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# GREECE: GIVE THOMAS KATSAROS A FAIR EXAMINATION OF HIS GROUNDS FOR CONSCIENTIOUS OBJECTION UNDER AN AMENDED LEGISLATIVE FRAMEWORK IN LINE WITH INTERNATIONAL LAW AND STANDARDS

Ahead of the hearing on 6 March 2023, before the Council of State, Greece's Supreme Administrative Court, of the case of Thomas Katsaros, whose application for the status of conscientious objector to military service has been rejected by the Minister of National Defence, **Amnesty International**, **Connection e.V.**, the **European Bureau for Conscientious Objection (EBCO)**, the **International Fellowship of Reconciliation (IFOR)** and **War Resisters' International (WRI)** call on the Greek authorities to annul the decision of rejection and grant him a fair examination of his grounds for conscientious objection under an amended legislative framework in line with international and regional human rights law and standards and the recommendations of domestic human rights bodies.<sup>1</sup>

Thomas Katsaros applied in May 2022 for conscientious objector status, requesting to instead perform the (punitive) alternative civilian service. His application was based on his *ideological* pacifist beliefs.

His application was rejected in August 2022 by the Minister of National Defence, after a recommendation by the special committee which has military participation, on the grounds that in their view from the submitted documentation "it is not inferred that the claimed conscientious grounds stem from a specific ideology, philosophical, religious or political", preventing him from fulfilling his military duties in arms.

Thomas Katsaros submitted an appeal to the Minister of National Defence in September 2022.

However, due to the delay in receiving a response for such appeal, and the risk to miss the deadline for judicial appeal, in November 2022 he also submitted a judicial appeal to the Council of State, the Supreme Administrative Court. Throughout the years, there is a pattern of delay of response of the Minister of National Defence to appeals of rejected applicants, which entails for claimants of conscientious objection a risk of missing the deadline for judicial appeal.

Thomas Katsaros's initial appeal was rejected by the same Minister of National Defence in January 2023, after a recommendation by a subsequent special committee which also has military participation in the panel.

The case of Thomas Katsaros illustrates two of the most problematic aspects of the legislation and practice concerning the right to conscientious objection in Greece: the lack of independence and impartiality of the procedures of

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<sup>1</sup> As of February 2023, the organizations know of at least five appeals that have been submitted to the Council of State by individuals whose applications for the status of conscientious objector to military service have been rejected by the Minister of National Defence. See also Greece: Give Charis Vasileiou and Nikolas Stefanidis a fair examination of their grounds of conscientious objection under an amended legislative framework in line with international law and standards, Joint Public Statement, Amnesty International, Connection e.V., the European Bureau for Conscientious Objection (EBCO), the International Fellowship of Reconciliation (IFOR) and War Resisters' International (WRI), 21 March 2022 (Index: EUR 25/5374/2022) available at: <http://bit.ly/3svKkGb>; also Greece: Withdraw Article 62 of the proposed reforms to Law 3421/2005 as it would further violate the rights of conscientious objectors, Amnesty International Greek Section, Press release, 28 December 2022, available at: <https://bit.ly/3IMGaoA>.

examination of applications for conscientious objector status, and the discrimination faced by certain groups of conscientious objectors on the basis of the nature of their beliefs.

The expert organisations authoring this statement have analysed the case of Thomas Katsaros, against the applicable national law and practice on the basis of international law and standards and the recommendation of international and domestic bodies. They have found that the inadequate procedure of examination of applications for recognition of conscientious objectors is resulting in violations of his human rights including the right to freedom of thought, conscience and religion. Furthermore, the unequal treatment of conscientious objectors on the basis of the nature of their beliefs grounded on conscience may give rise to a violation of Thomas Katsaros's right to equality before the law and equal protection under the law without any discrimination.

