

5,000 years of prison: Conscientious objectors in Greece

The United Nations Commission on Human Rights "Appeals to States to recognize that conscientious objection to military service be considered a legitimate exercise of the right to freedom of thought, conscience and religion recognized by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights". [United Nations Commission on Human Rights, Resolution 1987/46, adopted 10 March 1987]

Background

Conscientious objectors have been persecuted in Greece for many years. In the past, some were sentenced to death or exiled; many faced severe torture. Until 1977 conscientious objectors could spend most of their youth in prison; as soon as they had served one prison sentence they were called up again and reimprisoned. Today, despite the fact that the United Nations Commission on Human Rights, the Council of Europe Committee of Ministers, the European Parliament and the Conference on Security and Co-operation in Europe have called on member states which have compulsory military service to introduce alternative civilian service, Greek conscientious objectors still have no opportunity to perform such a service and instead face four-year prison sentences for their refusal to perform compulsory military service. At any given time some 400 young men are in Greek prisons for this reason. In August 1992 it was calculated that the total time Jehovah's Witnesses had collectively spent in prison between 1938 and 1992 for their conscientious objection was more than 5,000 years.

As more and more countries in Europe recognize the right to have conscientious objections to military service and take steps to bring their legislation into line with international standards, the situation in Greece appears increasingly out of keeping with the times. In a recently-adopted resolution on human rights within the European Community (EC), the European Parliament condemned "the practice in Greece which treats conscientious objectors as criminals and condemns them to long periods of imprisonment in military prisons" (see below, page 7). Every country with compulsory conscription in the EC apart from Greece has some provision for alternative civilian service; in most EC countries this legislation is in line with international standards. Many other European countries have also taken steps towards bringing their legislation into line with international recommendations.

Little has improved for the Greek conscientious objectors since 1977 when legislative reforms put an end to multiple sentencing. The same legislation also introduced unarmed

military service for conscientious objectors lasting twice as long as ordinary military service¹. As far as Amnesty International is aware, virtually nobody has ever taken up this option. Certainly for most conscientious objectors unarmed military service is as hard to square with their conscientiously-held beliefs as armed military service.

No political will for reform

Successive governments have demonstrated little evidence of the will for reform. In July 1988 under intense pressure resulting from the hunger-strike of two conscientious objectors, the then government submitted draft legislation to the parliament proposing civilian service (see p.4). At the time most politicians did not hide their opposition to such a reform. In addition, the Central Legal Preparatory Committee ruled that alternative civilian service was unconstitutional. Acting on the basis of the Central Legal Preparatory Committee's opinion, the government failed to promote the passage of the draft legislation through parliament and the proposal was never debated. It should be pointed out that the Central Legal Preparatory Committee is not an independent authority, but an advisory body which can be called upon to give non-binding opinions on draft legislation.

During 1991 government representatives and senior members of the armed forces, responding to international and internal pressure, indicated that the Ministry of National Defence was considering passing legislation which would provide for alternative civilian service. In April 1991 a number of Council of Europe representatives in Strasbourg expressed their concern about the lack of any alternative civilian service for conscientious objectors to Prime Minister Constantine Mitsotakis. One said:

"it seems that you are not in harmony with most other European countries on conscientious objection to military service...I hope that you will...announce to the Assembly that changes are on the way."

The Prime Minister replied that he "was ready to re-examine the issue of non-military service". In October 1991 the Minister of Foreign Affairs informed Amnesty International that "both myself but also the Minister of Defence are very interested in giving a fast conclusion to the problem".

Around February 1991 Mr Ioannis Varvitsiotis, Minister of Defence in the New Democracy Government, wrote to various ministries to find out in which services and sectors conscientious objectors could be employed and how many workplaces could be made available. Reportedly, he received negative feedback to his inquiries, in particular from the

¹ Ordinary military service currently lasts between 15 and 23 months, depending on which branch of the armed forces and in which part of the country a conscript serves.

Greek Orthodox Church. Subsequently, the Minister consulted the Legal State Council for its opinion on the constitutionality of alternative civilian service.

