



# **Conscience and Peace Tax International**

**Internacional de Conciencia e Impuestos para la Paz**

NGO in Special Consultative Status with the Economic and Social Council of the UN

International non-profit organization (Belgium 15.075/96)

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**UPR SUBMISSION**

**CYPRUS**

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## **Executive summary:**

**CPTI (Conscience and Peace Tax International) is disturbed that the provisions concerning conscientious objection to military service in Cyprus fall short of the established international standards, particularly as expounded in General Comment 22 of the Human Rights Committee and in Resolution 1998/77 and subsequent resolutions of the Commission on Human Rights.**

**Particular aspects of concern are:**

**that the relevant arrangements are not under civilian control**

**that the stipulated duration of alternative service for conscientious objectors is punitive by comparison with that of military service, and there are doubts as to whether a non-military alternative (as opposed to unarmed military service) has ever been instituted in practice.**

**that conscientious objectors are not released from the requirement to perform military reserve service.**

**CPTI notes with even graver concern that the unrecognised administration in the**

**self-styled “Turkish Republic of Northern Cyprus” enforces conscription into military service with no provision for conscientious objection.**

**Finally, CPTI is concerned that military recruitment procedures in both parts of the island may not be adequate to prevent the deployment of persons under 18 in armed conflict.**

1. This submission was prepared in April 2009, and the information herein was believed to be accurate at the time of writing.

Obligatory Military service in the Republic of Cyprus

2. Obligatory military service for all males from the age of 18, and with reserve duties up to the age of 50, was instituted in the National Guard Law (No 20/1964) which has subsequently been amended on a number of occasions.

3. The amended National Guard Law of 9<sup>th</sup> January 1992 contained the first provisions concerning conscientious objectors to military service. It set obligatory military service at 26 months, but allowed for unarmed military service within the armed forces of 36 months and “unarmed military service outside the armed forces” (sic) of 42 months.<sup>1</sup>

4. In June 2007, the National Guard Law was amended to reduce the duration of military service to 25 months, and the duration of the “unarmed military service outside the armed forces” to 34 months. At the same time, the exemptions from military service which had been granted to all members of the Armenian Orthodox, Latin (ie. Roman Catholic) and Maronite churches were abolished.<sup>2</sup> The very few Turkish Cypriots still living in the area under Government control are not called upon to perform military service, but are liable to conscription if they cross into the area under the control of the “Turkish Republic of Northern Cyprus”. (See Para. 11 below).

5. A proposal to further reduce the length of military service from 25 months to 19 months was rejected by Cyprus’s Council of Ministers in March 2009.<sup>3</sup> It is not known what the effect on the length of alternative service would have been.

6. The discrepancy in duration between armed military service and the alternative offered has been repeatedly criticised by the European Committee of Social Rights as a probable violation of the Article 1.2 of the European Social Charter (“to protect effectively the right of the worker to earn his living in an occupation freely entered upon”),<sup>4</sup> Although this discrepancy has now been somewhat reduced, it would still appear to be punitively discriminatory.

7. There is moreover considerable scope for concern that anything described as “unarmed military service outside the armed forces” may not in practice be a truly civilian option, compatible in all cases with the reasons for conscientious objection.<sup>5</sup> Doubts on this score were expressed in a Council of Europe report in 2001<sup>6</sup> In fact, in 2003, the Jehovah’s Witnesses, who had been successfully obtaining recognition as conscientious objectors, reported that the provisions establishing alternative service outside the armed forces had not yet been implemented. It seems that since 1999 Jehovah’s Witnesses refusing to perform unarmed military service have been exempted subject to an obligation to perform the service outside the armed forces when this is instituted.<sup>7</sup> CPTI’s contacts within Cyprus have subsequently continued

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<sup>1</sup> Stolwijk , M., The Right to Conscientious Objection in Europe: A Review of the Current Situation, (Quaker Council on European Affairs, Brussels, 2005), p21.

<sup>2</sup> US Department of State, Country Reports on Human Rights Practices, 2008: Cyprus , 25<sup>th</sup> Feb. 2009.

<sup>3</sup> War Resisters International, CO Update No 46, April 2009.

<sup>4</sup> See Council of Europe, European Committee of Social Rights, Conclusions 2008 Vol 1.