## **A. LEGISLATION AND PRACTICE IN GREECE**

The final decision on applications for granting conscientious objector status is taken exclusively by one person, the Minister of National Defence,<sup>2</sup> after a non-binding<sup>3</sup> recommendation of a five-member Special Committee consisting of a military officer, three university professors and one member of the State's Legal Council acting 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.<sup>4</sup>

In practice, the Committee does not summon baptised Jehovah's Witnesses having a certificate from their church, who are automatically granted conscientious objector status. This approach is the best practice according to OHCHR,<sup>5</sup> the Human Rights Council<sup>6</sup> and the only appropriate practice according to the European Parliament.<sup>7</sup> However, the Committee does not apply this to all conscientious objectors and summons those citing other religious grounds or ideological (non-religious) grounds for their conscientious objection. This differentiation has been considered by the Greek Ombudsman as "a standard practice of unequal treatment".<sup>8</sup>

According to official figures, in 2021 the percentage of recognition by the Minister of National Defence of conscientious objectors invoking religious grounds was 99% while the percentage of recognition of conscientious objectors invoking ideological grounds was 0%.<sup>9</sup> The considerable difference between the grounds to grant conscientious objector status raises concerns over the state's duty not to discriminate between conscientious objectors on the basis of the nature of their particular beliefs.

While a person whose application has been rejected has a right to appeal to the Minister of National Defence to change the decision, in practice, the appeal is examined by the same Committee, which recommends again to the Minister. Another possibility for appeal is to the Council of State, that is the Supreme Administrative Court.

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2 Law 3421/2005, Article 62 para.1

3 According to the decision of the Minister of National Defence No Φ.420/79/81978/Σ.300 (Government's Gazette B 1854/2005), Article 3, paragraph 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.

4 Law 3421/2005, article 62 para. 2 as amended by Article 23 of Law 4609/2019.

5 OHCHR, 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. 34. Available at: <http://undocs.org/A/HRC/35/4>

See also A/HRC/23/22, para. 48 and E/CN.4/2006/51, para. 36.

6 UN Human Rights Council, Resolution 24/17 (A/HRC/RES/24/17), 8 October 2013, para. 7. Available at <http://undocs.org/A/HRC/RES/24/17>

7 European Parliament, Resolution on conscientious objection and alternative service, (A3-15/89), [known as Schmidbauer Resolution], 13 October 1989, as published in the Official Journal of the European Communities C291, 20 November 1989, para. A (page 123) and para. 4 (page 124). See also European Parliament, Resolution on conscientious objection, (1-546/82), [known as Macciocchi Resolution], 7 February 1983, as published in the Official Journal of the European Communities C 68, 14 March 1983, para. 3 (page 15).

8 Ombudsman, Special Report 2013, "Combating discrimination", p. 110. Available in Greek at:

<https://www.synigoros.gr/resources/docs/10-diakriseis.pdf>

9 See:

[https://enalakiki.files.wordpress.com/2022/05/cea3cf84ceb1cf84ceb9cf83cf84ceb9cebaceac\\_ce91cebdcceb1ceb3cebdcf8ecf81ceb9cf83ceb7cf82\\_2012-2021.pdf](https://enalakiki.files.wordpress.com/2022/05/cea3cf84ceb1cf84ceb9cf83cf84ceb9cebaceac_ce91cebdcceb1ceb3cebdcf8ecf81ceb9cf83ceb7cf82_2012-2021.pdf)

