

# Greece

Updated April 2017

## Issues

- Greece maintains conscription. However, the implementation of the right to conscientious objection for conscripts does not conform to international standards.
- Greece does not recognise the right to conscientious objection for professional soldiers.

## 1 Conscription

*conscription exists*

Conscription is enshrined in Article 4 paragraph 6 of the Greek constitution, which reads: “Every Greek capable of bearing arms is obliged to contribute to the defence of the Fatherland as provided by law”<sup>1</sup>. In one of the amendments of the Constitution, in 2001, an explanatory statement was added in order to ensure that the legislation for conscientious objectors is compatible with the Constitution: “The provision of paragraph 6 does not preclude that the law provides for an obligatory offering of other services, within or outside the armed forces (alternative service), for those who have a proven conscientious objection to perform armed or military service in general.” The relevant law about conscription is Law 3421/2005<sup>2</sup> as amended the following years. According to this law, all Greek males are obliged to serve in the Armed Forces, from 1<sup>st</sup> January of their 19<sup>th</sup> year until the 31<sup>st</sup> December of their 45<sup>th</sup> year<sup>3</sup>.

*military service*

The duration of military service for those required to perform full service is nine months in the army. It is up to twelve months in the air force and the navy.

Any man of Greek descent who comes to live in Greece is liable to perform military service whether he has previously performed military service elsewhere or not. Those who have served more than 6 months in another country which is not an allied state or an EU state are required to perform a reduced military service of 6 months. Men of Greek descent who have permanent residence in Azerbaijan, Armenia, Georgia, Kazakhstan, Kyrgyzstan, Belarus, Moldova, Ukraine, Uzbekistan, Russian Federation, Tajikistan, Turkmenistan, Albania and Turkey, and who come to Greece directly or via another country and then remain, may serve for only three months if they enlist within 5 years following their registration. Those who have served in the army of an allied or EU state can have that period of time recognised, and deducted from the period required to serve in the Greek armed forces. If they have served at least 3 months in such a country but don't complete the necessary time of military service in Greece, they can buy out the rest. Greece is not a party to the Council of Europe's Conventions on Nationality (ETS43 and ETS166) under which, since 1963, dual nationals are not subject to military service obligations in more than one state.<sup>4</sup>

*exemption*

Categories of persons exempted:

1 <http://www.hri.org/docs/syntagma/artcl25.html>, accessed 20<sup>th</sup> April 2017

2 <http://www.mfa.gr/usa/en/services/services-for-greeks/national-service-information.html>, accessed 20<sup>th</sup> April 2017

3 Law 3421/2005, Article 1, Paragraph 1.

4 International Fellowship of Reconciliation submission to the 115<sup>th</sup> Session to the Human Rights Committee, September 2016 <http://www.wri-irg.org/en/system/files/GREECE%20-%20HRC115%20-%20IFOR.pdf>, accessed 20 February 2017



1. Those considered by the competent health committees of the Armed Forces as unfit for conscription on health grounds
2. Those irrevocably sentenced by any criminal court to more than 5 years imprisonment, or to a sentence that would entail discharge and if it was not followed by amnesty, pardon or prescription of the penalty with lifting of the consequences of the sentencing.
3. The father of 3 or more living children.
4. The only or elder son of deceased parents, which has at least one unmarried and under-age or unmarried and incapable for any work brother or sister.
5. The widower father of at least one living under-age or incapable for any work unmarried child.
6. The father of at least one living under-age or incapable for any work unmarried child who has a spouse incapable for any work.
7. Monks in a Monastery of the Holy Mountain [Mount Athos] or in the Monastery of the Patriarchate of Jerusalem.
8. Men of Greek descent interrupting their permanent residence in Azerbaijan, Armenia, Georgia, Kazakhstan, Kyrgyzstan, Belarus, Moldova, Ukraine, Uzbekistan, Russian Federation, Tajikistan, Turkmenistan, Albania and Turkey, coming to Greece directly or via another country and ever since they reside permanently in it, provided that their registration in the male register has taken place after the completion of 35 years of age.

