

## Mandate of the Special Rapporteur on freedom of religion or belief

REFERENCE: AL  
GRC 3/2016:

31 October 2016

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on freedom of religion or belief, pursuant to Human Rights Council resolution 22/20.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the **prosecution and punishment of persons who refuse to perform the compulsory military service based on reasons of conscientious objections, including Mr. Petros Sotiropoulos.**

According to the information received:

### *Background*

Conscription was introduced in Greece back in 1911. In 1975, the Constitution proclaimed (article 4, paragraph) that: "Every Greek citizen who is capable of carrying a weapon is obliged to contribute to the defence of the Country, as it is stipulated by the law". Military legislation that develops this constitutional provision establishes that all Greek males, from 19 to 45 years old, have the obligation to serve in the Armed Forces. The duration of the service is currently of nine months.

Exemptions are granted to persons with disabilities, to those with serious health issues, to fathers of more than four children and to officials of the church. Deferments are offered to men who are enrolled in university studies (to men up to 27 years old for undergraduate studies and men up to 30 years old for postgraduate studies). Women are excluded from conscription but can enroll voluntarily.

In 1997, the Greek Parliament approved the possibility of completing a civil social service as an alternative to military service (Law 2510) for "conscientious objectors", first time the term was mentioned in Greek legislation. Law 2510 lists religious, philosophical, ideological or moral convictions (Article 18, paragraphs 1, 2 and 3) as conscience reasons to oppose the personal use of arms and apply for civil service instead of serving in the Armed Forces. It is calculated that around 2,000 persons completed the alternative civil service from 1998 to 2009, most of them being Jehovah's Witnesses.

### *Punitive/discriminatory character of alternative civil service*

The duration of the civil service is of 15 months, six months longer than the nine months established for military service.

Civil service has to be carried out far from the conscientious objector's home and lacks adequate financial support (223.50€ per month for all expenses, in cases where the receiving institution does not provide food and accommodation to those completing their service), making it inaccessible for conscientious objectors without the means to sustain themselves for the duration of the service.

#### *Arbitrary exclusion from conscientious objection in Law 2510*

The leaflet received by those who are called for military service does not include any information regarding conscientious objection other than that “Law 2510 is applicable”, without further explanation. However, strict time-limits exist, which are often used to reject applications on procedural grounds, without studying the merits.

The right to conscientious objection of current soldiers is not recognized, instead, they are prosecuted for desertion and given prison sentences for leaving the Armed Forces or the military service even if they claim reasons of conscience.

Any person who has applied for or held a firearms license (the applicant needs to prove, based on police documents, never having had applied for one), or held membership of a hunting association, or taken part in shooting sports, or been sentenced (or currently being under prosecution) for gun-related offenses is automatically excluded from declaring himself conscientious objector to military service.

#### *Arbitrary exclusion from conscientious objection in practice*

In 2009, several conscientious objectors had their applications rejected because, during recruitment, before their applications had been considered, they had been obliged to spend a night in barracks against their will, and therefore considered to have commenced military service.

The board that decided on the admissibility of applications to do the civil service based on conscientious objection, under the authority of the Ministry of Defense and composed, among others, of military officers, repeatedly rejects applicants who do not belong to the Jehova’s Witnesses denomination. While applications on religious grounds are systematically accepted (100% between 2006 and 2008, the vast majority being Jehovah’s Witnesses), ideological grounds are often rejected by the board, with an acceptance rate of around 37%.

The alternative civilian service is under the jurisdiction of the Ministry of Defence, including the approval or rejections of applications for conscientious objection. On 15 September 2016, the European Court of Human Rights

concluded that a board composed by a “majority of servicemen” did not provide for the “safeguards of impartiality and independence” when examining an application for conscientious objection (Papavasiliakis v. Greece, ECHR 288/2016).

#### *Prosecution against conscientious objectors*

The Government has prosecuted and punished conscientious objectors repeatedly for their continued refusal to perform military service with prison sentences and economic fines, including both conscientious objectors who refuse to do the alternative civil service and those whose applications for conscientious objection have been rejected.