## B. PROCEDURES AND COMPOSITION OF THE BODY RESPONSIBLE FOR ASSESSING THE APPLICATIONS

### International standards and recommendations of international bodies:

- The **Parliamentary Assembly of the Council of Europe**, has set specific basic principles as for the procedure: Where the decision regarding the recognition of the right of conscientious objection is taken in the first instance by an administrative authority, the decision-taking body shall be entirely separate from the military authorities and its composition shall guarantee maximum independence and impartiality; the decision shall be subject to control by at least one other administrative body, composed likewise in the manner prescribed above, and subsequently to the control of at least one independent judicial body; it should be ensured that objections and judicial appeals have the effect of suspending the armed service call-up order until the decision regarding the claim has been rendered; applicants should be granted a hearing and should also be entitled to be represented and to call relevant witnesses.<sup>10</sup>
- The then **UN Special Rapporteur on religious intolerance**, since many years had set the relevant standards: “The decision concerning their status should be made, when possible, by an impartial tribunal set up for that purpose or by a regular civilian court, with the application of all the legal safeguards provided for in international human rights instruments. There should always be a right to appeal to an independent, civilian judicial body. The decision-making body should be entirely separate from the military authorities and the conscientious objector should be granted a hearing, and be entitled to legal representation and to call relevant witnesses.”<sup>11</sup> The same standards continue to be cited by the **UN Special Rapporteur on freedom of religion or belief** as named now<sup>12</sup> and the **Office of the United Nations High Commissioner for Human Rights (OHCHR)**.<sup>13</sup>
- The **OHCHR** has determined that “Independent and impartial decision-making bodies should determine whether a conscientious objection to military service is genuinely held in a specific case. Such bodies should be placed under the full control of civilian authorities”.<sup>14</sup> In the same report, the **OHCHR** has set up several minimum criteria so that application procedures are in line with international human rights norms and standards.<sup>15</sup> The **OHCHR** has also cited acceptance of applications without inquiry as a best practice.<sup>16</sup>
- Already since 1998, the then **UN Commission on Human Rights** has welcomed the fact that some States accept claims of conscientious objection as valid without inquiry.<sup>17</sup> The same has been repeated by its successor, the **UN Human Rights Council**.<sup>18</sup>
- The **European Parliament** has repeatedly pointed out that “no court or commission can penetrate the conscience of an individual” and has favoured the position that a declaration setting out the grounds should suffice for somebody to be recognized as a conscientious objector.<sup>19</sup>

### Recommendations of international and Greek bodies specifically to Greece

Greece has received numerous recommendations, even after the amendment of the legislation in 2019, which reduced the number of military officers in the special committee from two to one.<sup>20</sup>

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10 Council of Europe, Parliamentary Assembly, Right of conscientious objection, paras. b2, b3, b4 and b5, available at: <http://bit.ly/3IMx8I7>

11 Report submitted by Mr. Angelo Vidal d Almeida Ribeiro, Special Rapporteur appointed in accordance with Commission on Human Rights resolution 1986/20 of 10 March 1986 (E/CN.4/1992/52), 18 December 1991, para. 185. Available at: <https://bit.ly/3Lb2pn>

12 A/HRC/6/5, para. 22, available at: <https://undocs.org/A/HRC/6/5>, A/HRC/19/60/Add.1, para. 56, available at:

<https://undocs.org/A/HRC/19/60/Add.1>, A/HRC/22/51/Add.1, para. 69, available at: <https://undocs.org/A/HRC/22/51/Add.1>

13 OHCHR, 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. 17. Available at: <http://undocs.org/A/HRC/35/4>

14 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, (A/HRC/41/23), 24 May 2019, para. 60 (g). Available at: <https://undocs.org/A/HRC/41/23>

15 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, (A/HRC/41/23), 24 May 2019, pp. 14 and 15. Available at: <https://undocs.org/A/HRC/41/23>

16 OHCHR, 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. 34. Available at: <http://undocs.org/A/HRC/35/4>

See also A/HRC/23/22, para. 48 and E/CN.4/2006/51, para. 36.

17 UN Commission on Human Rights, Resolution 1998/77, Conscientious objection to military service, 22 April 1998, (E/CN.4/RES/1998/77), para. 2.

18 UN Human Rights Council, Resolution 24/17 (A/HRC/RES/24/17), 8 October 2013, para. 7. Available at <http://undocs.org/A/HRC/RES/24/17>

19 European Parliament, Resolution on conscientious objection, (1-546/82), [known as Macciocchi Resolution], 7 February 1983, as published in the Official Journal of the European Communities C 68, 14 March 1983, para. 3 (page 15). See also European Parliament, Resolution on conscientious objection and alternative service, (A3-15/89), [known as Schmidbauer Resolution], 13 October 1989, as published in the Official Journal of the European Communities C291, 20 November 1989, para. A (page 123) and para. 4 (page 124).

