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EUROPEAN SOCIAL CHARTER

Comments by the Greek National
Commission for Human Rights on the 3d
National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF GREECE

Follow-up to collective complaints:

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Submission on the 3rd National Report of Greece

Developments regarding Article 1§2 Service alternative to military service

The Greek National Commission for Human Rights (GNCHR) is the independent advisory body to the Greek State on matters pertaining to human rights protection. It was established by Law 2667/1998 in accordance with the UN Paris Principles. Forty-two institutions whose activities cover the field of human rights are currently represented in the GNCHR (independent authorities, departments of university-level educational institutions, workers' and disabled persons' confederations, NGOs, political parties and ministries)

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GNCHR Submission on the 3rd National Report of Greece:

Developments regarding Article 1§2 Service alternative to military service¹

1. Introduction

The Greek National Commission for Human Rights (hereinafter: ‘GNCHR’) is the independent advisory body to the Greek State on matters pertaining to human rights protection. It was established in accordance with the Principles relating to the Status of National Institutions (Paris Principles), endorsed by the United Nations General Assembly in its Resolution 48/134 on “National Institutions for the promotion and protection of Human Rights (NHRI)” of December 20th 1993. The GNCHR is accredited with status A (full compliance) by the competent international Sub-Committee on Accreditation (SCA) of the Global Alliance on National Human Rights Institutions (GANHRI), operating under the auspices and in cooperation with the Office of the UN High Commissioner for Human Rights. Its members are nominated by institutions whose activities cover the field of human rights: NGOs, trade unions, independent authorities, universities, bar associations, political parties, Parliament and the Administration. Among these institutions is Amnesty International, an international human rights NGO with a consultative status to the Council of Europe.

The GNCHR wishes to take the opportunity of the [3d National report](#) of Greece on the Implementation of the European Social Charter, and draw once more the attention of the European Committee of Social Rights (ECSR) to the continuous violation of “the right of the worker to earn his living in an occupation freely entered upon” (Art 1§2 ESC), in the vast majority of the cases of conscientious objectors in Greece.

2. Background Information

The ECSR, in its landmark [decision on the merits](#) of 25 April 2001 of Complaint No. 8/2000 *Quaker Council for European Affairs (QCEA) v. Greece*, found that the situation was not in conformity with the 1961 Charter in respect of the right to earn one’s living in an occupation freely entered upon, on the ground that the length of alternative service was excessive, compared to that of military service. Furthermore, the ECSR has consistently stated that under Article 1§2 of the European

¹ GNCHR Rapporteur: Foivos Iatrellis, deputy member to the GNCHR designated by the Greek Department of Amnesty International. Submission edited by Anna Irene Baka, PhD, Legal Officer at the GNCHR. Submission adopted by the GNCHR Plenary on 25.6.2020.

Social Charter, alternative service for conscientious objectors may not exceed one and a half times the length of armed military service (50% additional time). The GNCHR has adopted this criterion since 2004.²

For years the ECSR has found a violation of Article 1§2 of the European Social Charter in the case of alternative service for conscientious objectors in Greece.³ In its [26th National report](#) on the implementation of the European Social Charter, the Greek Government claimed (page 21) that the situation has been brought in conformity with the European Social Charter, stating a relevant comment of ECSR in Conclusions XX - 1 (2012).

Indeed, in 2012, in its Conclusions XX-1, the ECSR has again found a violation of Article 1§2 for the referenced period (01/01/2007 - 31/12/2010), but for the first time stated that:

“However, the Committee notes that the situation has been amended and unarmed military service has been abolished further duration of alternative service has been reduced, the alternative service duration has been set as follows:

- at fifteen months for those who would be required to serve full military service,
- at twelve months for those who would be required to serve nine months military service,
- at nine months for those who would be required to serve six months military service and
- at five months for those who would be required to serve three months military service.

The Committee considers that this brings the situation into conformity with the Charter but notes that these changes occurred outside the reference period.”⁴

A similar conclusion was cited in the context of the monitoring of the aforementioned complaint ([Findings 2015](#)). This conclusion was obviously based in an unclear perception of the situation reflected in the sentences: “The Committee recalls that it had previously noted that armed military service lasts twelve months. Certain conscripts may only serve nine months, others six and some three.” In fact, the armed military service for the vast majority of conscripts was, and still is, 9 months, not 12. This unclear perception of the situation has been highlighted in 2015 in the Greek Parliament by an MP of the main governing party at that time.⁵

In its [Comments on the 26th report](#) the GNCHR highlighted that the situation was not in conformity with Article 1§2 of the 1961 Charter for two out of the four categories of conscientious objectors: those who are required to do a full 15-month alternative service instead of the full 9-month military service applied for the vast majority of conscripts, and those who are required to do a reduced

² GNCHR, [Recommendations](#) regarding Conscientious Objectors and the Scheme of Alternative Civil-Social Service (2004), recommendation (a).

