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@A SUMMARY OF AMNESTY INTERNATIONAL'S HUMAN RIGHTS CONCERNS

This report summarizes Amnesty International's concerns in Cyprus since the beginning of the 1990s.

During this period, over 60 men were imprisoned because of their refusal on conscientious grounds to perform military service or reservist exercises; allegations of torture and ill-treatment continued to be received; and the provision for the use of the death penalty remained in law.

I. IMPRISONMENT OF CONSCIENTIOUS OBJECTORS

In January 1992 the Cypriot House of Representatives passed legislation recognizing for the first time in Cyprus the right to have conscientious objections to military service. Although the legislation made provision for alternative service open to conscientious objectors on ethical, moral, humanitarian, philosophical, political, as well as religious grounds, it was out

of line with international standards, including Article 18 of the International Covenant on Civil and Political Rights (ICCPR), in a number of crucial respects.

The new legislation (Law 2/92) provides for "unarmed military service" inside and outside military camps. Those who choose unarmed service without military uniform and outside the military camps have to serve 42 months; those who choose unarmed service wearing military uniform, inside a military area but without the obligation of carrying a weapon, have to serve 34 months. In both above cases the length of the unarmed service (42 or 34 months as against the 26 months of ordinary military service) remains punitive. Conscientious objectors have also to perform supplementary service equivalent to periods of reservist exercises (lasting from several days to several weeks) at regular intervals until the age of 50. The right to transfer to alternative service from military service is suspended during periods of emergency or general mobilization.

Soon after the legislation was passed, Amnesty International urged the former government to bring the new legislation on conscientious objection into line with international standards. In March 1992 former President George Vassiliou informed Amnesty International that the authorities did not consider the length of the alternative service to be punitive, especially given current relations with Turkey and the occupation of part of the island by Turkish armed forces, nor would they permit people who developed conscientious objections during periods of emergency or mobilization to switch to alternative civilian service.

According to the most recent information available to Amnesty International, it is necessary for those called up for military service to enlist in the armed forces before they may apply to perform alternative service. This procedure would be unacceptable to most conscientious objectors and as far as Amnesty International knows, no one in Cyprus has yet applied for recognition as a conscientious objector under the new legislation. By mid-1992 convictions had resumed at their previous rate with conscientious objectors being sentenced to longer terms of imprisonment than ever.

As of June 1994, four conscientious objectors (all of them Jehovah's Witnesses) are serving prison sentences of up to one year and another five are facing trial. Two conscientious objectors, Nikos Alekou Pasis and Sotiris Anastasiadis, were released in the first week of June after serving sentences of eight and two months respectively.

On 13 April 1994, conscientious objector Omiros Andreou Constantinou, a 38-year-old father of four children, was sentenced by Nicosia Military Court to six months' imprisonment for refusing to perform compulsory military service. This is his fourth term of imprisonment, bringing the total length of his imprisonment to 20 months, as he has already served a three-month sentence in 1983-84, a nine-month sentence in 1984 and a two-month sentence in 1991. He appealed against his sentence. The appeal will be heard on 22 June 1994.

On 20 May 1994, 36-year-old conscientious objector Christakis Andrea Trisokka was sentenced by Nicosia Military Court to one year's imprisonment for refusing to perform

military service. This is his second term of imprisonment, bringing the total length of his imprisonment to 26 months, as he had already served a 14-month sentence in 1983. The same day conscientious objector Christakis Christophorou, a 33-year-old father of two children, was sentenced by Nicosia Military Court to three months' imprisonment for refusing to perform military reservist exercises.

On 30 May 1994, 25-year-old conscientious objector Pelopidas Georgiou Nikolaou was sentenced by Nicosia Military Court to six months' imprisonment for refusing to perform military reservist exercises. This is his second term of imprisonment as he had already been sentenced to two months' imprisonment on 29 September 1992.

All these men are Jehovah's Witnesses, whose religion does not permit them to serve in the armed forces in any capacity. They are currently serving their sentences. When they are released, Omiros Andreou Constantinou, Christakis Andrea Trisokka, Christakis Christophorou and Pelopidas Georgiou Nikolaou will probably be called up again. Upon refusing once again to perform military service or reservist exercises they are likely to face yet a further term of imprisonment.

On 13 June 1994, Andreas Ioanni Demetriou, a father of four children, will be tried for refusing to perform reservist military exercises.

On 1 July 1994, 20-year-old Loukas Andreou Hatzipanayis will be tried for refusing to perform military service. If he is convicted and imprisoned this will be his second term of imprisonment for the same offence.

The same day, after two postponements of his trial, 53-year-old Theocharis Theokli Theocharidis is once again due to appear in court for refusing to perform reservist military exercises. If he is convicted this will be his second term of imprisonment as he served a two-month prison sentence in June 1991. He was also fined in November 1991 and given a three-month suspended sentence in January 1992 for the same offence. Although Amnesty International has been informed by the Ministry of Defence that a previous application for release from military obligations on health grounds was rejected, the organization has been informed that he has very poor eyesight and a bad heart condition, which it believes should be strong grounds for exemption from any military obligation.