20 Law 4609/2019, art. 23 amending para. 1 of article 62 of Law 3421/2005.

- The **European Court of Human Rights**, in the Papavasiliakis' case<sup>21</sup>, condemned Greece for violation of Article 9 of the European Convention of Human Rights (concerning the freedom of thought, conscience and religion). The Court stressed that the independence of the members of the competent body constitutes one of the fundamental conditions for the effectiveness of the examination of a case of a conscientious objector. The Court highlighted that the special committee had examined the case of the claimant in the presence of three – out of a total of five – members, with two of them being military officers, which resulted in the military being the majority. It has also pointed out that in this case, the fact that the final decision has been taken by the Minister of National Defence does not afford the requisite guarantees of impartiality and independence.
- The **UN Human Rights Committee** in 2005 had expressed its concern for the fact that the examination of applications was solely under the control of the Ministry of Defence, and had recommended Greece to consider placing the assessment of applications for conscientious objector status under the control of civilian authorities.<sup>22</sup> The Committee, indirectly but clearly, found that the Ministry of National Defence is not a civilian authority, and has expressed similar positions in the case of Russia too.<sup>23</sup> Ten years later, it expressed its concerns, about, among other things, “the composition of the Special Committee and its reported lack of independence and impartiality”, and recommended Greece to “consider placing the assessment of applications for conscientious objector status under the full control of civilian authorities”.<sup>24</sup> Furthermore, in its recent views on the *Petromelidis v. Greece* case, the Committee has reiterated that Greece “should review its legislation with a view to ensuring the effective guarantee of the right to conscientious objection under article 18 (1) of the Covenant”.<sup>25</sup>
- The **Commissioner for Human Rights of the Council of Europe** has explicitly recommended to Greece the “transfer of administrative responsibilities as regards granting conscientious objector status from the Ministry of Defence to an independent civilian department”.<sup>26</sup>
- The **UN Special Rapporteur on freedom of religion or belief**, since 2006, has adopted and stressed the recommendations of the UN Human Rights Committee to Greece, to consider placing the assessment of applications for conscientious objector status under the control of civilian authorities.<sup>27</sup> In 2016, the UN Special Rapporteur highlighted the case of a rejected applicant, asked for him to be examined by an independent and impartial body, repeated the recommendations of the Human Rights Committee and urged the Greek authorities “that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations”.<sup>28</sup> In July 2019, after the amendment of the legislation which reduced the number of military members in the special committee, the UN Special Rapporteur referred to the “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”. The Rapporteur also noted that “The assessment procedure remains unchanged”, and referred to the recommendations of the Human Rights Committee, pointing out that “the assessment of applications for conscientious objector status should be within the jurisdiction of civilian authorities”.<sup>29</sup>

21 European Court of Human Rights, Case of Papavasiliakis v. Greece, (66899/14), 15 September 2016. Available at: <http://bit.ly/3ZqWWiC>

22 UN Human Rights Committee, Concluding observations on the initial report of Greece, (CCPR/CO/83/GRC), 25 April 2005, para. 15. Available at: <https://bit.ly/41sJQT1>

23 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.

Available at: <http://bit.ly/3J8fYF1>

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

Available at <http://undocs.org/CCPR/C/GRC/CO/2>

25 UN 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. 11.

26 Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to the Hellenic Republic, 2-5 June 2002, available at: <https://bit.ly/3ZhrWlx>, para. 18.

27 UN Economic and Social Council, Commission on human rights, Civil and political rights, including the question of religious intolerance, Addendum, Summary of cases transmitted to Governments and replies received, E/CN.4/2006/5/Add.1, 27 March 2006, para. 139. Available at: <http://undocs.org/E/CN.4/2006/5/Add.1>

28 UN Special Rapporteur on freedom of religion or belief, Communication GRC 3/2016, 31 October 2016.

29 UN Special Rapporteur on freedom of religion or belief, Communication GRC 3/2019, 11 July 2019.

- The UN **Office of the High Commissioner for Human Rights (OHCHR)** in 2017 has highlighted the concerns and recommendations of the Human Rights Committee, and the ECtHR judgement.<sup>30</sup> In 2019, the **OHCHR** has explicitly stated about the bill (law 4609/2019) that it “remains problematic, given that, despite the new composition of the five-membered special committee with the inclusion of only one military officer (rather than of two), the assessment of applications for conscientious objections status is still not under the full control of civilian authorities”.<sup>31</sup>
- The Greek **Ombudsman** has stated: “The 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”.<sup>32</sup>
- The **Greek National Commission for Human Rights** has repeatedly recommended: “The competent 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>33</sup> In 2019, commenting on the bill (now law 4609/2019), the **GNCHR**, explicitly stated that despite the reduction of the military officers the bill does not fully comply with the recommendations of monitoring bodies such as the Human Rights Committee, the UN Special Rapporteur on freedom of religion or belief and the Commissioner for Human Rights of the Council of Europe.<sup>34</sup> In 2021, in its submission for the 3<sup>rd</sup> Cycle of UPR, the **GNCHR** has reiterated that “The assessment of applications for conscientious objector status is still not placed under the full control of civilian authorities”.<sup>35</sup>

#### Breaches:

The expert organizations authoring this statement conclude that because of the inadequate procedure of examination of applications for recognition of conscientious objectors, there is a violation of the right to freedom of thought, conscience, religion and belief, as set out in Article 18 of the ICCPR, as well as Article 9 of the ECHR.