³ See for example ECSR, [Conclusions XIX-1 - Greece - Article 1-2](#), 24.10.2008.

⁴ ECSR, [Conclusions XX-1 - Greece - Article 1-2](#), 07.12.2012.

⁵ See [Question No 1716/7-12-2015](#) (in Greek) of Mr. Karagiannidis, MP of the then governing SYRIZA party.

5-month alternative service instead of a reduced 3-month military service. Similar [Comments](#) were submitted by the European Bureau for Conscientious Objection (EBCO – BEOC).

In its Conclusions, the ECSR took note of the comments made by GNCHR and EBCO-BEOC and **asked Greece to provide information on this issue in its next report:**

“In this connection, the Committee received comments from the European Bureau for Conscientious Objection (EBCO-BEOC) and from the Greek National Commission for Human Rights (GNCHR) that considered that the situation was not in conformity with Article 1§2 of the 1961 Charter. They considered in fact that there was a discriminatory treatment for two categories of conscientious objectors: those who are required to do a full 15-month alternative service instead of the full 9-month military service and those who are required to do a reduced 5-month alternative service instead of a reduced 3-month military service.

The Committee asks that the next report provide information on this issue.”⁶

However, as it will be explained further below, the Greek authorities refrained from providing information in the 3rd National Report of Greece.

3. Developments after 2016 and the 26th National Report of Greece

3.1. Amendment of the relevant legislation (April- May 2019)

In April 2019 a Greek Draft Law was introduced by the Ministry of National Defence to the Greek Parliament. Among other reforms, there were several ones regarding conscientious objectors, and one of them concerned the amendment of the provisions regulating the length of alternative civilian service in Greece. The proposed amendment was the elimination of the provision that the length of the alternative service should be *at least 2 months* longer than the maximum military service among those of different branches of the armed forces.

In its submission on the Draft Law,⁷ the GNCHR, among other comments and recommendations, has highlighted that the proposed amendment on the length was insufficient: despite potentially paving the way to a reduction of both the length of alternative service *per se* as well as its ratio to the length of military service to levels which could be considered acceptable, nevertheless, the proposed legislative amendment guaranteed neither the implementation nor the permanence of such possible reduction, as it continued to leave such decisions to the discretion of each Minister of National Defence. Furthermore, the proposed amendment failed to eliminate a long-standing provision

⁶ ECSR, [Conclusions XXI-1 - Greece - Article 1-2](#), 9.12.2016.

⁷ [Παρατηρήσεις](#) επί των άρθρων 18, 21 και 22 του Σχεδίου Νόμου του Υπουργείου Εθνικής Άμυνας "Ρυθμίσεις Μέριμνας Προσωπικού Ενόπλων Δυνάμεων, Στρατολογίας, Στρατιωτικής Δικαιοσύνης και άλλες διατάξεις" (Αντιρρησίες Συνείδησης) [In Greek].

in the relevant legislation (Greek Law no. 3421/2005, art. 60, para. 1), which sets as a starting point (and permits as a maximum) a double length of alternative service compared to the length of military service. A provision which is anyway contrary to all international and regional human rights standards, including the one set by the ECSR.

Against the GNCHR's recommendations, the provisions of the Draft Law concerning conscientious objectors were adopted, as had been introduced by the Ministry of National Defence, by majority at the Greek Parliament, while the new Greek Law was published in the Official Journal and put in force on May 3rd 2019.⁸ The amendment of the relevant legislation did not immediately and automatically change the length of the alternative service in Greece.

3.2. Ministerial Decision and (temporary) reduction of the length of the alternative civilian service (24 June 2019 until 3 October 2019)

Nevertheless, on the 24th of June 2019, by Decision of the then Alternate Minister of National Defence,⁹ the actual length of the alternative civilian service was indeed reduced for all categories and became as follows:

	Military Service	Alternative Service
Full service	12 months (Navy, Air Force)	12 months (equal to that in the Navy and Air Force, but 33% longer than in the Army)
	9 months (Army) [vast majority of conscripts]	
Reduced service (first category)	9 months (Navy, Air Force)	9 months (equal to that in the Navy and Air Force, and 13% longer than in the Army)
	8 months (Army) [vast majority of conscripts]	
Reduced service (second category)	6 months (for all branches)	6 months (equal)
Reduced service (third category)	3 months (for all branches)	3 months (equal)

This Ministerial Decision brought for the first time in the history of Greece the situation in conformity with Article 1§2 of the ESC, for all the four categories.