In October 1991, the Legal State Council unanimously ruled that alternative civilian service was unconstitutional². Following this decision, the Greek Government informed all interested parties, including the Greek media, Members of the European Parliament and Amnesty International, that it was unable to introduce alternative civilian service in the light of the Legal State Council's decision. It is important to emphasize that the Legal State Council is not an independent authority: it comprises lawyers who render legal services to the government, whose impartiality is not guaranteed. Furthermore, its opinions are not binding on the government or the courts. The Greek Government is therefore not obliged to accept the advice of the Legal State Council but instead has voluntarily chosen to do so. It should also be pointed out that Mr Varvitsiotis was under no procedural obligation to consult the Legal State Council.

The continued imprisonment of conscientious objectors to military service in the absence of any alternative civilian service is contrary to the international standards on conscientious objection adopted by the European Parliament, the United Nations Commission on Human Rights, the Council of Europe Committee of Ministers and the Conference on Security and Co-operation in Europe. The necessary legislation reflecting these standards should be introduced by the Greek Government.

Amnesty International considers all imprisoned conscientious objectors in Greece to be prisoners of conscience who have been jailed in violation of their freedom of thought, conscience and religion and calls on the Greek Government to release them immediately and introduce a completely civilian alternative service of non-punitive length in line with international standards.

Who are the Greek conscientious objectors?

² Articles of the Greek Constitution (1975) relevant to the constitutionality debate: According to Article 4§1, "All Greeks are equal before the law". Article 4§6 of the Constitution states: "Every Greek capable of bearing arms is obliged to contribute to the defence of the Fatherland as provided by law." Lawyers who support the view that alternative civilian service is unconstitutional argue that since the Constitution guarantees the equality of all Greek citizens and requires its citizens to contribute to the defence of their country, to permit some people to perform alternative civilian service would be to treat two groups of citizens unequally. A further constitutional objection is based on Article 13§4: "No person shall be exempt from discharging his obligations to the State or may refuse to comply with the laws by reason of his religious convictions". Article 13§1, however, states that: "Freedom of religious conscience is inviolable. Enjoyment of individual and civil rights does not depend on the individual's religious beliefs". A number of lawyers argue that performing alternative civilian service could also contribute to the defence of the Fatherland. Others argue in favour of alternative civilian service on the grounds that Article 2§1 states: "Respect and protection of the value of the human being constitute the primary obligation of the State" and Article 5§1 states "All persons shall have the right to develop freely their personality".

Until recently virtually all Greek conscientious objectors were Jehovah's Witnesses. Their stance towards military service arises from their interpretation of the Bible which leads them to believe they must maintain strict neutrality and not become involved in any political or worldly conflict. Over the past few years, however, a small but growing number of men who are not Jehovah's Witnesses have declared themselves to be conscientious objectors. At the end of March 1993 more than 50 such men had publicly declared themselves to be conscientious objectors to military service.

In May 1988 two imprisoned conscientious objectors who were not Jehovah's Witnesses, Michalis Maragakis and Thanasis Makris, went on hunger-strike demanding the release of all imprisoned conscientious objectors and the introduction of alternative civilian service in Greece. Their hunger-strike, which went on for more than a month, aroused considerable concern in Greece and internationally, putting the government under tremendous pressure. As a result it submitted to the parliament draft legislation in July 1988 providing for alternative civilian service. Michalis Maragakis was released in December that year and Thanasis Makris in July 1989. The legislation was never passed (see above).

On the whole the authorities have tended not to imprison conscientious objectors who are not Jehovah's Witnesses. This may partly be an attempt to limit the issue to one which affects Jehovah's Witnesses only. Nevertheless, two total objectors, Nikos Maziotis and Pavlos Nathaniel, spent several months in prison in 1991. They were both eventually given suspended prison sentences but were immediately recalled to the army after their release. Neither responded and warrants were issued for their arrest. Nikos Maziotis was rearrested on 10 October 1992 on charges of desertion and insulting the armed forces. Nikos Maziotis went on hunger-strike for some seven weeks. He was finally granted exemption for two years from the army on grounds of ill-health and was released from prison on 18 January 1993.