The current legislation on the examination of applications for alternative service continues to be in contravention of the recommendations of the UN Human Rights Committee by not requiring the new Special Committee to be wholly civilian and ensuring that the decision of granting conscientious objector status is not made by the Minister of Defence.<sup>36</sup>

### **C. DISCRIMINATION BASED ON DIFFERENT GROUNDS OF OBJECTION**

#### International standards and recommendations of international bodies:

- The **OHCHR** has compiled the minimum criteria in order for the procedures for conscientious objector status to be in line with international human rights law and standards. Among them, there is the requirement for: “Non-discrimination on the basis of the grounds for conscientious objection and between groups. Alternative service

30 OHCHR, 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. 53. Available at: <http://undocs.org/A/HRC/35/4>

31 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, (A/HRC/41/23), 24 May 2019, para. 41. Available at: <https://undocs.org/A/HRC/41/23>

32 Greek Ombudsman, Special Report 2013, “Combatting discrimination”, Chapter “Discrimination on the basis of religious or other beliefs”, para. “Examination of applications for the recognitions of conscientious objectors”, p. 110 (in Greek). Available at: <https://www.synigoros.gr/resources/docs/10-diakriseis.pdf>

33 Observations of the Greek National Commission for Human Rights (GNCHR) on Article 12 of Draft Law of the Ministry of National Defence, “Regulation of issues relating to transfers of soldiers, care of personnel and other provisions” (Conscientious Objectors) (20.1.2016), p. 5, para. 4, (in Greek). Available at: [https://www.nchr.gr/images/pdf/apofaseis/antiriesies\\_suneidisis/EEDA%20SxN\\_Antiriesies%20syneidisis\\_2016.pdf](https://www.nchr.gr/images/pdf/apofaseis/antiriesies_suneidisis/EEDA%20SxN_Antiriesies%20syneidisis_2016.pdf). Also, GNCHR, Submission to the quadrennial analytical report 2017 on conscientious objection to military service of the UN High Commissioner of Human Rights (February 2017), p. 8. Available at:

[http://www.nchr.gr/images/pdf/apofaseis/antiriesies\\_suneidisis/Submission%20of%20the%20GNCHR%20to%20the%20quadrennial%20analytical%20report%202017.pdf](http://www.nchr.gr/images/pdf/apofaseis/antiriesies_suneidisis/Submission%20of%20the%20GNCHR%20to%20the%20quadrennial%20analytical%20report%202017.pdf). From GNCHR also in Greek: Proposals for the institution of alternative civilian social service (2001), para. 7. Available at: [http://www.nchr.gr/images/pdf/apofaseis/antiriesies\\_suneidisis/enallaktiki\\_politiki-koinwniki\\_ypiresia2001.pdf](http://www.nchr.gr/images/pdf/apofaseis/antiriesies_suneidisis/enallaktiki_politiki-koinwniki_ypiresia2001.pdf); and Observations on the draft of the Second Periodic Review of the Hellenic Republic on the International Covenant on Civil and Political Rights (ICCPR), 5 December 2013, p. 56. Available at: [http://www.nchr.gr/images/pdf/apofaseis/antiriesies\\_suneidisis/enallaktiki\\_politiki-koinwniki\\_ypiresia2001.pdf](http://www.nchr.gr/images/pdf/apofaseis/antiriesies_suneidisis/enallaktiki_politiki-koinwniki_ypiresia2001.pdf)

34 GNCHR, Observations on articles 18, 21 and 22 of Draft Law of Ministry of National Defence “Provisions for the Care of Armed Forces Personnel”, 19 March 2019, p. 6 (in Greek). Available at:

[https://www.nchr.gr/images/pdf/apofaseis/antiriesies\\_suneidisis/EEDA\\_paratiriesies\\_SxN\\_Antiriesies%20syneidisis\\_2019.pdf](https://www.nchr.gr/images/pdf/apofaseis/antiriesies_suneidisis/EEDA_paratiriesies_SxN_Antiriesies%20syneidisis_2019.pdf)

35 GNCHR, Stakeholder Report to the Universal Periodic Review (UPR) of Greece, UN Human Rights Council, 39th session, March 2021, para. 19. Available at: [https://www.nchr.gr/images/English\\_Site/EllinikesEktheseis/GNCHR\\_UPR\\_Stakeholder\\_Report\\_2021\\_Final.pdf](https://www.nchr.gr/images/English_Site/EllinikesEktheseis/GNCHR_UPR_Stakeholder_Report_2021_Final.pdf)

36 See 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: EUR 25/0088/2019). Available at: <https://www.amnesty.org/en/documents/eur25/0088/2019/en/>

arrangements should be accessible to all conscientious objectors without discrimination as to the nature of their religious or non-religious beliefs; there should be no discrimination between groups of conscientious objectors.”<sup>37</sup>

- The **Human Rights Committee**, in its General Comment 22, has stated that “there shall be no differentiation among conscientious objectors on the basis of the nature of their particular beliefs”.<sup>38</sup> Subsequently, the Committee, in the context of its concluding observations, has consistently advocated for recognition of “the right to conscientious objection to military service without discrimination as to the nature of the beliefs (religious or non-religious beliefs grounded in conscience) justifying the objection”,<sup>39</sup> or “without limitation on the category of conscientiously held beliefs”,<sup>40</sup> and has expressed concerns “about the limiting of conscientious objection to military service only to members of registered religious organizations whose teaching prohibits the use of arms”.<sup>41</sup>
- The **Human Rights Council** has reminded states of “the requirement not to discriminate between conscientious objectors on the basis of the nature of their particular beliefs”.<sup>42</sup>

#### Recommendations of international and Greek human rights bodies specifically to Greece

- The **Human Rights Committee**, specifically in the case of Greece, has expressed concerns about “reports indicating discrimination on the basis of different grounds of objection to service” and has recommended that the alternative service should be “accessible to all conscientious objectors”.<sup>43</sup> The Committee has recently referred to its previous concluding observations in the “List of issues prior to submission of the third periodic report of Greece” and asked Greece to “report on the measures taken to provide **all** conscientious objectors with an alternative to military service” (emphasis added).<sup>44</sup>
- In the context of the **Second Cycle of Human Rights Council’s Universal Periodic Review (UPR)**, Greece received a recommendation asking *inter alia* for the alternative service to be “accessible to all conscientious objectors”.<sup>45</sup> Greece did not accept the recommendation.<sup>46</sup> In the context of the **Third Cycle of Human Rights Council’s Universal Periodic Review (UPR)**, Greece received a similar recommendation asking *inter alia* for “an alternative service to military service to which all conscientious objectors have access to”.<sup>47</sup> Greece accepted the recommendation this time, which is yet to be implemented.<sup>48</sup>
- The **OHCHR** has highlighted both the Human Rights Committee’s concerns<sup>49</sup> as well those of the Greek Ombudsman (see below) and the fact that Greece has rejected the recommendations about conscientious objectors in the context of UPR.<sup>50</sup>

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37 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, (A/HRC/41/23), 24 May 2019, para. 60 (e). Available at: <https://undocs.org/A/HRC/41/23>

See also: 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. 64. Available at: <http://undocs.org/A/HRC/35/4>

38 Human Rights Committee General Comment No. 22 (CCPR/C/21/Rev.1/Add.4), 27 September 1993, ‘The right to freedom of thought, conscience and religion or belief (Art. 18)’, para. 11. Available at: <https://undocs.org/CCPR/C/21/Rev.1/Add.4>

39 E.g. UN Human Rights Committee, Concluding observations on the fifth periodic report of Belarus, (CCPR/C/BLR/CO/5), 22 November 2018, paras. 47-48. Available at: <http://undocs.org/CCPR/C/BLR/CO/5>

See also: UN Human Rights Committee, Concluding observations on the seventh periodic report of Ukraine, (CCPR/C/UKR/CO/7), 22 August 2013, para. 19. Available at: <https://undocs.org/CCPR/C/UKR/CO/7>