⁸ Greek Law 4609/2019, Official Journal (FEK) Vol. A, 67/3.5.2019.

⁹ Decision Φ.421.4/4/216913 Σ.4045, published in the Official Journal (FEK) Vol. B, 2477/24.6.2019 [in Greek].

3.3. The Communication of the Special Rapporteur on freedom of religion or belief (11 July 2019) and the Response of Greece (14 August 2019)

On the 11th of July 2019, a few days after the general elections of the 7th of July in Greece, the UN Special Rapporteur on Freedom of Religion or Belief send a communication¹⁰ to the Greek authorities. In his Communication, the Special Rapporteur commended the Greek authorities for reducing “the burden and discrepancy of COs alternative civilian service versus service in the armed forces” but noticed that despite the recent legislative amendments the relevant legislation still falls short of international human rights standards, as of various aspects.

It is worth noting that in their response of the 14th of August 2019,¹¹ the Greek authorities (under the new administration), explicitly reiterated the new length of the alternative service for all categories as it had been set by the Ministerial Decision of the 24th of June 2019, and expressed no intention whatsoever to annul it.

3.4. Increase of the length of the alternative service in violation of Article 1§2 of the ESC (4 October 2019)

However, a few weeks later, by a joint decision of the Deputy Minister of National Defence and the Deputy Minister of Finance, signed on the 24th of September 2019 and published on the 4th of October 2019,¹² the previous Ministerial Decision of June 2019 was annulled and the length of the alternative service for all categories was reinstated at its previous levels. This was an unprecedented decision of increase of both the length of the alternative service *per se* as well as its ratio to that of military service. This decision contravenes Article 1§2 of ESC, as the length of the alternative service for two out of the four categories, concerning the vast majority of conscientious objectors, exceeds one and a half times the length of military service (see more details further below).

3.5. The 3rd National Report of Greece (14 February 2020)

In the [3rd National Report](#) of Greece on the implementation of the European Social Charter, the Greek authorities fail to respond to the 2016 request of the ECSR to Greece to provide information on this issue in its next report. Furthermore, despite referring to “Developments regarding the Collective Complaints against Greece (2000-2014)”, the Greek authorities fail to cite the relevant Complaint 8/2000 and any developments on this issue. Finally, in their recent Report, the Greek authorities fail to inform the ECSR about all the aforementioned recent developments and, most

¹⁰ Special Rapporteur on freedom of religion or belief, [Communication OL GRC 3/2019](#), 11.7.2019.

¹¹ <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35128>

¹² Decision Φ.421.4/7/228631/Σ.6400, published in the Official Journal (FEK) Vol. B 3697/04.10.2019 [in Greek].

importantly, about the reduction and subsequent increase of the length of the alternative service and its ratio to the length of military service, which occurred in 2019.

3.6. The current situation in breach of Article 1 § 2 of ESC

The provisions regulating the length of alternative service in Greece are found in law 3421/2005, article 60, paragraphs 1 and 2, which, after several amendments, currently stand as follows:

“Article 60

1. Those recognised as conscientious objectors are required to fulfil alternative service, of double length compared to that they would fulfil if they would serve in arms.
2. By decision of the Minister of National Defence, published in the Official Journal, the discharge of conscientious objectors is permitted before the completion of the time of service stipulated in paragraph 1, but not before the completion of the maximum time of real military service which is valid as of the final discharge of soldiers serving in arms of any branch of the armed forces”.

According to these provisions, the maximum length of alternative service could be double the length of military service, a provision which contravenes all international and regional human rights standards, and the minimum length of alternative service could not be less than the longest military service, i.e. in the one applying to the Navy and Air Force (e.g. 12 months, for the first category of full service). The actual length of alternative service as well as the precise ratio between the length of alternative and military service are left at the discretion of each Minister of National Defence, provided they are within the limits set by law.

