

*War Resisters' International
is a global network of
pacifist and antimilitarist
organisations, working
together for a world
without war.*



War Resisters' International,
5 Caledonian Road, London,
United Kingdom, N1 9DX
Phone +44-20-7278-4040
Email info@wri-irg.org
Website www.wri-irg.org

22 March 2022

Conscientious Objection to Military Service 2017-2022

War Resisters' International (WRI) works for a world without war. We are a global antimilitarist and pacifist network, with over ninety member organisations in over forty countries. Since 1921 we have been supporting and connecting people around the world who refuse to take part in war, and who use nonviolent action to tackle war's causes. WRI has consultative status with the Economic and Social Council of the United Nations.

The Right to Refuse to Kill programme of WRI specialises in conscientious objection to military service, and we are thankful for this opportunity to submit information in this process. This submission is in two stages: new developments since 2017 and remaining challenges. We have given examples under each category that we consider important.

1. New developments

I – Positive developments

The Republic of Korea

Since 2017, there have been two landmark rulings in favour of conscientious objectors by the high courts of the Republic of Korea. On 28 June 2018, the Constitutional Court of the Republic of Korea made a landmark decision recognising the right to conscientious objection to military service. The court ruled that Article 5 of the Military Service Act (MSA), which fails to provide alternative forms of national service, is unconstitutional and obligated lawmakers to change the law by the end of 2019. Meanwhile, another high court of the country, the Supreme Court, made a decision on 1 November 2018 acquitting a man who refused to serve in the military because of his religious beliefs, a ruling affected the more than 900 conscientious objectors who were on trial for their conscientious objection to military service by then. The Supreme Court ruling resulted in the release of hundreds of conscientious objectors serving time in prison for their refusal to serve in the military.

Following the constitutional court decision, the alternative service law was passed in the national assembly on 27 December 2019. As a result, the conscientious objectors in the Republic of Korea started to serve alternative service from October 2020. The conscientious objectors are not considered as criminals anymore, except for a few cases, which is a very significant progress.

Colombia

In 2009, following **Colombia's** constitution regarding the freedom of conscience, the Constitutional Court ruled that there is a right of conscientious objection to military service. In 2017 conscientious objection was included in Law 1861 (Article 12) as a reason for an exception to perform the military service. This Law includes the procedure that young men between 18 and 28 should follow to apply, if that is the case, as conscientious objectors and, in general, to resolve their military situation.¹

Germany

In September 2021, the Augsburg Administrative Court in Germany ruled in favour of a conscientious objector from Turkey, who applied for asylum in Germany because of his refusal to serve in the military.² In his decision, the Court mentioned the persecution Mr. Isci would face due to his refusal to serve in the military in Turkey.³

Greece

Conscientious Objection in times of war

Until 2019 there was a provision in the legislation⁴ that was giving the power to the Minister of National Defence in times of war to suspend all the provisions about alternative service. This virtually meant that it was at the discretion of the Minister of National Defence to virtually annul any kind of recognition of conscientious objection in times of war. This provision was abolished in 2019.⁵

Protection from discrimination and personal data

The Hellenic Data Protection Authority found that the certificate of military status should not reveal that someone has performed alternative service (which virtually meant revealing that someone is a conscientious objector), but only that he does not have military duties any more.⁶ This is important because if it is revealed that someone is a conscientious objector, this makes him vulnerable to discrimination – for example in terms of employment. The same authority issued a similar decision for those who have medical exemption. This should not be revealed – only that they don't have military duties.⁷

Before that, the Greek Ombudsman has taken similar positions. As pointed by the Ombudsman, insofar the alternative service applies only to conscientious objectors, this indirectly leads to the disclosure of religious or other beliefs which led to conscientious objection, and it is a violation of the right to freedom of thought, conscience and religion, which includes the right of a person not to reveal his/her religion. The Ombudsman makes also reference to laws and regulations about personal data protection, including the Regulation (EU) 2016/679 about the protection when processing personal data, which requires that “Personal data shall be: [...] (c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (‘data minimisation’)”.⁸ According to the analysis

1 See Law 1861 issued on 4th August 2017.

<https://dapre.presidencia.gov.co/normativa/normativa/LEY%201861%20DEL%2004%20DE%20AGOSTO%20DE%202017.pdf>

2 See <https://de.connection-ev.org/article-3459>

3 Bayerisches Verwaltungsgericht Augsburg, Urteil vom 24. September 2021. AZ Au 8 K 19.31021. Auszüge. Das Urteil ist rechtskräftig.

