



**Greek National Commission for Human Rights**

**Input to the OHCHR quadrennial analytical report 2022 on  
conscientious objection to military service**

**21 March 2022**



*The Greek National Commission for Human Rights (GNCHR) is the independent advisory body to the Greek State on matters pertaining to human rights protection and the National Human Rights Institution (NHRI). It was established in accordance with the UN Paris Principles and is governed by Law 4780/2021. Its members are persons appointed by forty-two institutions whose activities cover the field of human rights (independent authorities, universities, third level trade unions, NGOs, political parties and the Administration).*

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## Input to the OHCHR quadrennial analytical report 2022 on conscientious objection to military service

### A. Introduction

The [Greek National Commission for Human Rights \(GNHRC\)](#) was established by Law 2667/1998 as the independent advisory body to the Greek State in accordance with the UN Paris Principles and is the National Human Rights Institution (NHRI) for Greece. Following a GNCHR initiative, the GNCHR's founding legislation was amended by [Law 4780/2021](#) "National Accessibility Authority, National Commission for Human Rights and National Bioethics and Technoethics Commission" (OJ 30/A/28 February 2021). The GNCHR has been accredited, since 2001, A status (full compliance), by the competent GANHRI Sub – Committee on Accreditation (SCA) under the auspices and in collaboration with the Office of the High Commissioner for Human Rights (OHCHR). In March 2017, the GNCHR was re-accredited A status by SCA, a fact proving the fulfilment of its mission to promote and protect human rights. The GNCHR has a pluralistic and polyphonic composition, comprised currently of 43 members, which includes, among others, independent authorities, universities of law and political science, third level trade unions, NGOs, political parties and ministries. This collective composition, provides a very high level of expertise, while cultivating a unique dialogue between the various bodies of Civil Society and the State.

The GNCHR has shown sustained interest in matters relating to freedom of conscience. In particular, it has repeatedly dealt with chronic violations of the rights of conscientious objectors while constantly underscoring the need for harmonization of the Greek legislation with international and European human rights' standards<sup>1</sup>. Already back in 2001, the GNCHR highlighted the need for the taking of comprehensive legislative initiatives on the issue of conscientious objectors, with special focus on such matters as the lack of independence and impartiality of competent authorities when deciding the status of conscientious objectors; the length of alternative service being significantly longer than that of the military service and the repeated punishment of conscientious objectors in violation of the principle *ne bis in idem*.

With this input, the GNCHR would like to contribute to the OHCHR quadrennial analytical report 2022 by highlighting new developments, especially as for references, recommendations and decisions by UN bodies concerning conscientious objectors in Greece. It further highlights some

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<sup>1</sup> See, indicatively, GNCHR, [Recommendation](#) regarding Article 64(5) of the draft law titled "Conscription of Greeks and Other Provisions", November 2005; [Recommendations](#) regarding Conscientious Objectors and the Scheme of Alternative Civil-Social Service, June 2004; [Recommendations](#) regarding the Scheme of Alternative Civil-Social Service, July 2001.

good or best practices. Finally, the GNCHR provides an analytical report on the remaining challenges as of State law and practice in Greece.

## **B. New developments**

### ***References, recommendations and decisions by UN bodies***

#### ***1. OHCHR report***

The OHCHR, in its 2019 report concerning "Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards" made numerous references to the situation of conscientious objectors in Greece<sup>2</sup>. It is of particular importance that the OHCHR found problematic the legislative amendments of 2019, especially as of the assessment of applications for conscientious objections status, which is still not under the full control of civilian authorities<sup>3</sup>.

#### ***2. Communication of the Special Rapporteur on freedom of religion or belief***

In July 2019, the Special Rapporteur on freedom of religion or belief issued a Communication to the Greek authorities, "concerning the recently adopted law (4609/2019), which regrettably fails to recognize the status of conscientious objectors (COs) to military service in accordance with international human rights standards"<sup>4</sup>.

#### ***3. Universal Periodic Review***

In the context of the 3<sup>rd</sup> Cycle of the Universal Periodic Review, following *inter alia* a submission by the GNCHR, including on the issue of conscientious objection to military service<sup>5</sup>, Greece has received two recommendations concerning conscientious objectors to military service:

"130.76 Revise its national legislation with a view to recognizing the right to conscientious objection to military service, envisaging an alternative service to military service to which all conscientious objectors have access to and that is not punitive or discriminatory in its nature, cost or duration (Panama);

[...]

130.88 Consider amending legislation in order for conscientious objectors to be able to perform alternative civilian service in their place of residence (Croatia)"<sup>6</sup>.

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<sup>2</sup> OHCHR, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, 24 May 2019, [A/HRC/41/23](#), paras. 7, 24, 29, 34, 36 (note 47), 38 (note 49), 41, 46-47.

<sup>3</sup> OHCHR, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, 24 May 2019, [A/HRC/41/23](#), para. 41.

<sup>4</sup> Mandate of the Special Rapporteur on freedom of religion or belief, [OL GRC 3/2019](#), 11 July 2019.

<sup>5</sup> GNCHR, [Stakeholder Report to the Universal Periodic Review \(UPR\) of Greece](#), March 2021, para. 19.

#### 4. List of Issues Prior to Reporting

In 2021, following *inter alia* a submission by the GNCHR, including on the issue of conscientious objection to military service,<sup>7</sup> the Human Rights Committee, highlighted again issues of conscientious objectors in the “List of issues prior to submission of the third periodic report of Greece”:

"Freedom of conscience and religious belief (arts. 2, 18 and 26)

20. With reference to the Committee's previous concluding observations (para. 38), please report on the measures taken to provide all conscientious objectors with an alternative to military service that is not punitive or discriminatory in terms of its nature, cost or duration. Please provide information on measures taken to ensure respect for the *ne bis in idem* principle and avoid inflicting repetitive punishments on conscientious objectors. Please provide information on the impact of Law No. 4361/2016, which ended prosecutions against those who had declared their conscientious objection before 1998, and indicate if the State party intends to provide adequate compensation to those who have already been sentenced and punished"<sup>8</sup>.