As the period of eligibility for conscription goes from 19 to 45 years old, conscientious objectors who reject calls for enrolment in the military service are fined and prosecuted repeatedly, as each refusal is considered a new act of insubordination, disobedience or desertion. On 3 December 2015, the repetitive punishment of conscientious objectors in Greece was found to be a violation of the *ne bis in idem* principle by the Human Rights Committee (CCPR/C/GRC/CO/2, par. 38).

#### *Violence against conscientious objectors*

In 1991, a far right organization known as the Organisation of Young Noiseless Raiders attempted a bomb attack targeting the trial of conscientious objector Mr. Pavlos Nathanail.

On 12 April 2008, a bomb threat was made on the telephone against a public event of the Greek Section of Amnesty International on the occasion of the ten-year anniversary of the law on conscientious objection.

On 24 February 2009, at around 22:00, a hand grenade was tossed targeting a public meeting of the Greek Association of Conscientious Objectors in Athens. The grenade bounced back at the window of the venue and exploded in an empty street, causing no injuries. The attack remains in impunity.

#### *Case of Mr. Petros Sotiropoulos*

Mr. Petros Sotiropoulos applied for alternative civilian service on 9 January 2002, based on religious reasons. On 28 August 2002, his application was rejected by the board, which claimed that his Christian Evangelist denomination was not incompatible with performing military service.

On 6 September 2002, Mr. Petros Sotiropoulos was called for enrolment. On 18 September 2002, he appealed to the State Council against the rejection of his application for alternative civilian service.

On 9 May 2016, Mr. Petros Sotiropoulos was due to report to military service again. He submitted a new application for conscientious objection, this time based on ideological grounds.

On 26 October 2016, Mr. Petros Sotiropoulos appeared before the board, which will issue a non-binding recommendation to the Ministry of Defense.

While I do not wish to prejudge the accuracy of information made available to me, the above allegations appear to be in contravention with international law, in particular the right of every individual to freedom of religion or belief, as set out in article 18 of the Universal Declaration of Human Rights (UDHR) and of the International Covenant on Civil and Political Rights (ICCPR), accessed by Greece on 5 May 1997.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. I would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above on the above mentioned allegations.
2. Please indicate what measures have been taken to ensure that legislation and practice regarding conscientious objection and the alternative civil service in Greece is compatible with the right to freedom of thought, conscience, belief and religion.
3. Please indicate any measure taken to ensure that Mr. Petros Sotiropoulos' right to freedom of religion or belief is being respected, including the examination of his application by an impartial and independent body.
4. Please indicate what measures have been taken to implement the recommendations regarding conscientious objection made to the Government by the Human Rights Committee.

I would appreciate receiving a response within 60 days.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of my highest consideration.

Heiner Bielefeldt  
Special Rapporteur on freedom of religion or belief

**Annex**  
**Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the right to freedom of religion or belief, enshrined in article 18, of the International Covenant on Civil and Political rights, accessed by Greece on 5 May 1997.

In addition, we would like draw the attention of Your Excellency's Government to General Comment No. 22 issued by the Human Rights Committee (CCPR/C/21/Rev.1/Add.4): "Many individuals have claimed the right to refuse to perform military service on the basis that such right derives from their freedoms under article 18. In response to such claims, a growing number of States have in their laws exempted from compulsory military service citizens who genuinely hold religious or other beliefs that forbid the performance of military service and replaced it with alternative national service. The Covenant does not explicitly refer to a right to conscientious objection, but the Committee believes that such a right can be derived from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief. (...) The Committee invites States parties to report on the conditions under which persons can be exempted from military service on the basis of their rights under article 18 and on the nature and length of alternative national service."

Finally, we would like to remind the attention of Your Excellency's Government to the general observations on Greece issued by the UN Human Rights Committee in 2005 (CCPR/CO/83/GRC, par. 15) and 2015(CCPR/C/GRC/CO/2, par. 37-38), where it recommended that the length of civil service alternative to military service should not have a punitive character, that the assessment of applications for conscientious objector status is put under the control of civilian authorities, that the recognition of conscientious objector status is not done in a discriminatory manner depending on different grounds of application, and that conscientious objectors are not punished repeatedly violating the *ne bis in idem* principle.