40 UN Human Rights Committee, Concluding observations on the fourth periodic report of Azerbaijan, (CCPR/C/AZE/CO/4), 16 November 2016, paras. 34-35. Available at: <http://undocs.org/CCPR/C/AZE/CO/4>

41 UN Human Rights Committee, Concluding observations on the second periodic report of Kyrgyzstan, (CCPR/C/KGZ/CO/2), 23 April 2014, para. 23. Available at: <http://undocs.org/CCPR/C/KGZ/CO/2>

42 Human Rights Council resolution 24/17 (A/HRC/RES/24/17), 27 September 2013, para. 8. Available at: <https://undocs.org/A/HRC/RES/24/17>

43 UN Human Rights Committee, Concluding observations on the second periodic report of Greece, 3 December 2015, (CCPR/C/GRC/CO/2), paras. 37-38. Available at <http://undocs.org/CCPR/C/GRC/CO/2>

44 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. Available at: [undocs.org/CCPR/C/GRC/QPR/3](http://undocs.org/CCPR/C/GRC/QPR/3).

45 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).

46 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/33/7/Add.1), 2 September 2016, p. 3.

47 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).

48 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.

49 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, (A/HRC/41/23), 24 May 2019, para. 29. Available at: <https://undocs.org/A/HRC/41/23>

50 OHCHR, 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. 53. Available at: <http://undocs.org/A/HRC/35/4>

- In 2016, the **UN Special Rapporteur on freedom of religion or belief**, referred to information received that the special committee “repeatedly rejects applicants who do not belong to the Jehova[h]’s Witnesses denomination”.<sup>51</sup> In 2019, the UN Special Rapporteur referred to the concerns of the Human Rights Committee, stating that the recognition of the status of conscientious objector should not be executed in a discriminatory manner based on different application grounds.<sup>52</sup>
- The Greek **Ombudsman** has referred to “a continuous practice of unequal treatment: while for the so called “religious” objectors the committee is satisfied by the submission of the certificate of the relevant religious community and do not even summon them to an interview, the so called “ideological” objectors are often required to answer to questions concerning sensitive personal data, as for example the affiliation to a specific political tendency (cases 165151, 167596, 168243/2013).”<sup>53</sup>

Breaches:

The expert organizations authoring this statement conclude that unequal treatment of conscientious objectors on the basis of the nature of their beliefs is a form of discrimination that constitutes a violation of Article 26 of the ICCPR, that entitles all persons to equality before the law and equal protection of the law without any discrimination.

## D. RECOMMENDATIONS

Amnesty International, Connection e.V, the European Bureau for Conscientious Objection, the International Fellowship of Reconciliation and War Resisters’ International make the following recommendations to the Greek authorities:

- **Annul the ministerial decision of rejection of the application of Thomas Katsaros and other similar cases of conscientious objectors claiming their rights and grant them a right to a fair examination of their grounds for conscientious objection protected and upheld under an amended legislative framework in line with international and regional human rights law and standards and the recommendations of domestic human rights bodies.**
- **Transfer the procedure of examination of applications for conscientious objector status under the full control of civilian authorities (i.e. to be transferred entirely away from the Ministry of National Defence) by a panel with a wholly civilian composition. The procedure should be conducted without delay and in a way that guarantees maximum independence and impartiality.**
- **Accept claims of conscientious objection as valid without inquiry, in accordance with the best practice set out by UN and regional bodies.**
- **Take immediate action in addition to the above to ensure compliance with the requirement not to discriminate between conscientious objectors on the basis of the nature of their particular beliefs.**

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<sup>51</sup> UN Special Rapporteur on freedom of religion or belief, Communication GRC 3/2016, 31 October 2016, p. 2.

<sup>52</sup> UN Special Rapporteur on freedom of religion or belief, Communication GRC 3/2019, 11 July 2019, p. 5.

<sup>53</sup> Greek Ombudsman, Special Report 2013, “Combatting discrimination”, Chapter “Discrimination on the basis of religious or other beliefs”, para. “Examination of applications for the recognitions of conscientious objectors”, p. 110 (in Greek). Available at: <https://www.synigoros.gr/resources/docs/10-diakriseis.pdf>