#### 5. *Petromelidis v. Greece case*

In December 2021, the Human Rights Committee published its Views concerning the *Petromelidis v. Greece* case, the first such case of a conscientious objector from Greece examined by the Committee, finding violations of Articles 9(1), 12(2), 14(7) and 18(1) of ICCPR<sup>9</sup>.

#### Amendment of the legislation

In 2019 there has been an amendment of the legislation concerning *inter alia* conscientious objectors<sup>10</sup>. Some of these amendments are described further below and also in the response of the Greek authorities to the Special Rapporteur on freedom of religion or belief and the OHCHR<sup>11</sup>. Despite these amendments, the legislation about conscientious objectors to military service in Greece still fails to be in line with international human rights law and standards, as it

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<sup>6</sup> UN Human Rights Council, Report of the Working Group on the Universal Periodic Review, Greece, [A/HRC/49/5](#), 6 January 2022, recommendation 130.76 (Panama), recommendation 130.88 (Croatia).

<sup>7</sup> GNCHR, [Submission](#) to the United Nations Human Rights Committee on the List of Issues Prior to Reporting for the Third periodic examination of Greece under the International Covenant on Civil and Political Rights, paras. 90-92.

<sup>8</sup> UN Human Rights Committee, List of issues prior to submission of the third periodic report of Greece, [CCPR/C/GRC/QPR/3](#), 2 December 2021, para. 20.

<sup>9</sup> Human Rights Committee, Views adopted by the Committee under the Optional Protocol, concerning communication No. 3065/2017, Advance unedited version, [CCPR/C/132/D/3065/2017](#), 6 December 2021, para. 10.

<sup>10</sup> Law 4609/2019, particularly Articles 22 and 23.

<sup>11</sup> Permanent Mission of Greece to the Office of the United Nations and other International Organizations in Geneva, [Verbal Note](#) on Conscientious Objectors, 14 August 2019, Ref. No. 6175.4/AS 1237, attached response of the Hellenic National Defence General Staff, para. 1c.

has been highlighted by the Special Rapporteur on freedom of religion or belief, the Human Rights Committee which requested for the legislation to be reviewed, the OHCHR and others.

### **C. Good or best practices**

#### ***1. Abolition of provision permitting suspension of provisions for conscientious objectors in times of war***

The UN Human Rights Committee has stated that a "State party should fully acknowledge the right to conscientious objection and, accordingly, guarantee it both in wartime and in peacetime"<sup>12</sup>. In its previous submission for the quadrennial report of 2017, the GNCHR has highlighted the fact that despite the above, "in Greece, in a period of war the provisions for alternative service can be suspended by decision of the Minister of National Defence"<sup>13</sup>. Consequently, in such case, conscientious objectors should be obliged to serve military service<sup>14</sup>.

In 2019, an amendment of the legislation resulted in the abolition of the above provision<sup>15</sup>. This has been highlighted in the response of the Greek authorities to the Special Rapporteur on freedom of religion or belief and the OHCHR, stating that: "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, cannot bear arms, even during wartime, may offer other services outside the Armed Forces"<sup>16</sup>.

#### ***2. Abolition of provision potentially restricting the right to freedom of expression for those who publicly support conscientious objectors and conscientious objection to military service***

In its submission for the previous analytical report, the GNCHR has highlighted article 202 of the Greek Penal Code, according to which "whoever intentionally incites or provokes a person who has the obligation to be conscripted not to obey to the call when he is called up to the army" is punished with imprisonment up to 3 years, and in case of war with imprisonment up to 10 years. GNCHR has raised concerns that such provision could potentially be used to restrict the right to freedom of expression for those who publicly support conscientious objectors and conscientious objection to military service.

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<sup>12</sup> UN Human Rights Committee, Concluding observations on the fifth periodic report of Finland, [CCPR/CO/82/FIN](#), para. 14.

<sup>13</sup> See [Law 3421/2005](#), Article 65(2), as it was amended by the [Law 3883/2010](#), Article 78(1ε).

<sup>14</sup> GNCHR, [Submission](#) to the quadrennial analytical report 2017 on conscientious objection to military service of the UN High Commissioner of Human Rights, 17 February 2017, p. 6.

<sup>15</sup> Law 4609/2019, Article 23(6).

<sup>16</sup> Permanent Mission of Greece to the Office of the United Nations and other International Organizations in Geneva, [Verbal Note](#) on Conscientious Objectors, 14 August 2019, Ref. No. 6175.4/AS 1237, attached response of the Hellenic National Defence General Staff, para. 1c(7).

In a positive development, this provision has been abolished in the context of amendment of Greek Penal Code in 2019<sup>17</sup>.

### **3. Protection from discrimination and of personal data**

The Office of the United Nations High Commissioner for Human Rights has included in its recommendations that "Personal information of conscientious objectors must not be disclosed publicly by the State"<sup>18</sup>.

In January 2022, the Hellenic Data Protection Authority, an independent authority, following a complaint by a conscientious objector, issued a decision stating that the certificate of military status should not reveal that he had served the alternative service, and called the authorities to issue a new one stating only that he has no longer military duties<sup>19</sup>.

The Hellenic Data Protection Authority issued a similar decision concerning a conscript who have been exempted for medical reasons, calling again the authorities to issue a new certificate stating only that he has no longer military duties<sup>20</sup>.

The above decisions of the Hellenic Data Protection Authority are important, both for the protection of personal data and in order to protect conscientious objectors from discrimination, e.g. in the field of employment.

## **C. State law and practice: remaining challenges in the case of Greece**

### **1. Lack of recognition of the Right to Conscientious Objection as such**

Despite the recognition by the UN Human Rights Committee (and all the other international human rights bodies) of the Right to Conscientious Objection as inherent to the Right of freedom of thought, conscience and religion, which "entitles **any individual** to an exemption from compulsory military service if this cannot be reconciled with that individual's religion or beliefs"<sup>21</sup>[emphasis added], the Greek State still fails to recognise this right as such, both at governmental and judicial level. The Ministry of National Defence - referring also to previous relevant rulings of the Council of State, the highest administrative court - has repeatedly stated even in recent years that "In any case, no personal right of exemption from military service for the conscientious objectors is enshrined in the Constitution, but merely a possibility, which exist under the terms and conditions of the Law, which has been voted by the organised bodies of the

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<sup>17</sup> Law 4619/2019.