On 5 July 1994, Iosif Costa Kourides is due to be tried for refusing to perform military service. If he is convicted and imprisoned this will be his second term of imprisonment for the same offence, as he was previously sentenced to 15 months' imprisonment on 21 December 1992.

On 13 July 1994, 19-year-old Christos Panikou Christophy is due to be tried for refusing to perform military service. This will be his first trial.

International standards and recommendations on conscientious objection

Cyprus is a member of the Council of Europe and the United Nations (UN) and a participating state in the Conference on Security and Co-operation in Europe (CSCE). These bodies, as well as the Human Rights Committee, a body of experts under the UN which monitors implementation of the ICCPR, have adopted the following standards 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 (Resolution 1991/65), recognizes

"the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to 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 provide alternative service

"in principle of a non-combatant or civilian character, in the public interest and not of a punitive nature".

ii) Human Rights Committee: Paragraph 11 of General Comment 22 states:

"Many individuals have claimed the right to refuse to perform military service (conscientious objection) 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 an alternative national service. The Covenant does not explicitly refer to a right of 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. When this right is recognized by law or practice, there shall be no differentiation among conscientious objectors on the nature of their particular beliefs; likewise, there shall be no discrimination against conscientious objectors because they have failed to perform military service. 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."

iii) Council of Europe: Recommendation No. R (87) 8 of the Committee of Ministers to Member States Regarding Conscientious Objection to Compulsory Military Service,

recommends that governments of member states make provision in their legislation for conscientious objectors to have the right to perform alternative service which is not of a punitive nature. However, the Cypriot Government has reserved the right not to comply with the recommendation in paragraph 9 that alternative service

"shall be in principle civilian and in the public interest".

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 Cyprus, noted that the UN Commission on Human Rights had recognized the right of everyone to have conscientious objections to military service and agreed to consider introducing, where this had not yet been done, various forms of alternative civilian service in the public interest and of a non-punitive nature.

Amnesty International's recommendations to the Cypriot Government

Amnesty International is calling on the Cypriot authorities to:

- ◆ Release immediately and unconditionally all conscientious objectors currently detained in Cyprus;

- ◆ Ensure that, in line with international recommendations, provision is made for an alternative service which is of non-punitive length;
- ◆ Ensure that provision is made for reservists and serving conscripts to have the opportunity to perform such a service during periods of emergency or general mobilization;
- ◆ In accordance with international standards, conscientious objectors should be able to perform an alternative civilian service which is not of punitive length and should not have to enlist in the armed forces in order to apply for conscientious objector status. Military service which takes place outside a military camp would be unacceptable to most conscientious objectors.

II. ALLEGATIONS OF TORTURE AND ILL-TREATMENT

In the past four years, several detainees in police detention have alleged they had been tortured or ill-treated. The Cypriot Government's initial report to the UN Committee against Torture, due in August 1992, had not been received as of June 1994.

In December 1990, Michalis Loukas was reportedly tortured by police in Limassol after he had failed to produce adequate identification papers and had been taken to the

police station to have his identity checked. There he was reportedly kned in the groin, punched in the head and face, slapped and had his hair pulled. He was also allegedly held by the throat and pushed against a wall, so that he had difficulty breathing, and hit on the ears, which caused loss of hearing in his left ear. Michalis Loukas was subsequently taken to hospital where a perforated left ear drum, bruising around the eyes, slight haemorrhaging in the eyes, concussion and damage to his balance mechanism were recorded among other injuries. He reportedly had to undergo an operation in order to save his hearing. An investigation was carried out into his allegations by the Complaints Board which concluded that they were broadly true, although exaggerated on some points. The Board rejected police claims that they had not ill-treated Michalis Loukas. The Board's findings are said to have been submitted to the Minister of the Interior. No further information has been made available in response to Amnesty International's inquiries.

Mehmet Canbulut, a Turkish Cypriot, was allegedly threatened, slapped, punched, beaten on the soles of his feet (*falaka*), burned with a cigarette and verbally abused by members of the Special Branch of the police in April 1992 after going to report his arrival in the Republic from the northern part of the island (under the control of the Turkish armed forces and the Turkish Cypriot administration). The Attorney General reportedly rejected a complaint on his behalf saying that according to information submitted by the police, it could not be substantiated. In October 1992, Amnesty International wrote to the then Minister of Interior asking to be informed in full of the methods and findings of the police investigation upon which the Attorney General based his conclusion that there was insufficient evidence to substantiate the allegations. No answer has been received.

In July 1992 Dimos Dimosthenous, a 31-year-old father of four children, mistakenly detained by police in Limassol for a bank robbery, said four or five police officers blindfolded him; beat him all over; gave him electric shocks; subjected him to death threats; hung him upside down and subjected him to the *telephono* (hit him on both ears at the same time). Following an investigation, in October 1992 two police officers were indicted for trial and charged with torture. Despite acknowledging that Dimos Dimosthenous suffered injuries while in police custody, the court ruled in July 1993 that the two police officers were not guilty of assault, stating that the prosecution had failed to establish conclusively that the two officers were actually responsible. The case was dismissed for insufficient evidence. In 1994 Dimos Dimosthenous' lawyer lodged an application against the Republic of Cyprus for violation of Articles 3 and 8 of the European Convention on Human Rights, to which Cyprus is a State Party. However, by June 1994, no decision on admissibility had yet been taken.