In practice, according to the Ministerial Decision issued in October 2019, the current length of alternative service is neither the maximum nor the minimum permitted by the law. The current situation as of the length of alternative service in Greece, compared to the length of military service, is as follows:

	Military Service	Alternative Service
Full service	12 months (Navy, Air Force)	15 months (25% longer than in the Navy and Air Force, but 67% longer than in the Army)
	9 months (Army) [vast majority of conscripts]	

Reduced service (first category)	9 months (Navy, Air Force)	12 months (33% longer than in the Navy and Air Force, but 50% longer than in the Army)
	8 months (Army) [vast majority of conscripts]	
Reduced service (second category)	6 months (for all branches)	9 months (50% longer)
Reduced service (third category)	3 months (for all branches)	5 months (67% longer)

The GNCHR would like to point out that **it is not possible to have a uniform conclusion** on whether the situation is in conformity with Article 1§2 of the European Social Charter, since the situation differs substantially between the different categories, and **two of them, representing the vast majority of cases of conscientious objectors, continue to be subjected to a disproportionate restriction of their right to earn their living in an occupation freely entered upon:**

1) It is obvious that in the case of those conscientious objectors who would otherwise be required to serve 3 months of military service [Reduced service (third category)], the alternative service of 5 months exceeds one and a half times the length of the armed military service, as the additional time is **67%**. Considering that those falling in this category are persons in special family conditions, it is imperative not to overlook as minor this discrimination and violation of their rights.

2) But most importantly, the situation has not been brought in conformity with Article 1§2 of the European Social Charter, in the case of those conscientious objectors required to serve full service. The GNCHR notes that the vast majority of conscripts serve in the Army, (with percentages occasionally exceeding even **93%**¹³). Therefore, **the vast majority of conscripts serve only 9 months - not 12 months**. Consequently, the alternative service of 15 months (**67%** additional time) *exceeds one and a half times the length of military service served by the vast majority of conscripts and is in breach of Article 1§2* of the European Social Charter.

¹³ According to official data provided in a [response](#) of the then Minister of National Defence (Response to the [Question 198/17-7-2012](#)), in 2011 the number of conscripts in the Army were 52,749, while the number of those in the Navy were 2,408 and in the Air Force were 2,155. According to these figures, more than 92% of conscripts serve in the Army while less than 8% serve in the Navy and the Air Force. According to the International Institute for Strategic Studies in 2015, the number of conscripts in the Army were 45,000, while the number of those in the Navy were 1,600 and in the Air Force were 1,790. According to these figures, 93% of conscripts serve in the Army while only 7% serve in the Navy and the Air Force. In International Institute for Strategic Studies, *The Military Balance* (2015), p.100.

The GNCHR would further wish to point out that in the quasi-totality that is aware of, conscientious objectors in Greece first receive a call up to serve 9 months in the Army, and when they apply for conscientious objector status (and provided they obtain this status) they receive a call up paper to serve 15 months of alternative civilian service – that is 67% additional time compared to the length of service they were initially required to perform. This illustrates the clear discrimination on an individual base.

But even in the rare case that a conscientious objector would receive an initial call up to serve 12 months in the Navy or Air Force, it would be unreasonable to consider that for him the alternative civilian service of 15 months is not in breach of Article 1§2 of the European Social Charter. This would mean that (based on the 50% standard) it would be permissible to require him to serve an alternative civilian service of up to 18 months instead of 15 months for the rest of conscientious objectors. Such differentiation, based solely in their initial assignment in different branches of the armed forces, would create unreasonable discrimination between conscientious objectors of the same family category.

In this regard, the GNCHR would also like to stress that the ECSR has compared in the past the length of the alternative service to the length of the military service for the **majority of conscripts**, even in cases where **that majority was of a much lower percentage** (e.g. 64%¹⁴) than in the case of Greece (more than 92 or 93%¹⁵).

4. The recommendations of international human rights institutions

The GNCHR would like to highlight that international human rights institutions continue to consider that the length of alternative civilian service in Greece is not in conformity with international human rights law and standards.

In 2015, when the lengths of the alternative service and the military service were identical with the current ones, the **UN Human Rights Committee** found a violation of Article 18 of ICCPR, reiterating its previous concerns about the length of alternative service for conscientious objectors, which is much longer than military service, and stating that: “The State party 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 that is [...] not punitive or discriminatory in terms of its nature, cost or duration.”¹⁶

¹⁴ See for example [Conclusions XVII-1 - Finland - Article 1-2](#).

¹⁵ See above, note 12.

¹⁶ UN Human Rights Committee, [Concluding observations on the second periodic report of Greece](#), CCPR/C/GRC/CO/2, 3.12.2015, paras. 37-38.