<sup>18</sup> Conscientious objection to military service, Analytical report of the Office of the United Nations High Commissioner for Human Rights, [A/HRC/35/4](#), 1 May 2017, para. 65.

<sup>19</sup> Hellenic Data Protection Authority, [Decision 3](#), 13/1/2022 [in Greek].

<sup>20</sup> Hellenic Data Protection Authority, [Decision 2](#), 13/1/2022 [in Greek].

<sup>21</sup> UN Human Rights Committee, Communication No. 1642-1741/2007, Jeong et al. v. Republic of Korea [CCPR/C/101/D/1642-1741/2007](#), 27 April 2011, para. 7.3.



State (Council of State decisions 2561/2001, 284/2003)"<sup>22</sup>. [Note: According to information provided by Amnesty International, a similar wording is still being used, as for example in the written records of the session of the Special Committee which examined and rejected an appeal concerning the rejection of an application for CO status, dated 15/9/2021]. The Council of State has repeatedly stated in the past that "on the one hand, it is not enshrined neither in the Constitution, nor in the above provisions of Articles 4 (paras. 1, 2, 3), 9 (para. 1), and 10 (para. 1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, an individual right of exemption of Greeks capable to bear arms, from the obligation to conscription for reasons of "conscientious objection", but it is constitutionally tolerable, in view of the above, provided there are serious reasons of public interest and the proper operation of the army is not affected, the establishment of unarmed military service or also of another kind of compulsory (e.g. social) service for those refusing to perform their military obligations for reasons of religious or ideological beliefs"<sup>23</sup>.

## ***2. Discrimination between conscientious objectors based on the grounds of conscience***

The UN Human Rights Committee in its concluding observations of 2015 had expressed concerns about "reports indicating discrimination on the basis of different grounds of objection to service" and asked for the alternative civilian service to be "accessible to all conscientious objectors"<sup>24</sup>. In 2021, in the "List of issues prior to submission of the third periodic report of Greece" the Human Rights Committee, referring to its previous concluding observations, has asked Greece to "report on the measures taken to provide all conscientious objectors with an alternative to military service"<sup>25</sup>.

Similarly, Greece, in 2016, had received a recommendation during the 2<sup>nd</sup> Cycle of Universal Periodic Review by the Human Rights Council to: "Review the current legislation with a view to recognizing an alternative to military service, which is accessible to all conscientious

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<sup>22</sup> [Response](#) of the then Deputy Minister of National Defence to the [Question 248/26-07-2013](#) in the Parliament. See also the [response](#) of the then Minister of National Defence to the [Question 23129/21-9-2011](#).

<sup>23</sup> Council of State, decision A1948/2007, para. 3. For the non-recognition of a right to conscientious objection see also decisions A526/2001 (7-membered chamber), A4508/2001, para. 4, A4509/2001, para. 6, A284/2003, para. 4, A260/2004, para. 7, A2452/2006, para. 2.

<sup>24</sup> UN Human Rights Committee, Concluding observations on the second periodic report of Greece, 3 December 2015, [CCPR/C/GRC/CO/2](#), paras. 37-38.

<sup>25</sup> UN Human Rights Committee, List of issues prior to submission of the third periodic report of Greece [CCPR/C/GRC/QPR/3](#), 2 December 2021, para. 20.

objectors..."<sup>26</sup>. Unfortunately, Greece had rejected entirely all recommendations concerning conscientious objectors<sup>27</sup>. The GNCHR had expressed its discontent for this rejection<sup>28</sup>.

In the context of the Third Cycle of Human Rights Council's Universal Periodic Review (UPR), in 2021, Greece received a similar recommendation asking *inter alia* for "an alternative service to military service to which all conscientious objectors have access to"<sup>29</sup>. Greece has recently accepted the recommendation<sup>30</sup>.

The Greek Ombudsman, which participates in the GNCHR, had previously stated that there is a "constant practice of unequal treatment", of those objecting on ideological grounds in comparison to those objecting on religious ones<sup>31</sup>.

Such a discrimination is also reflected in the official statistics. In the GNCHR submission for the previous analytical report, we had highlighted that "While the percentage of recognition of conscientious objectors on religious grounds is constantly about 96% to 100%, the percentage of recognition of conscientious objectors on ideological grounds is usually around or even below 50%".

Unfortunately, according to official data recently obtained by Amnesty International Greece, the percentage of recognition of conscientious objectors on ideological grounds, from 2020 until March 2022 has fallen to approximately 27%<sup>32</sup>.

### **3. Lack of recognition of the Right to Conscientious Objection during military service**

The amendment of legislation in 2010<sup>33</sup>, gave the opportunity to those who had served for some time in arms, in the past, to claim the status of conscientious objectors, provided that in the

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<sup>26</sup> UN, Human Rights Council, Report of the Working Group on the Universal Periodic Review, Greece, [A/HRC/33/7](#), 8 July 2016, recommendation 136.15 (Uruguay).

<sup>27</sup> UN, Human Rights Council, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, [A/HRC/33/7/Add.1](#), 2 September 2016, page 3, recommendations 136.15 and 136.16.

<sup>28</sup> GNCHR, [Press release](#) on the occasion of another conviction of Greece for conscientious objectors' issues [ECtHR, *Papavasiliakis V. Greece*, 15.9.2016], 27.9.2016.

<sup>29</sup> UN Human Rights Council, Report of the Working Group on the Universal Periodic Review, Greece, [A/HRC/49/5](#), 6 January 2022, recommendation 130.76 (Panama).

<sup>30</sup> UN Human Rights Council, Report of the Working Group on the Universal Periodic Review, Greece, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, [A/HRC/49/5/Add.1](#), 16 December 2021, para.3.