Imprisonment and trial

When they are called up Jehovah's Witnesses report to the military camp where they have been ordered to enlist. On being told to put on a uniform and take up arms they inform the officer-in-charge that they cannot do so as they are conscientious objectors. They are then ordered to perform unarmed military service. When they refuse, they are imprisoned in the disciplinary cell of the camp or in a cell at a nearby military police post. Some conscientious objectors have been subjected to physical and psychological abuse by military personnel or military police officers while they are kept in prison in the camp. This ill-treatment appears to be aimed at forcing them to change their mind about their conscientious objection. In addition, many have reported they were denied access to washing facilities, denied food for periods of up to several days, forbidden to write letters or telephone home and held in unheated leaking cells without adequate bedclothes in mid-winter. Reportedly some have

been subjected to humiliating punishments such as being woken up and forced to clean the lavatories at 2.00 in the morning every day or being made to stand for hours on end.

The majority of conscientious objectors are then transferred to a newly-built prison in Thessaloniki, Sindos, where the conditions are reported to be satisfactory. The prison houses Jehovah's Witness conscientious objectors only. A problem is that there are insufficient workplaces for all the prisoners. Those who can work are able to reduce their sentence either by three quarters of a day for each day worked or for one day for each day worked. Later on in their sentence they are transferred to agricultural prisons, Kassandra and Kassavetia, where they can perform agricultural work and reduce their remaining sentence by one half (each day they work counts as one day off their sentence). Usually the total time in prison spent by most conscientious objectors is about two and a half to three years.

Conscientious objectors are tried in military courts. The majority of conscientious objectors are sentenced under Article 70b of the Military Penal Code for disobeying orders in a period of general mobilization. Ever since the Cyprus crisis of 1974, Greece has been in a state of "general mobilization", now regulated by legislation first announced on 20 July 1976. The legislation has since been extended every year by ministerial order. Article 70 still carries a possible death sentence, although no such sentence has been passed since 1971. These days, Jehovah's Witness conscientious objectors are given four-year sentences. A small number receive a lower sentence if they are considered the main breadwinner in their family (for example if their father is dead or ill; if they are the eldest of four or more children or if they are married with two or more children).

According to Greek law prisoners are able to apply for release on remission when they have served three fifths of their prison sentence. So far, none of the conscientious objectors in Kassavetia Agricultural Prison have been granted remission because the Public Prosecutor's Office in Volos insists they "repent" before they can be granted remission.

Resolutions and recommendations of the international community

Greece is a member of the European Community, the Council of Europe and the United Nations and a participating state in the Conference on Security and Co-operation in Europe (CSCE). These bodies have adopted the following resolutions and recommendations, all of which urge member states to recognize the right to conscientious objection and adjust their national legislation to make provision for alternative civilian service:

i) The United Nations Commission on Human Rights: Resolution 1989/59, which was reaffirmed in 1991 (1991/65) and 1993 (1993/84), recognizes "the right of everyone to have conscientious objections to military service as a legitimate exercise of the right of freedom of thought, conscience and religion as laid down in article 18 of the Universal Declaration of Human Rights as well as article 18 of the International Covenant on Civil and Political Rights", and recommends that Member States "with a system of compulsory military service, where such provision has not already been made...introduce for conscientious objectors various forms of alternative service" (§3) which is "in principle of a non-combatant or civilian character, in the public interest and not of a punitive nature"(§4).

ii) The European Parliament: Resolution on conscientious objection and alternative civilian service adopted 13 October 1989, "Calls for the right to be granted to all conscripts at any time to refuse military service, whether armed or unarmed, on grounds of conscience, with full respect for the principles of freedom and equal treatment for all members of society" (§1). The same resolution also calls on the Commission and the Member States to press for the right to alternative civilian service to be incorporated in the European Convention for the Protection of Human Rights and Fundamental Freedoms, as a human right (§11).