It is also worth noting that during the same session, the UN Human Rights Committee examined the case of Austria, where the length of alternative service was 9 months compared to 6 months of military service¹⁷ - a situation identical with that of the alternative and military service for the second category of reduced service in Greece. The UN Human Rights Committee, citing the ICCPR articles about the freedom of thought, conscience and religion and the freedom from discrimination (arts. 18 and 26 respectively), noted that “the length of the civilian alternative service to military service for conscientious objectors is longer than military service and may be punitively long if not based on reasonable and objective grounds”.¹⁸ This is a strong indication that even the other two categories of conscientious objectors in Greece, serving an alternative service 50% longer than the equivalent military service, are considered by other human rights institutions as being discriminated.

In 2016, the then **UN Special Rapporteur on freedom of religion or belief** echoed the UN Human Rights Committee’s recommendations to the Greek authorities, including the recommendation to reduce the length of the alternative service.¹⁹ As previously noted, in 2019, the following UN Special Rapporteur on freedom of religion or belief commended the reduction of the length of the alternative service,²⁰ but this reduction was soon repealed.

5. The position of international and domestic NGOs

Amnesty International, an international human rights NGO which has consultative status to the Council of Europe, and also one of the NGOs nominating members to the GNCHR, has repeatedly asked the Greek authorities to “reduce the duration of alternative service so that is not punitive or discriminatory”²¹ and therefore “incompatible with European and international human rights standards.”²² In 2019, in view of the Draft Law of the Ministry of National Defence, Amnesty International submitted its observations, stating that “Amnesty International has continuously expressed concern that the alternative civilian service in Greece is of a punitive and discriminatory nature because of its length. Currently, for those liable to full service, the alternative civilian service is 15 months, compared to 9 months of military service for the vast majority of conscripts (a 66.7% increase). For those liable to reduced military service of 3 months, they are required to serve 5 months

¹⁷ 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), 4.8.2015, para. 139. http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FAUT%2FQ%2F5%2FAdd.1&Lang=en

¹⁸ UN Human Rights Committee, [Concluding observations on the fifth periodic report of Austria](#), (CCPR/C/AUT/CO/5), 3.12.2015, paras. 33-34.

¹⁹ UN Special Rapporteur on freedom of religion or belief, [Communication GRC 3/2016](#), 31.10.2016.

²⁰ Special Rapporteur on freedom of religion or belief, [Communication OL GRC 3/2019](#), 11.5.2019.

²¹ See for example: Amnesty International, [“Greece: Amnesty International Submission to the UN Universal Periodic Review, May 2016”](#), 26.2.2016.

²² Amnesty International, [“Greece: Stop arbitrary prosecutions and arrests of conscientious objectors”](#), 4.11.2013.

of alternative service (a similar 66.7% increase in comparison to the Army).”²³ In October 2019, Amnesty International described the increase of the length of alternative service as “unprecedented, unacceptable and in contravention of international law”.²⁴

The **Hellenic League of Human Rights**, a domestic human rights organization which is also among the NGOs nominating members to the GNCHR and a member of the **International Federation of Human Rights (FIDH)**, has also criticized the governmental decision to increase the length of the alternative service, and characterized the latter as punishment.²⁵

6. GNCHR recommendations to Greece

The GNCHR would kindly suggest to the ECSR to take into account the following recommendations towards Greece:

- to immediately reduce by Ministerial Decision the length of alternative service in general, and in this sense to consider reinstating the length of the alternative service for all categories to the levels set by the previous Ministerial Decision of the 24th of June 2019,²⁶ which had brought for the first time the situation in conformity with Article 1§2 of ESC and had been commended by the Special Rapporteur on freedom of religion or belief.
- to amend as soon as possible the relevant legislation in order to permanently guarantee an invariable ratio between the length of alternative service and that of military service, which will be always in conformity with Article 1§2 of ESC and international human rights standards. In this regard, there should be also a repeal of the provision which allows an alternative service of even a double length compared to that of military service (Law 3421/2005, art. 60, para. 1) – a provision which contravenes Article 1§2 of ESC and all relevant international and regional human rights standards.

²³ 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”](#), 20.3.2019.

²⁴ Amnesty International, [“Unprecedented, unacceptable and in contravention of international law the increase of alternative service for conscientious objectors”](#), 16.10.2019 [in Greek].

²⁵ Hellenic League of Human Rights, [“The alternative service as a punishment”](#), 16.10.2019 [in Greek].

²⁶ Decision Φ.421.4/4/216913 Σ.4045, published in the Official Journal (FEK) Vol. B, 2477/24.6.2019 [in Greek].