<sup>31</sup> Greek Ombudsman, [Special Report 2013](#), "Combatting discrimination", Chapter "Discrimination on the basis of religious or other beliefs", paragraph "Examination of applications for the recognitions of conscientious objectors", p. 110 [in Greek].

<sup>32</sup> Amnesty International, Connection e.V., European Bureau for Conscientious Objection (EBCO), International Fellowship of Reconciliation (IFOR), War Resisters' International (WRI), "Greece: Give Charis Vasileiou and Nikolas Stefanidis a fair examination of their grounds for conscientious objection under an amended legislative framework in line with international law and standards", [Joint NGOs Statement](#), 21 March 2022, EUR 25/5374/2022.

meantime their beliefs have been changed. But this provision cannot be implemented, for the time being, for those who have started to serve their compulsory military service, as it contravenes the deadlines for submission of documents, which establish that: "Applications submitted after enlistment of those interested, in the Armed Forces, are not accepted"<sup>34</sup>. Therefore the "The right of serving members of the armed forces, including conscripts and volunteers, to make claims of conscientious objection to military service", as cited in the previous analytical report<sup>35</sup>, has not been recognised. This is admitted in the response of the Greek authorities to the Special Rapporteur on freedom of religion or belief and the OHCHR<sup>36</sup>.

#### **4. Lack of recognition of the Right to Conscientious Objection for those serving voluntarily in the armed forces/professional staff**

Currently there are no provisions in the Greek legislation recognising the Right to Conscientious Objection for professional soldiers. Considering also the previously mentioned provision that "Applications submitted after enlistment of those interested, in the Armed Forces, are not accepted", this is not possible for those voluntarily enlisted.

In the past, the GNCHR had addressed a letter to the Minister of National Defence (03.12.04), concerning the cases in which a professional soldier expresses his conscientious objection in relation to a particular military operation (e.g. the war in Iraq). The views expressed were: (a) that the term "conscientious objector" be interpreted in a broader way and (b) that the chronological point of its expression should be extended<sup>37</sup>.

In the 2019 Report of the Office of the United Nations High Commissioner for Human Rights about application procedures, it has been highlighted that: "In Greece, while there are no provisions in national legislation recognizing the right to conscientious objection for professional soldiers (A/HRC/35/4, para. 51), a professional member of the armed force may (according to a submission referring to a meeting in October 2018 between the author of the

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<sup>33</sup> See [Law 3883/2010](#), Article 78(γ), which amended the subparagraph α, of paragraph 3, of Article 59 of [Law 3421/2005](#) (OJ 302/A), stating that "They are not deemed as conscientious objectors and they are not subsumed in the relevant provisions a. those who have served in arms for any period of time, in the Greek or foreign armed forces or in the Security Forces", by adding the phrase "after adoption of the beliefs that prevent them from fulfilling armed military service for reasons of conscience".

<sup>34</sup> See decision of the Minister of National Defence No Φ.420/79/81978/Σ.300 (2) OJ [1854B/2005](#), Article 1(2)-(4).

<sup>35</sup> Conscientious objection to military service, Analytical report of the Office of the United Nations High Commissioner for Human Rights, [A/HRC/35/4](#), 1 May 2017, paras. 12-14. See also: UN High Commissioner of Human Rights, Analytical report on conscientious objection to military service, 3 June 2013, [A/HRC/23/22](#), paras. 25-27.

<sup>36</sup> Permanent Mission of Greece to the Office of the United Nations and other International Organizations in Geneva, [Verbal Note](#) on Conscientious Objectors, 14 August 2019, Ref. No. 6175.4/AS 1237, attached response of the Hellenic National Defence General Staff, para. 2a.

<sup>37</sup> See in GNCHR, [Recommendations](#) regarding Conscientious Objectors and the Scheme of Alternative Civil-Social Service, 10 June 2004.

submission and the Ministry of National Defence) quit but has to pay a considerable amount of money to leave before the end of his or her contract"<sup>38,39</sup>.

Indeed, in its response to the Special Rapporteur on freedom of religion or belief and the OHCHR, the Greek authorities stated that:

"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"<sup>40</sup>.

However, as it has been highlighted by the GNCHR in its submission for the bill of 2019, "The right of professional staff of the armed forces, insofar their beliefs have changed, to apply for recognition as conscientious objectors should not be confused with any other procedures of resignation which entail severe financial consequences"<sup>41</sup>.

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<sup>38</sup> Submission by Amnesty International.

<sup>39</sup> OHCHR, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, 24 May 2019, [A/HRC/41/23](#), para. 24.

<sup>40</sup> Permanent Mission of Greece to the Office of the United Nations and other International Organizations in Geneva, [Verbal Note](#) on Conscientious Objectors, 14 August 2019, Ref. No. 6175.4/AS 1237, attached response of the Hellenic National Defence General Staff, paras. 2b and 2c.

<sup>41</sup> GNCHR, [Observations](#) on Articles 18, 21 and 22 of the Bill of the Ministry of National Defence regarding the "Arrangements for Armed Forces Personnel" [in Greek], 19 March 2019, p. 11.

## **5. Lack of fair, independent and impartial procedures to consider applications for conscientious objection to military service**

### *Background*

The UN Human Rights Committee in its concluding observations of 2015 has reiterated its previous concerns about "the composition of the Special Committee and its reported lack of independence and impartiality" and recommended to "consider placing the assessment of applications for conscientious objector status under the full control of civilian authorities"<sup>42</sup>.

The Commissioner for Human Rights of the Council of Europe has also recommended the transfer of responsibilities for granting conscientious objector status from the Ministry of Defence to an independent civilian department<sup>43</sup>.

In the judgment *Papavasilikis vs Greece* of September 15, 2016 by the European Court of Human Rights (ECtHR, Chamber judgment)<sup>44</sup>, the Court found *inter alia* that the Minister of Defence's final decision, on the basis of a draft ministerial decision following the Special Committee's proposal, did not afford the requisite safeguards of impartiality and independence and that the scrutiny of the Supreme Administrative Court concerned only the lawfulness of the decision, not the merits, and was based on the assessments of the Special Committee.

