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GREECE

Joint Submission by the European Bureau for Conscientious Objection (EBCO) and the Association of Greek Conscientious Objection (AGCO) to the UN Universal Periodic Review 25th session of the UPR Working Group, April/May 2016

In this joint submission, the European Bureau for Conscientious Objection and the Association of Greek Conscientious Objection provide information under sections B and C as stipulated in the [*Universal Periodic Review: information and guidelines for relevant stakeholders' written submissions \(Rev 17/03/2015\)*](#)

Brussels, 21 September 2015

Submitting stakeholders: Mr. Friedhelm Schneider (President of EBCO), Mr. Yiannis Gklarnetatzis (President of AGCO).

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The European Bureau for Conscientious Objection (EBCO) was founded in 1979 in Brussels, Belgium, as an umbrella organisation for national associations of conscientious objectors, with the aim of promoting collective campaigns for the release of the imprisoned conscientious objectors and lobbying the European governments and European/UN institutions for the full recognition of the right to conscientious objection to military service and the end of the discrimination against conscientious objectors. EBCO is involved in drawing up the annual report of the Committee on Civil Liberties of the European Parliament on the application by the Member States of its resolutions on conscientious objection and civilian service, as determined in the “Bandrés Molet & Bindi Resolution” of 1994; provides expertise and legal opinions on behalf of the Directorate General of Human Rights and Legal Affairs of the Council of Europe; enjoys participatory status with the Council of Europe since 1998 and is a member of the Conference of International Non-Governmental Organisations of the Council of Europe since 2005; is a full member of the European Youth Forum since 1995.

The Association of Greek Conscientious Objection (AGCO) is the member organisation of EBCO in Greece.

B. Normative and institutional framework of the State

(1) In 1997, Greece was by 19 years the last of the then members of the European Union to accept conscientious objection to military service and make a substitute service available for conscientious objectors by Law 2510/1997. Law 3421/2005 and Law 3883/2010 have amended some of the provisions of Law 2510/1997, but in many respects still the law falls far short of international standards.

(2) In specific EBCO and AGCO have particular concerns regarding the following issues: 1) The examination of the applications and the assessment of persons applying to perform civilian service still remain under the jurisdiction of the Ministry of Defence. This is in breach with the principle that states should establish independent and impartial decision-making bodies to consider applications based on conscientious objection; 2) The duration of the civilian service remains punitive and discriminative in nature. Currently the vast majority of the conscripts (93%¹) serves in the Army, where the full military service is 9 months, and only a small minority of the conscripts (7%) serves in the Navy and the Air Force, where the full military service is 12 months. Furthermore, a part of conscripts in the Navy and the Air Force, are also serving only 9 months, in case they serve the whole period of their service near the eastern borders.² The full civilian service is 15 months, which means 67% longer than the military service in the Army (where the vast majority of the conscripts serves) and 25% longer than the military service in the Navy and the Air Force. In addition, there is a small majority of conscripts who have the right to serve a reduced service (special cases because of social reasons such as specific family status etc.) There are three types of reduced services: A) the reduced military service is 8 months in the Army and 9 months in the Navy and the Air Force, while the reduced civilian service is 12 months, which means 50% more than in the Army and 33% more than in the Navy and the Air Force. B) the reduced military service is 6 months, while the reduced civilian service is 9 months, which means 50% more. C) the reduced military service is 3 months, while the reduced civilian service is 5 months, which means 67% more. Other conditions of civilian service are also largely problematic (to be served far from the conscientious objector's home area, not in a series of major cities, and without adequate financial support); 3) Lack of adequate information on the possibility of applying for recognition as a conscientious objector (nothing written in the call-up papers); 4) Strict time-limits for the submission of any application for recognition as a conscientious objector, accompanied by all the required documentation which is difficult to be acquired. Applications must be received at the latest on the day set for enlistment, with no postponement permitted. Over the years, this has meant that some applications have in practice been rejected on purely procedural grounds, without being considered on their merits; 5) Restrictive definition of conscientious objection *a priori* and arbitrary refusal of recognition. The candidate conscientious objector is required by the law to prove that his life complies with his beliefs. Excluded, for no logical reason, is anyone who has ever held a firearms license (applicants have to provide a certificate from the police showing that they have never done so), or been a member of a hunting club, or participated in shooting sports, or been sentenced for crime related to use of guns, ammunition or illegal violence or even are currently prosecuted for such crime (which is in violation of the right to the presumption of

¹ According to figures of the International Institute for Strategic Studies, London, The Military Balance 2015

² Decision of the Minister of Defense, Φ.421.4/13/209290, FEK 2465b, 17 December 2009

innocence, Article 14.2 of ICCPR); 6) Possible revocation of the conscientious objector status for several reasons; 7) No provision for those who developed conscientious objection after starting military service or for the professional soldiers.