#### *professional soldiers*

Although the Greek Armed Forces still rely heavily on conscripts, the Greek military also aims to attract an increasing number of voluntary professional soldiers. According to reports, about 50% of the Greek army is made up of professional soldiers<sup>5</sup>.

The Greek military promotes a career in the Armed Forces through recruitment adverts on TV, but also through its presence during so-called “professional orientation” lessons during the last year of high school. It is believed that the Greek Armed Forces mostly achieve their recruitment targets for professional soldiers<sup>6</sup>.

## **2 Conscientious objection**

#### *conscientious objection for conscripts*

The right to conscientious objection was first recognised in 1997 with Law 2510/1997. This law came into effect on 1 January 1998. Presently, this right is mainly regulated by Law 3421/2005 (articles 59-65) as amended by the law 3883/2010 (articles 78-80) and the law 4361/2016 (article 12). Both religious and non-religious grounds for conscientious objection are legally recognised.

Duration of full civilian service is 15 months according to the decision by the Minister of Defence taken in 2011<sup>7</sup>. There are different categories of reduced alternative civilian service.

The current duration of military and alternative service is shown at the following table:

	Military Service	Alternative Civilian Service
Full service	12 months (Navy, Air Force)	<b>15 months</b> (25% more than in the Navy-Air Force, <b>but 67% more than in the Army</b> )
	<b>9 months (Army)</b>	

5 Southeast European Times: Greece to Increase Professional Army, Reduce Length of Compulsory Service, 3 January 2003, [http://www.setimes.com/cocoon/setimes/xhtml/en\\_GB/features/setimes/newsbriefs/2003/01/030103-WMI-007](http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/newsbriefs/2003/01/030103-WMI-007), accessed 8 April 2008

6 Email Alexia Tsouni to War Resisters' International, 28 February 2008.

7 Decision of the Greek Minister of Defence No.F.421.4/1/280115 (Government's Gazette 111/07-02-2011)

Reduced service (First category)	9 months (Navy, Air Force)	12 months  (33% additional time than in the Navy, Air Force, 50% more than in the Army)
	8 months (Army)	
Reduced service (Second Category)	6 months	
Reduced service (Third Category)	3 months	<b>5 months (67% additional time)</b>

According to Article 59, paragraph 1, of the Law 3421/2005, CO status may be granted to "those who invoke their religious or ideological convictions in order not to fulfil their draft obligations for reasons of conscience". Article 59, paragraph 2, stipulates that the reasons of conscience "are considered to be related to a general perception of life, based on conscientious religious, philosophical or moral convictions, which are inviolably applied by the person and are expressed by a corresponding behaviour".

There is a strict time limit for submitting CO applications. Applications can only be made before starting military service, from the date somebody is called up (or the date his period of postponement has ended or interrupted) up until, at the latest, the date he is due to enlist into the armed forces.

Initially the law stipulated that "those who have served in arms for whatever length of time in the Greek or foreign armed forces or in the security forces" could not be considered as conscientious objectors.<sup>8</sup>

Law 3883/2010, article 78y amended Article 59 paragraph 3(a) of Law 3421/2005, to refer to "those who have served in arms for whatever length of time in the Greek or foreign armed forces or in the security forces after adopting the beliefs that prevent them from performing military service for reasons of conscience". This has in practice granted the possibility for recognition particularly to a number of persons who became Jehovah's Witnesses after returning to Greece, having done military service elsewhere, but also to others who became conscientious objectors between performing their military service and first being called up for reserve service.<sup>9</sup> Explicit provisions for exemption of reservists who have become conscientious objectors in the meantime have been also provided.<sup>10</sup>

#### *procedure*

CO applications must be made to the Ministry of Defence. According to the Article 59, paragraph 3 someone cannot be recognised as a conscientious objector if,

- a) he has been in armed service for whatever length of time in the Greek or foreign armed forces or in the security forces after adopting the beliefs that prevent him from performing military service for reasons of conscience;
- b) he has been condemned or he is prosecuted for a crime related to arms, ammunitions or illegal use of violence;
- c) he has ever held or petitioned for a firearms licence, or participates in individual or collective activities of shooting sports, hunting or similar activities directly related to the use of guns.