The GNCHR has consistently supported such recommendations, stating that "the authority deciding whether a person should be assigned to an alternative service or not, must be independent and should not include members of the military administration"<sup>45</sup>.

The Greek Ombudsman has challenged the procedure of examination of objectors through interview stating that "Personal interview as a mean to ascertain reasons of conscience is controversial *per se* insofar it submits an internal esprit to an examination of sincerity". It has

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<sup>42</sup> UN Human Rights Committee, Concluding observations on the second periodic report of Greece, 3 December 2015, [CCPR/C/GRC/CO/2](#), paras. 37-38.

<sup>43</sup> Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to the Hellenic Republic, 2-5 June 2002, [CommDH\(2002\)5](#), para. 18. See also: Assessment of the progress made in implementing the recommendations of the Council of Europe Commissioner for Human Rights, [Follow-up report](#) on the Hellenic republic (2002 – 2005), 29 March 2006, para. 34.

<sup>44</sup> ECtHR, *Papavasilikis c. Greece*, 66899/14, 15 September 2016.

<sup>45</sup> GNCHR, [Observations](#) on Articles 18, 21 and 22 of the Bill of the Ministry of National Defence regarding the "Arrangements for Armed Forces Personnel" [in Greek], 19 March 2019, p. 6. See also GNCHR, [Observations](#) on Article 12 of the bill of the Ministry of National Defence "Settlement of issues concerning transfer of soldiers, care for staff and other provisions" (Conscientious Objectors), 20 January 2016, III, Special Observations on Article 12 of the bill, para. 4 [in Greek]; [Recommendations](#) regarding the Scheme of Alternative Civil- Social Service, 5 July 2001; [Recommendations](#) regarding Conscientious Objectors and the Scheme of Alternative Civil-Social Service, 10 June 2004, recommendations e and f. [Observations](#) on the Draft of the Second Periodic Report of the Hellenic Republic for the International Covenant on Civil and Political Rights (ICCPR), 5 December 2013, Article 18, Conscientious Objectors, p. 25.

also expressed concerns about problems in the composition and the operation of the committee such as frequent absence of non-military members and insufficient justification of rejections<sup>46</sup>.

### *Recent developments*

Despite a legislative amendment in 2019 reducing the number of military officers from two to one in the special committee conducting the examination of applications, the assessment of applications for conscientious objector status is still not placed under the full control of civilian authorities<sup>47</sup>, as it has been highlighted also by the OHCHR<sup>48</sup>.

Currently, the final decision on applications for granting conscientious objectors status is still taken exclusively by one person, the (Deputy) Minister of National Defence<sup>49</sup> after a non-binding<sup>50</sup> recommendation of a 5-membered Special Committee (commonly called Committee for the Examination of Conscience) consisted in 1 superior military officer, 3 university professors and 1 member of the State's Legal Council as president. The members of the Committee are appointed by a joint decision of the Minister of National Defence, along with the Minister of Economy and Finance and the Minister of Education.

## **6. Punitive duration of alternative civilian service**

### *Background*

The UN Human Rights Committee in its concluding observations of 2015 has reiterated "its previous concerns about the length of alternative service for conscientious objectors, which is much longer than military service" and has stated that Greece should take measures to review its legislation with a view to recognising the right to conscientious objection to military service, encompassing an alternative to military service which will be not punitive or discriminatory in terms of duration<sup>51</sup>.

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<sup>46</sup> Greek Ombudsman, [Special Report 2013](#), "Combatting discrimination", Chapter "Discrimination on the basis of religious or other beliefs", paragraph "Examination of applications for the recognitions of conscientious objectors", p. 110.

<sup>47</sup> GNCHR, [Stakeholder Report](#) to the Universal Periodic Review (UPR) of Greece, March 2021, para. 19; GNCHR, [Submission](#) to the United Nations Human Rights Committee on the List of Issues Prior to Reporting for the Third periodic examination of Greece under the International Covenant on Civil and Political Rights, para. 90.

<sup>48</sup> OHCHR, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, 24 May 2019, [A/HRC/41/23](#), para. 41.

<sup>49</sup> [Law 3421/2005](#), Article 62(1).

<sup>50</sup> According to the decision of the Minister of National Defence No Φ.420/79/81978/Σ.300 (OJ [1854B/2005](#)), Article 3(6), the Special Committee gives not only the opinion but also a draft of a ministerial decision, but if the Minister of Defense disagrees with the content of this draft, another one is prepared according to his/her orders.

<sup>51</sup> UN Human Rights Committee, Concluding observations on the second periodic report of Greece, 3 December 2015, [CCPR/C/GRC/CO/2](#), paras. 37-38.

The European Parliament since 2003 has called on Greece to introduce forms of alternative service which do not last longer than compulsory military service<sup>52</sup>.

Similarly Greece received recommendations during the 2<sup>nd</sup> Cycle of the Universal Periodic Review by the Human Rights Council to: "Review the current legislation with a view to recognizing an alternative to military service, which is [...] not punitive or discriminatory" or even that the conscientious objectors should "have the opportunity to perform civilian service of equal length to the one of military service"<sup>53</sup>. Unfortunately Greece has rejected entirely all recommendations concerning conscientious objectors<sup>54</sup>. The GNCHR expressed its discontent for this rejection<sup>55</sup>.

Since 2004 the GNCHR has adopted the criterion of the European Committee of Social Rights (ECSR) that, in order to be in conformity with the European Social Charter, the alternative service for conscientious objectors may not exceed one and a half times the length of armed military service (50% additional time)<sup>56</sup>.

#### *Recent developments*

Despite a legislative amendment in 2019, and relevant ministerial decisions, the duration of alternative civilian service remains punitive in principle, as well in practice as far as it concerns at least one category of reduced service.

In June 2019, there has been a reduction of the length of alternative service<sup>57</sup>. Contrary to the claim of the Greek authorities, this reduction did not necessarily entail equal length of the alternative and military service, insofar the vast majority of conscripts serve in the Army<sup>58</sup>,

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<sup>52</sup> European Parliament, [Resolution](#) on the situation concerning basic rights in the European Union (2001) 2001/2014(INI), 15 January 2003, para. 42.