According to articles in the newspapers *Cyprus Weekly* and *To Vima* of 10 June 1994, four policemen severely kicked and beat 56-year-old Lycourgos Vassiliou from Larnaka on 2 September 1993, after having pushed him onto the ground. As a result he was sent to hospital suffering from broken ribs and requiring stitches. Despite evidence, recorded on a videotape and shown on the television news, the Assize Court of Larnaka acquitted the four policemen of causing actual bodily harm and ruled that the evidence against them was "fabricated, false and unreliable". The President of the court stated that the film sequence in question had not been produced as evidence by the prosecution, and thus

could not be taken into account by the three judges. The four policemen had previously been found not guilty of two other charges of causing grievous bodily harm to Lycourgos Vassiliou. The ruling admitted that Lycourgos Vassiliou had suffered bodily harm on the morning of 2 September 1993 but noted that the only substantial prosecution witness, Vassiliou himself, has not said clearly and with certainty that the four police officers who beat him up were indeed the four defendants, with the exception of one whom he knew. According to press articles published at the time, Lycourgos Vassiliou and one of the police officers were allegedly sworn enemies.

The Cypriot Constitution

The Cypriot Constitution specifically prohibits torture. Article 8 of the constitution states:

"No person shall be subjected to torture or to inhuman or degrading punishment or treatment."

In December 1993, Parliament officially recognized as a Law (35 (III)/93), the amendments of the Law 24/89 ratifying the Convention against Torture, and Other Cruel Inhuman and Degrading Treatment or Punishment.

International Standards on Torture and Ill-Treatment

In July 1991 Cyprus ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture)

It ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment on 3 April 1989, including Article 3 which states:

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

It ratified in April 1969 the International Covenant on Civil and Political Rights (ICCPR), Article 7 of which states that *"no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."* and ratified the First Optional Protocol to ICCPR in April 1992.

It has ratified the European Convention on Human Rights, including Article 46 which recognizes as compulsory the jurisdiction of the European Court of Human Rights in all matters concerning interpretation and application of the European Convention.

Both the Convention against Torture and the ICCPR impose a duty to investigate complaints of torture. Article 13 of the Convention against Torture states:

"Each State Party shall ensure any individual who alleges he has been subjected of torture in any territory under its jurisdiction his the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given."

Article 12 requires an investigation of well founded reports even if there has been no formal complaint:

"Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction."

The Human Rights Committee, in General Comment 20 has explained that under Article 7 of the ICCPR:

"Complaints must be investigated promptly and impartially by the competent authorities so as to make the remedy effective."

In addition the Convention against Torture requires the authorities to compensate and rehabilitate the victims of torture (Article 14):

"Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible..."

adding:

"Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law."

and to bring to justice those responsible (Article 7 (1)):

"the State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 [acts of torture or attempt to commit torture and to complicity or participation in torture] is found shall...if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution."

Amnesty International's recommendations to the Cypriot Government

- ◆ Take all appropriate steps to ensure that the prohibition of torture contained in the Cypriot Constitution and international standards to which Cyprus is a party is respected.

- ◆ Institute impartial investigations into allegations of torture and ill-treatment with a view to bringing to justice those responsible, in line with Cyprus' international obligations including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

- ◆ Ensure that the methods and findings of such investigations should be made public. Complainants and witnesses should be protected from intimidation.

III. THE DEATH PENALTY

On 15 December 1983 the Council of Ministers voted in favour of the abolition of the death penalty for premeditated murder and its replacement with life imprisonment (Criminal Code [Amendment] Law 1983).

Although Cyprus is de facto abolitionist, the country's Criminal Code retains the use of death penalty for exceptional crimes such as treason (Section 36), instigating invasion (Section 37) and piracy with violence (Section 69). Death sentences for offences under the ordinary criminal code may be imposed by the Assize Court. Under the Military Criminal Code, certain offenses against the State are punishable with death and death sentences may be imposed by the Military Court. Appeals against death sentences are passed by either court

to the Supreme Court. The death penalty may not be imposed on pregnant women or children under the age of 16 when the crime was committed. Cyprus permits the execution of minors in violation of Article 6(5) of the ICCPR.

Both the President and the Vice-President have the right to exercise the prerogative of mercy, which allows them to commute death sentences to life imprisonment. The last execution was carried out by hanging in June 1962.

International Recommendations on death penalty

Second Optional Protocol to ICCPR aiming at the abolition of the death penalty.

Article 6(5) of the ICCPR which states that:

"Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women."

Protocol No 6 to the European Convention on Human Rights concerning the abolition of the death penalty which states that:

"The death penalty shall be abolished. No one shall be condemned to such penalty or executed."

Amnesty International's recommendations to the Cypriot Government

- ◆ abolish the death penalty in law for all offences in peace time or in time of war.

- ◆ Become a party to the Second Optional Protocol of the ICCPR, aiming at the abolition of the death penalty and to Protocol No 6 of the European Convention on Human Rights.