Consequently, among the documents required to be submitted together with the CO application,

<sup>8</sup> Article 59 paragraph 3(a) of Law 3421/2005

<sup>9</sup> European Bureau of Conscientious Objection ([www.ebco-beoc.org](http://www.ebco-beoc.org)), Report to the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament, *Conscientious Objection In Europe 2009/2010*, p27.

<sup>10</sup> Law 3883/2010, article 78 ιστ, adding paragraphs 3 and 4 to the article 65 of the law 3421/2005.

are:

- documents from the Police and the Forest Authority certifying that he has not petitioned for a firearm licence;
- a solemn statement that he has never been in armed service for any length of time in the Greek or foreign armed forces or in the security forces, and he does not participate in individual or collective activities of shooting sports, hunting or similar activities directly related to the use of guns, after adopting the beliefs that prevent him from performing military service for reasons of conscience;
- a solemn statement that he has not been prosecuted for a crime related to arms, ammunitions or illegal use of violence.

Article 62, paragraph 1, of Law No. 3421/2005 stipulates that a Special Committee, consisting of a member of the State's Legal Council, two university professors who are specialists in philosophy, psychology or social-political sciences, and two military officers - one of the recruitment service and one of the health service - appointed by the Minister of Defence will examine the applications.

According to the legislation<sup>11</sup> the Special Committee has a quorum when the members in attendance are more than the absent ones, which means when there are 3 members present, no matter which ones. This provides the possibility for a majority of military officers.

Decisions of the Committee need approval from the Ministry of Defence who may disagree and take a different decision.<sup>12</sup>

Applicants may be ordered for a personal interview with the committee, during which they need to prove their "*general perception of life, based on conscious religious, philosophical or moral convictions, implemented infrangibly by the person and expressed by holding a respective attitude*", as laid down in Article 59 paragraph 2 of Law 3421/2005.

Out of 19 of the applicants known to have been called to interview by the Committee between the beginning of the year 2013 and 23<sup>rd</sup> October of the same year, only two were interviewed by the full five-person committee with a majority of civilians. Seven were examined by four persons, with an equal number of civilians and military officers. Ten were examined by a Committee comprising a majority of military officers.<sup>13</sup>

While a distinction is not made in the legislation, in practice, baptised Jehovah's Witnesses who can provide the relevant documentation from their church are not called for interview, but recognised automatically. All other objectors, whether they are described as "religious" or "ideological" (i.e. basing their objection on "philosophical or moral convictions") are called for interview.<sup>14</sup>

According to the figures from the International Fellowship of Reconciliation, this trend continued in 2013. Whereas most "religious" objectors continued to be accepted without interview, of the nineteen interviews our local partners monitored – fourteen of "ideological" and five of "religious" objectors - only four of the "ideological" objectors were recommended for acceptance.<sup>15</sup>

If the applications are rejected:

- the person is called for military service at the next enlistment, or
- the person can appeal- directly to the Minister of Defence within 30 days or to the Council of State within 60 days.

*conscientious objection for professional soldiers*

Greece does not recognise the right to conscientious objection for professional soldiers.

The regulations for leaving the Armed Forces prematurely are presently not known.

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11 Ministerial decision Φ.420/79/81978/Σ.300 (Government's Gazette 1854b/2005), article 3, paragraph 2

12 Ministerial decision Φ.420/79/81978/Σ.300 (Government's Gazette 1854b/2005), article 3, paragraph 6

13 IFOR Submission

14 IFOR Submission

15 IFOR Submission

### 3 Draft evasion and desertion

According to Articles 51 to 54 of Law No. 3421/2005, those who evade compulsory military service are declared “insubordinates”. They are charged with insubordination, punished with an additional fine, and face multiple other administrative consequences.