(3) According to Article 202 of the Greek Penal Code “Inciting those who have duty of military service”: 1) Whoever in whatever way induces or incites on purpose a person serving in the army to disobey duty of service shall be sentenced to imprisonment for a term of up to three years; 2) The same sentence is imposed on whoever induces or incites on purpose a person who has duty to enlist to disobey the call-up to the army; 3) In time of war, armed revolt, or general mobilisation, the above sentence may be increased to up to ten-year imprisonment; 4) The above penalties apply only if the offence concerned is not subject to more severe penalties under another law. EBCO and AGCO are disturbed at the potential for using this article to punish or deter discussion of the right to conscientious objection to military service, something that would constitute a restriction on freedom of expression.

C. Promotion and protection of human rights on the ground

(4) The application of the system in practice has been marked by discrimination between conscientious objectors on the grounds of ideological beliefs and religious adherence and there has been arbitrary refusal of recognition. There are serious concerns about the questionable opinions of the Special Committee in the Ministry of Defence which advises the Minister on the applications for conscientious objector status, especially on the ideological applications for civilian service. This committee gives a positive opinion on all the applications of the baptized Jehovah's Witnesses, which are the vast majority (without even requesting an interview of them); whereas it gives a negative opinion on most of the applications of the non baptized Jehovah's Witnesses, persons from other religious groups, and conscientious objectors on ideological grounds (and requests an interview of all of them). For example, during the first nine months of 2013, 7 out of 8 applicants interviewed by the advisory Special Committee were rejected (source: [Amnesty International 4/11/2013](#) according to official data provided on 9/9/2013). Also, according to official data for the years 2008 – 2012: 99% of applicants on religious grounds were recognized (JWs); whereas only 41% of applicants on ideological grounds were recognized. This discrimination should end because all fundamental beliefs are equally protected by the international standards on freedom of thought, conscience, or religion. To separate them into those deemed “religious” and “other” is a primary act of discrimination, even before the differential treatment of the two categories is taken into account. Indeed the question is thus raised of whether even the favourable decisions are really based on proof of the objection or proof of the denominational adherence of the applicant.

(5) These young persons who do not apply for civilian service because of its punitive and discriminatory nature or because they can not afford its financial cost, as well as these young persons who do apply but have their applications rejected, are then called up for military service, and if they do not enlist, they are repeatedly persecuted, since insubordination is scandalously considered a permanent offence in the Greek legislation. So an endless circle begins with arrests, trials and penal convictions by military courts (although conscientious objectors are civilians), with suspended sentences of up to two years imprisonment accompanied with huge administrative penalties of 6000 euros for each insubordination

charge (the 6000 euros fine is increased if not paid immediately and has a risk of confiscation of property or even imprisonment). This unacceptable practice continues and it is a vicious circle. There is no limit in the number of administrative penalties of 6,000 euros for a conscientious objector. There is a case of an objector who has already received 3 administrative penalties of 6,000 euros.

(6) The trials of conscientious objectors in military courts are a violation of the right to a fair and public hearing by a competent, independent and impartial tribunal (Article 14.1 of ICCPR and Article 6 of ECHR as the European Court of Human Rights has stated in similar cases of Turkish Conscientious Objectors).

(7) There are also serious concerns about the trials in absentia, as in the case of conscientious objector Yiannis (Ioannis) Gklarnetatzis. These violate the right to a fair trial, to be tried in one's presence (Article 14.3 (d) of ICCPR).

(8) The repeated punishment of conscientious objectors for the same act of refusing the military service violates the principle of "*ne bis in idem*", in accordance with the principle set out by the UN Human Rights Committee in Paragraph 55 of its General Comment No. 32, "*Repeated punishment of conscientious objectors for not having obeyed a renewed order to serve in the military may amount to punishment for the same crime if such subsequent refusal is based on the same constant resolve grounded in reasons of conscience.*" This is also a violation of the right not to be tried or punished again for an offence for which one has already been finally convicted or acquitted (Article 14.7 of ICCPR), as the UN Group on arbitrary detention has stated in similar cases in Israel (UN Working Group on Arbitrary Detention. Opinion No. 24/2003) and Turkey (UN Working Group on Arbitrary Detention. Opinion No 36/1999). "*Notwithstanding the above, repeated incarceration in cases of conscientious objectors is directed towards changing their conviction and opinion, under threat of penalty. The Working Group considers that this is incompatible with article 18, paragraph 2, of the International Covenant on Civil and Political Rights, under which no one shall be subject to coercion which would impair his freedom to have or adopt a belief of his choice.*"³

(9) There has been continued harassment and prosecution of conscientious objectors. Some of the recent cases are listed here:

A) Convictions

Since 2011, we have registered at least 16 cases of convictions of conscientious objectors by military courts at first instance. We have also registered at least 3 convictions by military courts of appeals. All persons convicted have to pay also 200 euros of court fees.

³ CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF TORTURE AND DETENTION, Report of the Working Group on Arbitrary Detention, E/CN.4/2001/14, 20 December 2000, para 93.

