetual illegal situation, at which time the limitation period starts to run. For flagrant misdemeanours, the competent District Attorney, in accordance with art. 275 par. 3 of ref (d), has the right to issue an arrest warrant against the perpetrator.

(5) The events ending the perpetuation of the perpetration of the offence of draft evasion, in accordance with art. 51 par. 3 of ref (e), are: reaching the forty-fifth (45<sup>th</sup>) year of age, enlistment in the Armed Forces, arrest for draft evasion, appearance of the draft evader before any military authority to end his draft evasion, being deemed by the competent Armed Forces health committee as unfit for military service (I/5), or being granted enlistment deferment for health reasons. Furthermore, draft evasion is ended upon imprisonment of the draft evader or detention by any competent Authority, admission to treatment centres for addicts, or upon enlistment in the regular Armed Forces of a foreign state, if granted an enlistment deferment for these aforementioned reasons.

(6) In accordance with article 32 of ref (c), whoever is declared a draft evader is punished, during peacetime, with imprisonment of up to two years. Every act punished by imprisonment is a misdemeanour, in accordance with art. 18 of ref (b) and the limitation period for misdemeanours is five years, in accordance with art. 111 of ref (b) (unless there are reasons to suspend the limitation period, in which case the limitation period is extended).

(7) It is concluded from the above that all Greek citizens are liable for military service until their forty-fifth (45<sup>th</sup>) year of age and if they do not report for military or alternative service, without having reasons for legally staying out of the Armed Forces, the country's Recruiting Authorities have no option but to mandatorily declare them draft evaders. The draft evasion is ended with the events aforementioned in the above paragraphs and then they are rescheduled for enlistment. If, upon ending their draft evasion status, they do not enlist or report to a public sector authority for alternative service, these individuals are declared draft evaders anew and imposed the criminal and administrative penalties provided. For as long as the military or alternative service obligation is not fulfilled, a new genuine, perpetual offence of draft evasion is established, which is finally ended upon reaching forty-five (45) years of age. As aforementioned, upon ending the illegal situation, the limitation period starts to run, which for misdemeanours like draft evasion is five years. Consequently, the individual may no longer be liable for military service after reaching the forty-fifth (45<sup>th</sup>) year of age, but the criminal consequences for the offence of draft evasion which is not time-barred continue to exist.

(8) In addition to the above, art. 19 par. 1 of ref (f) provides the automatic arrangement recruiting, criminal, and administrative matters for draft evaders, i.e. the lifting

of criminal consequences and the erasure of administrative consequences and fines imposed, if they enlist, are exempt from military service, or are granted an enlistment deferment for health reasons by 31 Dec 2020. The same applies to conscientious objectors, either they have served an alternative service or they have applied or will apply by 31 Dec 2020 for conscientious objector status.

e. In accordance with art. 64 of ref (e), conscientious objectors do not fill organic positions in the authority they are assigned to, but they are treated in the same way as the employees of the said authority in terms of healthcare and logistics in general. They are entitled to food and accommodation by the authority they are assigned to, and in case the latter is not in a position to meet such a requirement, they receive a money sum determined by Joint Ministerial Decision, amounting to €223.53 per month.

f. Regarding the buyout of military or alternative service, kindly be informed of the following:

(1) In accordance with art. 22 of ref (f), the age at which conscientious objectors become eligible to buy out the rest of their alternative service was reduced from 35 to 33 years of age, within the framework of equality of rights of enlisted soldiers and conscientious objectors. Furthermore, the minimum length of alternative service conscientious objectors are required to serve before they are eligible to buy out the rest of their alternative service was reduced from forty (40) to twenty (20) days, the same as for enlisted soldiers.

(2) The amount paid to buy out each month of military or alternative service is determined by Joint Ministerial Decisions of the Ministers of Finance and National Defence. In accordance with the Joint Ministerial Decisions in ref (h) and (i), the amount determined to buy out each month of both military and alternative service amounts to eight hundred and ten euro (€810), the same for both categories.

g. Article 59 of ref (e) provides that conscientious objector status may be recognised to individuals who claim religious or ideological beliefs. The beliefs put forward should result from a general view of life, based on conscientious religious, philosophical, or moral beliefs, applied inviolably by a person and expressed through a respective line of conduct. Those claiming religious and those claiming ideological beliefs to apply for conscientious objector status are essentially treated equally, since the same provisions and procedures apply to both cases. However, the typical abolition of this distinction is under discussion in order to amend the relevant institutional documents.

2. In addition to the above clarifications to the questions of the Special Rapporteur on freedom of religion or belief, as stated in his Letter of 11 Jul 19, kindly also be informed of the following, regarding the remarks concerning our country in the Report of the Office of the United Nations High Commissioner for Human Rights No. A/HRC/41/23 of 24 May 2019:

a. In accordance with Ministerial Decision in ref (g), draftees and reservists who wish to obtain conscientious objector status submit a relevant application, together with the necessary supporting documents, before the date on which they are due for enlistment. Applications submitted after enlistment in the Armed Forces or applications resubmitted upon rejection of a previous application for substantial reasons are rejected. The ineligibility of enlisted soldiers for conscientious objector status during their service is substantiated by art. 59 par. 3 of ref (e), which provides that individuals who have served an armed service in the Hellenic or foreign Armed or Security Forces are not considered

conscientious objectors upon adopting beliefs which prevent them from fulfilling an armed service for reasons of belief.

b. The career personnel of the Armed Forces (Officers, NCOs, Professional Soldiers) may resign from the Armed Forces for any reason whatsoever (including reasons of belief) at any time during their career. However, in accordance with the provisions of articles 1 and 2 of L.3257/2004, Officers and NCOs graduating from Military Academies and Schools are required to serve in the Armed Forces for a mandatory period of twice the years of their studies, for Officers, and five years, for NCOs. Resigning before the end of this period is possible, however these Officers and NCOs must pay a compensation to the State. Similar provisions also apply to Military Academy and School students, as well as for personnel who have received leave for studies and/or have trained in domestic or foreign schools at the Service's cost.

c. The payment of compensation to the State when resigning before completing the minimum mandatory service period in the Armed Forces is not a punitive measure, but rather a repayment of the funds spent by the State for their training. Consequently, save for the aforementioned restrictions, career personnel are not barred from resigning from the Armed Forces, neither is there any distinction concerning the reasons for resignation. It is stressed that the aforementioned restrictions (save for the training at the Service's cost during their service) do not apply to Professional Soldiers, for whom no minimum mandatory service period in the Armed Forces is required, and they may resign at any time without having to pay compensation.

3. Kindly be informed.

4. POC: Lt Col (Leg) Vasiliki Daniil, Section Chief, Military Law Coordination – Enforcement Section, HNDGS/B4 (LEG CORPS DTE), Tel. Nr.: +30 210 6574196.

Official Copy

Major General Spyridon Giannakakis  
Director

Lt Col (Leg) Vasiliki Daniil  
Section Chief, Military Law Enforcement  
Section