4 Law 3421/2005, Article 65(2).

5 Law 4609/2019, Article 23(6).

6 Hellenic Data Protection Authority, [Decision 3](#), 13/1/2022 [in Greek].

7 Hellenic Data Protection Authority, [Decision 2](#), 13/1/2022 [in Greek].

8 Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27 April 2016, on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), Chapter II Principles, Article 5 Principles relating to processing of personal

of the Ombudsman, if the purpose of the military status certificate is to certify that the person has no military duties pending, then the reference to the manner, the time and the place where someone has fulfilled such duties is unnecessary for the purpose and therefore it is illegal. Furthermore, as pointed out by the Ombudsman, in their reports the conscientious objectors complain that such certificate may lead to unfavorable treatment in labour market. The Ombudsman recognises that the reference to further (unnecessary) data indeed renders such persons vulnerable to discrimination in terms of employment and that this is not only related to religious beliefs but also to other fields of discrimination such as on grounds of disability or chronic condition, which can be inferred by the detailed reference to the manner someone has fulfilled or even has been exempted from military duties.⁹

It is not clear yet whether the authorities will change the format of the certificates in general, or whether each and every conscientious objector or person who got medical exemption needs to appeal individually to the Hellenic Data Protection Authority.

Freedom of expression

Until 2019, article 202 of the Greek Penal Code, stated that "whoever intentionally incites or provokes a person who has the obligation to be conscripted not to obey to the call when he is called up to the army" is punished with imprisonment up to 3 years, and in case of war with imprisonment up to 10 years. This could potentially restrict the right to freedom of expression for those who publicly support conscientious objection to military service. This article was abolished in 2019.¹⁰

II - States that have introduced or reintroduced conscription

The relevance of conscientious objection is not limited to states that enact obligatory military service, however it is especially important that armed forces that use this form of recruitment provide for the right to conscientious objection to military service.

Two states, in the last few years, reintroduced compulsory military service: Morocco and Sweden.

Morocco

Morocco reintroduced compulsory military service in February 2019, 12 years after abolishing it.¹¹ According to the new law, men aged between 19 and 25 are called up to serve in the military for a period of one year.¹² Conscientious objection to military service is not recognised. The exemptions are only provided to those young people with a physical disability; for those with a criminal record of more than 6 months in prison; for those studying; and for those having a dependent family.¹³ Also, according to the law, those over 25 who receive an exemption can be called until the age of 40 if at any point the reason for the exemption no longer stands.¹⁴

Sweden

The Swedish government re-activated conscription from January 2018.¹⁵ The conscription system includes both men and women and the obligation to perform conscription into the Armed Forces applies

data, para 1 (c). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0679&from=EL#d1e1797-1-1>

9 War Resisters' International input for Anti-Discrimination Law Guide, 15 December 2020, p. 11. Available at: https://wri-irg.org/sites/default/files/public_files/2021-01/wri_input_for_anti-discrimination_law_guide.pdf

10 Law 4619/2019.

11 See <https://wri-irg.org/en/story/2019/morocco-conscription-reintroduced>

12 Morocco has suspended conscription due to the COVID-19 pandemic in 2020 and resumed the practice in the beginning of 2022. See <https://northafricapost.com/53896-morocco-resumes-mandatory-military-service-after-halt-due-to-covid-19.html>

13 See <https://atalayar.com/en/content/morocco-resumes-compulsory-military-service>

14 See <https://www.morocoworldnews.com/2019/04/270255/morocco-compulsory-military-service>

15 See <https://www.government.se/articles/2017/03/re-activation-of-enrolment-and-the-conscription/>

for Swedish citizens from the calendar year he or she turns 19. The duration of the military conscription is typically 11 months of basic military training.