Some of the published cases of convictions at first instance are:

- 1) On 22 March 2011, the Naval Court of Piraeus convicted Charalampos Akrivopoulos on an insubordination charge and sentenced him to 8 months imprisonment suspended for 2 years. ([Amnesty International, 12 December 2011 – in Greek](#))
- 2) On 13 December 2011, the Military Court of Ioannina convicted Gerasimos Koronaïos on an insubordination charge to 6 months imprisonment suspended for 3 years. ([Amnesty International, 6 February 2012 – in Greek](#))
- 3) On 1 February 2012, the Military Court of Athens convicted 49 year old Avraam Pouliasis, on an insubordination charge to 6 months imprisonment, suspended for 3 years. ([Amnesty International, 6 February 2012 – in Greek](#))
- 4) In 2012, Oanassis Kalaitidis was convicted *in absentia* on an insubordination charge and sentenced to 2 months imprisonment, suspended for 3 years ([Amnesty International, Greece: Stop arbitrary prosecutions and arrests of conscientious objectors, 4 November 2013, AI Index: EUR 25/017/2013](#))
- 5) On 18 December 2012, the Military Court of Larisa convicted Menelaos Exioglou on an insubordination charge and sentenced him to 4 months imprisonment, suspended for 1 year. ([Amnesty International, 19 April 2013 – in Greek](#))
- 6) On 20 June 2013, the Military Court of Athens convicted Menelaos Exioglou on another insubordination charge, and sentenced him to 5 months imprisonment, suspended for 1 year. ([Amnesty International, Greece: Stop arbitrary prosecutions and arrests of conscientious objectors, 4 November 2013, AI Index: EUR 25/017/2013](#))
- 7) On 19 September 2013, the Military Court of Thessaloniki convicted Yiannis (Ioannis) Gklarnetatzis *in absentia* on an insubordination charge and sentenced him to 12 months imprisonment suspended for 2 years. ([Amnesty International, 22 October 2014 – in Greek](#))
- 8) On 8 October 2013, the Naval Court of Piraeus convicted Charalampos Akrivopoulos on a second insubordination charge and sentenced him to 9 months imprisonment suspended for 3 years. ([Amnesty International, 15 May 2015 – in Greek](#))
- 9) On 14 March 2014, the Military Court of Athens convicted Michalis Tolis on an insubordination charge and sentenced him to 8 months imprisonment suspended for 1 year. ([Amnesty International, 15 May 2015 – in Greek](#))
- 10) On 13 May 2014, the Military Court of Thessaloniki convicted Dimitris K. Sotiropoulos on an insubordination charge and sentenced him to 10 months imprisonment, suspended for 2 years. ([Amnesty International, 16 June 2015 – in Greek](#))

Some of the published cases of convictions at military courts of appeals are:

- 1) On 22 September 2011, the Military Court of Appeals of Athens convicted Evaggelos Mihalopoulos on an insubordination charge and sentenced him to 4 months imprisonment suspended for 3 years. ([Amnesty International, 12 December 2011 – in Greek](#))
- 2) On 16 June 2015, the Appeal Military Court of Athens convicted Dimitris K. Sotiropoulos on an insubordination charge and sentenced him to 10 months imprisonment, suspended for 2 years, after a clearly unfair trial with problematic procedures. ([EBCO, 16 June 2015](#))

B) Arrests and brief detentions

In 2013 Amnesty International recorded 6 arrests of 5 individuals: Nikolaos Karanikas (20 February and 11 June), Charalambos Akrivopoulos (19 March), Menelaos Exioglou (18 April), Michalis Tolis (3 June) and Lazaros Petromelidis (20 June). ([Amnesty International, Greece: Stop arbitrary prosecutions and arrests of conscientious objectors, 4 November 2013, AI Index: EUR 25/017/2013](#))

In 2014, another 6 arrests and brief detentions were registered ([Amnesty International 2014/15 report](#)).

On 21 May 2014 there was an attempt to arrest Lazaros Petromelidis in Drapetsona for a 5 month imprisonment sentence imposed on him in 2006 on an insubordination charge. Lazaros Petromelidis finally bought off the sentence. Petromelidis, 52 years old now, had already been imprisoned or briefly detained 4 times in the past.

The imprisonment of conscientious objectors constitutes a violation of their right to liberty (article 9 of the ICCPR), as the UN Human Rights Committee has stated in the case of imprisoned conscientious objectors in the Republic of Korea (CCPR/C/112/D/2179/2012, 14 January 2015).

Recommendations for action by the State under review

(10) EBCO and AGCO call for immediate amendments to the Greek law and practice in order to stop the prosecutions of conscientious objectors and bring civilian service in line with the European and international standards and recommendations, which require, among other things, that: 1) individuals who object to compulsory military service on grounds of conscience have the opportunity to perform a non-punitive, non-discriminatory, genuinely civilian service of equal length to the one of the military service; 2) individuals, including members of the armed forces, be allowed to register as conscientious objectors at any time before, during or after their conscription or performance of military service, without any restriction before or revocation after they acquire the status of conscientious objector; 3) 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.