<sup>53</sup> UN, Human Rights Council, Report of the Working Group on the Universal Periodic Review, Greece, [A/HRC/33/7](#), 8 July 2016, recommendation 136.15 (Uruguay), 136.16 (Slovenia).

<sup>54</sup> UN, Human Rights Council, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, [A/HRC/33/7/Add.1](#), 2 September 2016, page 3, recommendations 136.15 and 136.16.

<sup>55</sup> GNCHR, [Press release](#) on the occasion of another conviction of Greece for conscientious objectors' issues [ECtHR, Papavasiliakis V. Greece, 15.9.2016], 27.9.2016.

<sup>56</sup> GNCHR, [Recommendations](#) regarding Conscientious Objectors and the Scheme of Alternative Civil-Social Service, 10.6.2004, recommendation a. See also [Observations](#) on Article 12 of the bill of the Ministry of National Defence "Settlement of issues concerning transfer of soldiers, care for staff and other provisions" (Conscientious Objectors), 20 January 2016, III, Special Observations on Article 12 of the bill, para. 1 [in Greek].

<sup>57</sup> OJ 2477/B/24.6.2019.

<sup>58</sup> According to the International Institute for Strategic Studies by that time the Armed Forces were consisted in: 93,500 in the Army, 16,800 in the Navy, 21,950 in the Air Force and 11,600 Joint. See IISS, [The Military Balance 2020](#), p. 111.

where, by that time, the (full) military service was 9 months, while the (full) alternative service was 12 months<sup>59</sup>.

In any case, this reduction was soon annulled by the following government in October 2019, which reinstated the previous length<sup>60</sup>, in contravention of international and regional human rights standards.

In March 2021, the length of full military service in the Army, where most conscripts serve, has been increased to 12 months<sup>61</sup>, equalising it to that in the Navy and the Air Force – with the exception of conscripts serving the entire remaining time, after basic training, in certain areas (especially close to the eastern borders) and certain military units.

*a. Punitive duration of alternative service in principle*

In the legislation, the length of alternative service is in principle double the length of military service<sup>62</sup>, a provision contrary to all international human rights standards<sup>63</sup>. The length may be reduced following a decision of the Minister of National Defence.

*b. Punitive duration of alternative service in practice for at least one category of reduced service*

The current duration of military and alternative service, after the relevant ministerial decisions, is shown at the following table:

	Military Service	Alternative Civilian Service
Full service	12 months in all branches	15 months (25% additional time but 67% more than for those serving in certain areas and military units)
	9 months for those serving in certain specific areas (especially close to the eastern borders) and certain military units	
Reduced service (First category)	9 months in all branches	12 months (33% additional time, but 50% more than for those serving in certain specific areas (especially close to the eastern borders) and certain military units)
	8 months for those serving in certain specific areas (especially close to the eastern borders) and certain military units	

<sup>59</sup> Permanent Mission of Greece to the Office of the United Nations and other International Organizations in Geneva, [Verbal Note](#) on Conscientious Objectors, 14 August 2019, Ref. No. 6175.4/AS 1237, attached response of the Hellenic National Defence General Staff, para. 1c(1) and (2).

<sup>60</sup> OJ 3697/B/4.10.2019.

<sup>61</sup> OJ 853/B/4.3.2021.

<sup>62</sup> Art. 60(1) of Law 3421/2005.

<sup>63</sup> GNCHR, [Observations](#) on Articles 18, 21 and 22 of the Bill of the Ministry of National Defence regarding the "Arrangements for Armed Forces Personnel" [in Greek], 19 March 2019, p. 5.



	units	
Reduced service (Second Category)	6 months	9 months (50% additional time)
Reduced service (Third Category)	3 months	<b>5 months (67% additional time)</b>

According to the above, the duration of alternative civilian service is still punitive at least for the third category of reduced service, which concerns conscripts with special family status.

Worth noting also that:

- The length of alternative civilian service is equal throughout the country and there is no reduced length for those serving in the geographical areas (e.g. eastern borders) where the military service is reduced.
- According to the Human Rights Committee, a 50% additional time could still be punitive<sup>64</sup>.
- According to the UN standards: "Any duration longer than that of military service is permissible only if the additional time for alternative service is based on reasonable and objective criteria. Equalizing the duration of alternative service with military service should be considered a good practice"<sup>65</sup>.

### **7. Punitive conditions and discrimination against conscientious objectors in comparison to conscripts serving in armed forces**

The UN Human Rights Committee in its concluding observations noted that Greece should take measures to review its legislation with a view to recognizing the right to conscientious objection to military service, encompassing an alternative to military service which will be not punitive or discriminatory not only in terms of duration but also in terms of nature and cost<sup>66</sup>.

Conscientious objectors' groups complain about the conditions of alternative service and about discrimination in comparison to conscripts serving in armed forces, in various aspects.

<sup>64</sup> See, for example, the case of Austria. UN Human Rights Committee, Concluding observations on the fifth periodic report of Austria, [CCPR/C/AUT/CO/5](#), 3 December 2015, paras. 33-34; UN Human Rights Committee, List of issues in relation to the fifth periodic report of Austria, Addendum, Replies of Austria to the list of issues, [CCPR/C/AUT/Q/5/Add.1](#), 4 August 2015, para. 139.

<sup>65</sup> OHCHR, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, 24 May 2019, [A/HRC/41/23](#), para. 60, criterion (I).

<sup>66</sup> UN Human Rights Committee, Concluding observations on the second periodic report of Greece, 3 December 2015, [CCPR/C/GRC/CO/2](#), para. 38.

### *a. Transportation*

In 2019, a positive legislative amendment extended to conscientious objectors performing alternative service the covering of certain transportation expenses already provided to conscripts performing military service<sup>67</sup>. However, there are still no explicit provisions about free transportation or reduction in fares for the conscientious objectors performing alternative service, as it is the case for conscripts performing military service<sup>68</sup>. In a response to Amnesty International Greece, the Hellenic National Defence General Staff claimed that, insofar some issues, such as the free transportation of conscientious objectors with public transportation inside urban areas, are not explicitly regulated in the legislation about conscription, the Ministry of National Defence has no competence about them<sup>69</sup>.