<sup>5</sup> See Commission on Human Rights , Resolution 1998/77, OP4.

<sup>6</sup> “Exercise of the right of conscientious objection to military service in Council of Europe member states”, Report of the Committee on Legal Affairs and Human Rights to the meeting of the Standing Committee of the Parliamentary Assembly of the Council of Europe in Istanbul, 22<sup>nd</sup> and 23<sup>rd</sup> March, 2001 (Document 8809, revised 4 May, 2001).

<sup>7</sup> Evidence submitted by the General Counsel of the Jehovah’s Witnesses to the OHCHR for its report on “best practices” in the field of conscientious objection to military service, 1<sup>st</sup> August 2003.

to report no evidence that any conscientious objector has in practice been called up to perform alternative service outside the armed forces.

8. The former exemptions from military service for members of the recognised minority religious denominations do not seem to have been related to conscientious objection. As noted in the previous paragraph, Jehovah's Witnesses, who did not benefit from a group exemption, have been successful in applying individually for recognition as conscientious objectors.

9. An application for recognition as a conscientious objector must be submitted to the Ministry of Defence. This cannot constitute an "independent and impartial decision-making body, as envisaged by the Commission on Human Rights in Resolution 1998/77 (OP3).

10. The National Guard Law does not provide for persons liable to military reserve service to declare themselves as conscientious objectors. In 2002 five Jehovah's Witnesses, some of whom had failed to establish conscientious objector status at an earlier date when this was harder, but some of whom had been converted subsequent to performing their military service, went on trial for refusing call up to reservist training. The trial was suspended in November 2002 pending a rationalisation of the provisions in the National Service Act, but there are no reports that this has yet happened.

#### The "Turkish Republic of Northern Cyprus"

11. Provision for conscription was made in Article 74 of the Constitution of the Turkish Republic of Northern Cyprus (TRNC). The arrangements are currently regulated by the Military Service Law (No. 59/2000), which stipulates that all men aged between 19 and 30 are liable to fifteen months<sup>8</sup> service in the "Security Forces" (GKK)<sup>9</sup> - reduced to 12 months for University graduates. In theory, this obligation extends to all those who are considered to be entitled by descent to citizenship of the TRNC, whether or not resident.

12. There is no provision for conscientious objectors to be excused this service or to substitute a service of a civilian nature.<sup>10</sup> In the absence of any procedures for dealing with conscientious objectors, only one conscript is known to have openly declared his refusal to serve on the grounds of conscientious objection, Salih Askeroglu, who was sentenced to 39 months' imprisonment in 1993, but was subsequently released, apparently on condition that he did nothing to further publicise his case.<sup>11</sup> It is however reported that many conscientious objectors take care to remain outside the country, returning only when able to take advantage of periodic amnesties for those who have avoided military service.

13. In December 2007, a movement was founded within TRNC to press for an amendment to Article 74 of the Constitution to incorporate an explicit acknowledgment of the right of conscientious objection to military service.

<sup>8</sup> At an earlier date the service had been of 24 months.

<sup>9</sup> Although under Turkish military command, the GKK is completely separate from the Turkish Army itself, which has approximately 40,000 personnel stationed in Cyprus.

<sup>10</sup> Murat Kanatli, "Cyprus (I)", in *The Right to Refuse to Kill, September 2006* (European Bureau on Conscientious Objection, Brussels), p.10

<sup>11</sup> Horeman, B. & Stolwijk, M. *Refusing to Bear Arms* (War Resisters International, London, 1998)

### Recruitment of persons aged under 18

14. It would appear that in both the Republic of Cyprus and the unrecognised “Turkish Republic of Northern Cyprus” it is possible, subject to parental consent, for persons aged 17 to volunteer for military service.<sup>12</sup> The Committee on the Rights of the Child, in its concluding observations on Cyprus stated that it was “concerned that under-18s may be deployed since no distinction is made between the age for recruitment and deployment”, and called upon the State party to take measures to ensure that this was not possible.<sup>13</sup> This concern would appear to be valid for both parts of the island.

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<sup>12</sup> Coalition to Stop the Use of Child Soldiers, Child Soldiers Global Report 2008 , p.126.

<sup>13</sup> CRC/C/15/Add.205, 3<sup>rd</sup>. July 2003, paras. 57-58.