On 11 March 1993, the European Parliament adopted a resolution on respect for human rights in the European Community. In the section on conscientious objection it "Considers that the right of conscientious objection, as recognized by Resolution 89/59 of the UN Commission on Human Rights on conscientious objection to military service, should be incorporated in the legal systems of the Member States"(§46). It is also: "Condemns the trials and imprisonment of conscientious objectors in the Member States, many of whom have been regarded as prisoners of conscience by Amnesty International" (§50) and "**Condemns, in particular the practice in Greece which treats conscientious objectors as criminals and condemns them to long periods of imprisonment in military prisons**" (§53).

iii) Council of Europe: Recommendation No. R (87) 8 of the Committee of Ministers to Member States Regarding Conscientious Objection to Compulsory Military Service, states that "Anyone liable to conscription for military service who, for compelling reasons of conscience, refuses to be involved in the use of arms, shall have the right to be released from

the obligation to perform such service...Such persons may be liable to perform alternative service" (§1). It recommends that "Alternative service shall not be of a punitive nature. Its duration shall, in comparison to that of military service, remain within reasonable limits" (§10) and that alternative service "shall be in principle civilian and in the public interest" (§9). However, the Greek Government has reserved the right not to comply with the recommendation in paragraph 9.

iv) At the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE in 1990, the participating States of the Conference, which included Greece, noted that the UN Commission on Human Rights has recognized the right of everyone to have conscientious objections to military service and agreed to consider introducing, where this has not yet been done, various forms of alternative civilian service in the public interest and of a non-punitive nature (§18).

Discrimination against Jehovah's Witnesses religious ministers

Over the past few years, Jehovah's Witness religious ministers have faced discriminatory treatment by the military authorities. Legislation passed in 1988 permits religious ministers of recognized religions exemption from military service. The military authorities, however, have refused to grant exemption to Jehovah's Witness ministers, arguing that according to the Greek Orthodox Church, they are not religious ministers of a recognized religion. As a result, so far, four Jehovah's Witness ministers: Daniel Kokkalis, Dimitris Tsirlis, Timotheos Kouloubas and Tasos Georgiades, have spent periods of up to three years in prison after their applications for exemption were rejected and they subsequently refused to perform military service on conscientious grounds. All of them were adopted as prisoners of conscience by Amnesty International.

Daniel Kokkalis who was jailed between March 1988 and January 1991 took his case to the Council of State (the highest administrative court in Greece) in October 1990. The Council of State ruled that he was a religious minister of a recognized religion and as such was entitled to exemption under Greek law. He was not released, however, until he had served his sentence in its entirety taking into account usual reductions for working. When Dimitris Tsirlis and Timotheos Kouloubas were called up, both applied for exemption and submitted to the military authorities relevant documentation to prove they were religious ministers and the Council of State decision delivered in Daniel Kokkalis' favour. Their applications were rejected and they were jailed in March 1990. Dimitris Tsirlis and Timotheos Kouloubas were both sentenced to four years' imprisonment in April and May of that year respectively. At considerable expense they each had their case examined by the Council of State in April 1991. The Council delivered a similar decision to that delivered in favour of Daniel Kokkalis and they were released on appeal the following month when they produced the Council of State ruling in their favour.

The military authorities once again refused the application for exemption of their colleague, Tasos Georgiades, who was jailed for the first time in January 1992. At his trial in March 1992, the court acknowledged he was a religious minister of a recognized religion and acquitted him of insubordination and ordered his release. He was released but was almost immediately recalled. He was reimprisoned in April and tried for a second time in May. Again he was acquitted. Following the trial he was released but was immediately recalled. In May he was imprisoned for a third time. Two months later the Council of State ruled that he was a religious minister of a recognized religion and should have been exempted from military service. Following the Council of State's decision he was released from prison.

By the time he gained his freedom, Tasos Georgiades had spent a total of 2,000,000 drachmes - roughly the equivalent of a year's income - on legal costs [for further information, see AI Index: EUR 25/03/92, EUR 25/05/92, EUR 25/07/92 and EUR 25/11/92].