According to the article 32 of the Military Penal Code, in peace time, insubordination is punishable by a sentence of up to 2 years imprisonment. (Note: the sentence can be suspended depending on someone’s criminal record and/or can be converted to a financial penalty – which is different from the fine).

In times of war, insubordination is punishable by a life sentence (but if it is deemed not to cause substantial harm to the military efforts of the country, it is punishable by a sentence of at least 2 years imprisonment).

Insubordination is considered to be an ongoing offence which continues until the person reports to the military authorities, is arrested, or reaches the age of 45. This means that for the purpose of the rules governing the power of arrest, it can be treated as a “recent” offence, (for which arrest is in all cases permitted until the end of the day following the commission of the offence). This practically means that an insubordinate can be arrested at any time.

Trials for insubordination take place in military courts, despite the civilian status of the defendants.<sup>16</sup>

Moreover, conviction and sentencing for insubordination *does not* discharge the requirement to perform military service.

Although the offence of insubordination comes to an end, along with the liability to perform military service, on the 31<sup>st</sup> December following the 45<sup>th</sup> birthday, prosecutions may still be brought for up to five years afterwards. And if the “offender” has been summoned to appear in court within that five years, the law extends the period for another three years. In such circumstances it is technically possible to be tried on charges of insubordination up to the age of 53.<sup>17</sup>

The additional fine has been set to 6,000 euros, for each period of insubordination.

Insubordinates also face several additional administrative consequences, including the following:

- They cannot receive a military certificate showing that they served in the army, which is a prerequisite for obtaining certain jobs;
- Those irrevocably convicted cannot vote or be elected;
- Those irrevocably convicted who pursue a professional career that requires a licence (such as medicine, law, etc.), they cannot get this licence; if they already possess such a licence, it is revoked;
- They cannot be employed as civil servants;
- They cannot leave the country or work on a ship that sails outside Greek waters;
- They cannot obtain a passport; if they already have one, it cannot be extended (unless they are officially recognised as insubordinates living abroad);

Once they complete their military service, or they are legally exempted or reach the age of 45, the previously mentioned administrative consequences are void, provided that they have also served their sentence<sup>18</sup>.

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16 The European Court of Human Rights, in the cases of Ercep v Turkey, Feti Demirtas v Turkey and Savda v Turkey, all concerning conscientious objectors, found that the trial before military courts of civilians was in violation of Article 6.1 (the right to fair trial) of the European Convention.

Furthermore, the Human Rights Committee in General Comment 32, paragraph 21, rules that: “*Trials of civilians by military or special courts should be exceptional, i.e. limited to cases where the State party can show that resorting to such trials is necessary and justified by objective and serious reasons, and where with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trials.*”

17 IFOR Submission

18 Research Directorate, Immigration and Refugee Board of Canada, Ottawa: Greece: Consequences of evading

According to art. 33 of the new Military Penal Code desertion inside the country, by a private is punishable:

- in peacetime by at least six months and up to 5 years' imprisonment. But should be punished by at least one year's imprisonment if he has taken an arm or a mean of transportation of the army, if he was on duty, or if he has been a deserter in the past.
- in wartime by life imprisonment (but the court, depending on the circumstances, can impose a sentence of at least 5 years imprisonment);

Desertion inside the country of an officer is punishable:

- in peacetime by at least one year's and up to 5 years' imprisonment
- in wartime by life imprisonment
- in periods of partial or prolonged general mobilisation, by at least 5 years' imprisonment (but the court depending on the circumstances can impose a sentence of at least 2 years' imprisonment)

According to art. 35, collective desertion after prior agreement of at least 3 persons is punishable in peacetime by a sentence of at least 2 years' and up to 10 years' imprisonment. But the person with the highest rank should be punished by at least 3 years' and up to 15 years' imprisonment.

According to art. 36, desertion and fleeing abroad is punishable:

- in peacetime by 2 to 10 years' imprisonment
- in wartime by life imprisonment.