

HELLENIC REPUBLIC
THE HOLY SYNOD OF THE CHURCH OF GREECE
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ATHENS, 27 March 2001

To:
His Excellency
Mr. Apostolos Kaklamanis
President of the Greek Parliament
Local

Your Excellency Mr. President,

The Holy Synod during its Meeting of March 7th, examined the matter of securing, as an individual right, the exemption from military service of the so-called “conscientious objector”, by introducing a relative decree to the Constitution foreseeing in exempting from military service all those who claim the so-called reasons of conscience, and felt it was necessary to bring to the attention of your Excellency, and through you to the Honorable Members of the Revision Committee of the Constitution, as well as the entire Greek Parliament the existing mainly jurisprudential facts, (and of the European Court and the European Committee on Human Rights), that unconditionally and irrevocably establish that this individual right does not exist, is not recognized, and not fixed anywhere. Not by a decree of an International Convention, nor by a decree of domestic law, nor has it been acknowledged in such cases either by the European Court, or by the European Committee on Human Rights. On the contrary, the above mentioned European jurisdiction agencies have repeatedly endorsed that:

a. The individual right of the so-called “conscientious objector” to be exempted from the military service does not exist, is not recognized, and not in any case fixed.

b. It is appropriate for the European States to not establish or recognize this right.

c. The European States have the possibility to

establish penalties for those who refuse military service.

d. Any by chance recognition of that right would be considered as a violation of the principle of equality, since it would acknowledge as more privileged one class of citizens over the other. Following, we cite the in question decisions of the European Committee and the European Court of Human Rights concerning those critical extracts –in Greek and in the original– and we are always at your disposal to provide you with the complete original texts of the decisions:

1. Decision of the European Committee of Human Rights No 10640/83 of 9.5.1984, *Decisions et rapports* (Dr) vol. 38 p. 219 endorses the conviction of a Swiss objector declaring that the right of a “conscientious objector” to be exempt from the military service does not exist, but the European States are not obligated to acknowledge this (“il en resulte que la Convention n’ accorde pas aux objecteurs de conscience le droit d’ etre exemptes du service militaire, mais laisse a chaque etat contractant le soin de decider, si il vaut ou non reconnaitre un tel droit. Des lors ni la peine prononcee contre le requerant pour refus du service ni le fait que la condamnation penale n’ a pas ete assortie de surcis ne peuvent constituer une violation de l’ article 9 de la Convention”), declaring further, –as ascertained–, that the conviction and the penalty served on the objector for denying military service does not violate the European Convention of Human Rights, nor does it violate the in question Convention because the penalty was not given with a reprieve of execution.

2. Exactly the same thing is accepted by the decision of the European Committee of Human Rights No 10410/83 of 11.10.1984 (DR 40 p. 203), and in addition it qualifies that if only certain

citizens are excepted from military service, it will become a matter of discrimination against their other co-citizens (“ci certains cioyens etaient exemtes sans motif valable, il se poserait une question de discrimination a l’ encontre de leurs concitoyens”).

3. Likewise the same thing is accepted by the decision of the European Committee on Human Rights No 7675/76 (DR 9 p. 117), namely that article 9 of the European Convention on Human Rights does not impose on the European nations, the obligation to recognize the conscientious objectors (“elle a constate que l’ article 9 de la Convenyion... N’ impose aux etats l’ obligation de reconnaitre les objecteurs de conscience”).

4. Also the 2.4.73 decision of the European Committee on Human Rights (in the Recueil des decisions 43, p. 161) states that article 9 of the European Convention on Human Rights, as qualified by article 4(3) (b), does not impose on a State the obligation to recognize conscientious objectors, which implies that those articles do not prevent a State (which has not recognized conscientious objectors) from punishing those who refuse to do military service”. Art. 9 as qualified by article 4(3) (b), of the Convention does not impose on a state the obligation to recognize conscientious objectors... it follows that these articles do not prevent a state which has not recognized conscientious objectors from punishing those who refuse to do military service”).

5. Likewise decision No. 2299/64 of the Committee of Ministers of the Council of Europe functioning as a court during a reference by the European Court on Human Rights (Annuaire de la convention des droits de l’ homme, 10 p. 628) declines an appeal of the conscientious objectors and declares that the European Convention on Human Rights is not violated (“La Commission adopta le 12.12.66 son rapport dans lequel elle formule l’ avis, qu’ il n’ y a eu violation de la Convention.... le 29.6.67 le Comite des Ministres a constate par sa resolution C67DH que, dans cette affaireil n’ y avait pas eu violation de la Convention”).

6. The exact same thing is accepted by the similar decision No. 5591/72 (Collection 43 p. 161).

7. The same thing is accepted also by decision No 7705/76 of the European Committee on Human Rights; that, is, not only does not impose on the European States to recognize the exemption of the objectors from military service, but has the right even to establish penalties against those who refuse to serve in the military (D+R p. 196). (“Elle n’ empeche pas/it means the European Convention on Human Rights/un Etat des prendre des sanctions a l’ egard des ceux qui refusent d’ executer un tel service/it means military service/).

8. Exactly the same thing has been accepted by the Committee on Human Rights of the U.N., denying the appeal of the conscientious objectors and declaring, that the individual right of the conscientious objector to be exempted from military service is not recognized under the International Convention of the U.N. concerning civil and political rights, which as known, was confirmed by Greece with Decree 2462/1997 (decision of the Committee on Human Rights of the U.N. No 185/84 in Document officiel de l’ assemblee generale de l’ O.N.U. - Quarantieme session, supplement No 40 - A40/40 paragraph 700 - Annexe XXI), which states literally in the original “Le Pacte ne contient aucune sisposition stipulant de droit a l’ objection de conscience, ni l’ article 18, nil’ article 19 de Pacte eu egard notamment au paragraphe 3 - C - II de l’ article 8 ne peuvent etre interpretes comme impliquant until droit”. We emphasize with this opportunity that the decisions of the same Committee No 1985/46/10.3.1987 and 1989/59/8.3.1989 that the objectors refer to each time, do no consist of published decisions on individual exemption (although they refer to conscientious objectors), but they simply consist of recommendations that the General Secretary of the U.N. has ordered for an investigation to take place about the present matter. Furthermore, we bring to your attention that not in any State has the exemption of conscientious objectors from doing military service been established as an individual right, but simply as a gratuitous regulation in favor

of them. Example: Even in Germany, where the exemption of objectors from doing military service is contained in article 12a of the Constitution, it still is not established as an individual right. This came up because the Constitutional Court of that Country considered as anti-constitutional the law regarding exemption of conscientious objectors from doing military service (Decision of the Constitutional Court of Germany BverfGE 48 p. 127).

Following all of the above (and many more notably significant –on that point– factors, which we always have at your disposal), we feel that Greece should not consist of the first country in the world to establish the exemption of conscientious objectors from doing military service through constitutional decrees and more so as an individual

right. Besides, that obligation for Greece has not come up anywhere.

We believe finally, that since the above facts are the results of a responsible and objective scientific investigation, the Greek Parliament will not doubt them, since they happen to be unwavering and most adequately established.

We hope that the Greek Parliament will seriously take into consideration the above exposed and unwavering facts for the good of our beloved country, and we ask for Your Excellency an abundance of the grace of God and His infinite mercy. We remain with ardent good wishes.

By Order of the Holy Synod

The Chief Secretary

Archimandrite Theologos Apostolides