### *b. Place of service*

According to the Human Rights Committee, “the requirement to perform such services outside places of permanent residence” can be among the conditions that render the alternative service punitive<sup>70</sup>.

In Greece, the law explicitly prohibits conscientious objectors to perform alternative service in their region of residence<sup>71</sup>. This has been highlighted in 2019 by the Special Rapporteur on freedom of religion or belief<sup>72</sup>. In its response, Greece claimed that: “With the new legal framework, they can request service in another authority, **including close to their place of residence**, after five (5) months...”<sup>73</sup>. However, such applications are rejected on the ground that it is not permitted by the legislation<sup>74</sup>.

Therefore, in the context of the 3<sup>rd</sup> cycle of the Universal Periodic Review, Greece received a recommendation to “Consider amending legislation in order for conscientious objectors to be

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<sup>67</sup> Law 4609/2019, Article 23(8).

<sup>68</sup> See the [report](#) of MP Theodoros Dritsas No 3444/18.2.2011 to the Ministry of National Defence and the Ministry of Infrastructure, Transportations and Networks, with a relevant open letter of the Association of Greek Conscientious Objectors. See also the replies of the Minister of National Defence and the Deputy Minister of Infrastructure, Transportations and Networks.

<sup>69</sup> Hellenic National Defence General Staff, response to Amnesty International Greece, dated 9 March 2022.

<sup>70</sup> UN Human Rights Committee, Concluding observations on the sixth periodic report of the Russian Federation, [CCPR/C/RUS/CO/6](#), 24 November 2009, para. 23.

<sup>71</sup> [Law 4361/2016](#) (OJ 10/1.2.2016), Article 12(9), replacing Article 61(1) of [Law 3421/2005](#).

<sup>72</sup> Mandate of the Special Rapporteur on freedom of religion or belief, [OL GRC 3/2019](#), 11 July 2019, p. 3.

<sup>73</sup> Permanent Mission of Greece to the Office of the United Nations and other International Organizations in Geneva, [Verbal Note](#) on Conscientious Objectors, 14 August 2019, Ref. No. 6175.4/AS 1237, attached response of the Hellenic National Defence General Staff, para. 1c(5).

<sup>74</sup> E.g. rejection of such an application by the Deputy Minister of National Defence, dated 26 August 2019.

able to perform alternative civilian service in their place of residence"<sup>75</sup>. Greece did not accept the recommendation<sup>76</sup>.

The GNCHR has consistently stated that the geographical criterion for the completion of the alternative social service should be in conformity with the same rules that apply to regular armed military service<sup>77</sup>.

*c. Amount for buying out*

The GNCHR has also raised the issue of discrimination in the case of conscientious objectors of greater age<sup>78</sup>. Despite some positive legislative amendments in 2019, equalizing the age and the minimum period of service required in order to be entitled to buy out the rest of the service<sup>79</sup> the discrimination persists.

According to the Greek legislation, conscripts who are above 33 years of age are entitled to serve a minimum of 20 days of military service and to buy out the remaining part of their duty<sup>80</sup>. Conscientious objectors who are above 33 years of age are nowadays also entitled to serve a minimum of 20 days of alternative service and buy out the remaining part of their much longer service<sup>81</sup>. Thus, given that the cost of a month of alternative service, according to the law<sup>82</sup>, cannot be less than the cost of a month of military service and has been fixed as equal (810 euros<sup>83</sup>) on the one hand, and that the conscientious objectors have to buy out a greater number of months on the other hand, the said provisions result to a much higher cost, up to several thousands of euros, for the conscientious objectors in order to buy out the same (undone) duty. This evident discrimination, because of conscientious objection based on religion or political

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<sup>75</sup> UN Human Rights Council, Report of the Working Group on the Universal Periodic Review, Greece, [A/HRC/49/5](#), 6 January 2022, recommendation 130.88 (Croatia).

<sup>76</sup> UN Human Rights Council, Report of the Working Group on the Universal Periodic Review, Greece, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, [A/HRC/49/5/Add.1](#), 16 December 2021, paras. 6 and 7(c).

<sup>77</sup> GNCHR, [Recommendations](#) regarding Conscientious Objectors and the Scheme of Alternative Civil-Social Service, 10 June 2004, recommendation h. [Observations](#) on Article 12 of the bill of the Ministry of National Defence "Settlement of issues concerning transfer of soldiers, care for staff and other provisions" (Conscientious Objectors), 20 January 2016, III, Special Observations on Article 12 of the bill, para. 6 [in Greek].

<sup>78</sup> GNCHR [submission](#) regarding the continuous violation of Article 1(2) of the European Social Charter in the case of alternative service for conscientious objectors in Greece (11.11.2016)

<sup>79</sup> Law 4609/2019, Art. 22, amending Art. 79(1) of Law 3883/2010.

<sup>80</sup> Law 3421/2005, Art. 57(1), as it stands today.

<sup>81</sup> Law 3883/2010, Art. 79(1), as it stands today.

<sup>82</sup> [Law 3883/2010](#) (OJ 167/A/24.9.2010), Art. 79(2).

<sup>83</sup> Joint Decision of the Minister of Finance and the Minister of National Defence No Φ.429.1/ 19/281812/4.3.2011 (OJ 517/B/5.4.2011), Art. 1(1).

opinion, has been also pointed out by the Greek Ombudsman<sup>84</sup>, Amnesty International<sup>85</sup> and the Special Rapporteur on freedom of religion or belief<sup>86</sup>.

### **8. Repeated punishment of conscientious objectors**

In Greece draft evaders are punished for insubordination. Punishment for insubordination does not entail exemption from the military obligation. Therefore, a person can be repeatedly punished for insubordination. The punishment for each period of insubordination includes an imprisonment for up to 2 years in a period of peace<sup>87</sup>, a fine of 6,000 euros<sup>88</sup>, deprivation of the right to vote and to be elected after an irrevocable conviction, as well as other sanctions and deprivations<sup>89</sup> (see also part about violations of the right to freedom of movement).

These provisions may affect and be applied to various categories of conscientious objectors, such as:

- Those who refuse to perform the currently punitive and discriminatory alternative service.
- Those who apply for conscientious objector status but are not recognised (due to the lack of fair, independent and impartial procedures to consider applications for conscientious objection to military service), and are subsequently called up to the armed forces and insist on their conscientious objection.
- Those who begin to perform but quit or are unable to conclude the punitive and discriminatory alternative civilian service, and subsequently lose their status of conscientious objector, are called up to the armed forces and insist on their conscientious objection.
- Those who commit a disciplinary offence while performing the alternative service, and subsequently have their status of conscientious objector revoked, are called up to the armed forces and insist on their conscientious objection.

For example, in one of the most prominent cases, conscientious objector Lazaros Petromelidis who had been officially recognised as such and who refused to perform the punitive and discriminatory alternative service, has been arrested or imprisoned several times and has been

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<sup>84</sup> The Greek Ombudsman, [Press release](#): The Ombudsman for the lifting of the fine of disobedience, 2 February 2016 [in Greek].

<sup>85</sup> Amnesty International, Greece: [Observations](#) on the right to conscientious objection – “serious violations of Greece’s obligations towards conscientious objectors remain unaddressed in proposed bill despite some positive steps”, 20 March 2019, Index Number: EUR 25/0088/2019, p. 3.

<sup>86</sup> Mandate of the Special Rapporteur on freedom of religion or belief, [OL GRC 3/2019](#), 11 July 2019, p. 3.

<sup>87</sup> [Military Penal Code](#), Article 32.

<sup>88</sup> Joint decision of the Ministers of National Defence and Finance, Φ.429.1/17/281810/Σ.394/4-3-11 (OJ 517/B/2011), Article 1.

<sup>89</sup> Law 3421/2005, Article 53.

sentenced for 5 periods of insubordination. In this case, the Human Rights Committee found, *inter alia*, a violation of articles 9(1) and 14(7) of ICCPR<sup>90</sup>.

The UN Human Rights Committee in its 2015 concluding observations has raised concerns and recommended Greece to avoid the repeated punishment of conscientious objectors, in violation of the principle of *ne bis in idem*<sup>91</sup>. In 2021, in the "List of issues prior to submission of the third periodic report of Greece" the Human Rights Committee, referring to its previous concluding observations, has asked Greece to "provide information on measures taken to ensure respect for the *ne bis in idem* principle and avoid inflicting repetitive punishments on conscientious objectors"<sup>92</sup>.

Greece had also received a recommendation during the 2<sup>nd</sup> Cycle of the Universal Periodic Review to: "Consider changes in legislation and practice in order to ensure that individuals who express conscientious objection to compulsory military service on the grounds of freedom of thought, conscience, disability, and/or religion do not face harassment or prosecution..."<sup>93</sup>. Unfortunately, Greece had rejected entirely all recommendations concerning conscientious objectors<sup>94</sup>. The GNCHR had expressed its discontent for this rejection<sup>95</sup>.

The GNCHR has consistently demanded the abolition of the possibility of continuous and repeated prosecutions of conscientious objectors for their refusal to perform military service, in violation of the *ne bis in idem* principle<sup>96</sup>.

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<sup>90</sup> Human Rights Committee, Views adopted by the Committee under the Optional Protocol, concerning communication No. 3065/2017, Advance unedited version, [CCPR/C/132/D/3065/2017](#), 6 December 2021, paras. 9.8, 9.10, 9.11, 10.

<sup>91</sup> UN Human Rights Committee, Concluding observations on the second periodic report of Greece, 3 December 2015, [CCPR/C/GRC/CO/2](#), paras. 37-38.

<sup>92</sup> UN Human Rights Committee, List of issues prior to submission of the third periodic report of Greece [CCPR/C/GRC/QPR/3](#), 2 December 2021, para. 20.

<sup>93</sup> UN, Human Rights Council, Report of the Working Group on the Universal Periodic Review, Greece, A/HRC/33/7, 8 July 2016, recommendation 136.16 (Slovenia).

<sup>94</sup> UN, Human Rights Council, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, [A/HRC/33/7/Add.1](#), 2 September 2016, page 3, recommendations 136.15 and 136.16.

<sup>95</sup> GNCHR, [Press release](#) on the occasion of another conviction of Greece for conscientious objectors' issues [ECtHR, *Papavasilakis V. Greece*, 15.9.2016], 27.9.2016.

<sup>96</sup> GNCHR, [Recommendations](#) regarding Conscientious Objectors and the Scheme of Alternative Civil-Social Service, 10.6.2004, recommendation c. [Observations](#) on Article 12 of the bill of the Ministry of National Defence "Settlement of issues concerning transfer of soldiers, care for staff and other provisions" (Conscientious Objectors), 20 January 2016, III, Special Observations on Article 12 of the bill, para. 2 [in Greek]; GNCHR, [Observations](#) on Articles 18, 21 and 22 of the Bill of the Ministry of National Defence regarding the "Arrangements for Armed Forces Personnel" [in Greek], 19 March 2019, p. 8-9.

### ***9. Violations of the right to freedom of movement***

The insubordinates and deserters are prohibited from migrating abroad or from being employed in ships travelling abroad, and from having a passport issued or renewed, except for the insubordinates in foreign countries<sup>97</sup>. This results in violations of the freedom of movement of conscientious objectors who are declared insubordinates or deserters. In the case of Petromelidis, the Human Rights Committee found a violation of Article 12(2) of ICCPR, since the restriction on his freedom to leave in Greece has been imposed on him "for having legitimately exercised his right to freedom of conscience"<sup>98</sup>.

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<sup>97</sup> Law 3421/2005, Article 54.

<sup>98</sup> Human Rights Committee, Views adopted by the Committee under the Optional Protocol, concerning communication No. 3065/2017, Advance unedited version, [CCPR/C/132/D/3065/2017](#), 6 December 2021, paras. 9.9, 10.