The right to conscientious objection to military service is recognised. As reported to European Bureau for Conscientious Objection by the Ministry of Defence of Sweden in February 2021, the alternative civilian service hasn't been activated yet and if one declared conscientious objection "in practical terms the individual will not do any service".¹⁶

III - Conscientious objection in times of war

Since the war in **Ukraine** started in February 2022, men aged 18 to 60 are banned from leaving the country¹⁷. Although there are no clear numbers of how many of these men are conscientious objectors, this ban represents a clear violation of the human rights of those who wish to flee due to a conscientious objection to participating in the war¹⁸.

2. Remaining challenges

I. No recognition

Many States continually fail to recognise the rights of conscientious objectors to military service, either in law or in practice. These include the northern part of **Cyprus** (self-declared Turkish Republic of Northern Cyprus), **Eritrea, Egypt, Morocco, Senegal, Sudan, Tajikistan, Thailand, Turkey and Turkmenistan.**

II. Punishments of conscientious objectors

Many of the above states consequently imprison those who refuse.

Tajikistan

In Tajikistan military service of two years is compulsory for almost all able-bodied young men between the ages of 16 and 27. Article 1 of the November 2000 Universal Military Obligation and Military Service Law includes the provision: "In accordance with the law, a citizen has the right to undergo alternative service in place of military service. The procedure for undergoing alternative service is determined by law". However, no law enacting alternative service has ever been adopted.

Despite repeated requests from the UN Human Rights Committee, as well as the UN Working Group on Arbitrary Detention, Tajikistan has not introduced a possibility for a genuinely civilian alternative service to the military conscription imposed on young men.

In its 22 July 2004 Concluding Observations on Tajikistan's record under the International Covenant on Civil and Political Rights (CCPR/CO/84/TJK), the UN Human Rights Committee stated: "The State party should take all necessary measures to recognize the right of conscientious objectors to be exempted from military service."¹⁹

¹⁶ See <https://ebco-beoc.org/sweden>

¹⁷ Reported in CNN - *Ukrainian males aged 18-60 are banned from leaving the country, Zelensky says in new declaration:* https://edition.cnn.com/europe/live-news/ukraine-russia-news-02-24-22-intl/h_4309a4916d57670f85519210a07fb2c9

¹⁸ Reported in The Conversation - *Why banning men from leaving Ukraine violates their human rights:* <https://theconversation.com/why-banning-men-from-leaving-ukraine-violates-their-human-rights-178411>

¹⁹ See <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G05/434/66/PDF/G0543466.pdf?OpenElement>

This was repeated in the Human Rights Committee's 23 April 2013 Concluding Observations (CCPR/C/TJK/CO/2), which "reiterates its previous concern" about "the State party's lack of recognition of the right to conscientious objection to compulsory military service, and at the absence of alternatives to military service".²⁰

The Human Rights Committee's concern was again repeated in its Concluding Observations (CCPR/C/TJK/CO/3), adopted on 18 July 2019: "The State party should step up its efforts to adopt the legislation necessary to recognize 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, and to ensure that alternative service is not punitive or discriminatory in nature or duration by comparison with military service."²¹

Conscientious objectors imprisoned

Since 2017, three conscientious objectors are known to be prosecuted. All three are reported to be Jehovah's Witnesses.

In April 2017 Daniil Islamov was forcibly conscripted and detained, and in October 2017 sentenced to six months' imprisonment. In total he was held for one year in detention and labour camp.²²

On 5 October 2017 the UN Working Group on Arbitrary Detention publicly stated that Tajikistan should release prisoner of conscience Islamov "immediately". The regime ignored this.

Another conscientious objector reported to be jailed in Tajikistan is Jovidon Bobojonov who was sentenced to two years in a general regime labour camp for refusing compulsory military service in April 2020 - nearly six months after being seized by the military in October 2019. While held in the military unit, Bobojonov was reported to be tortured by the personnel with beatings to pressure him to take the military oath and put on uniform.²³ In November 2020, Bobojonov was freed under presidential prisoner amnesty after serving nine months of his two-year jail term.²⁴

In January 2021, conscientious objector Rustamjon Norov was jailed for three and a half years, despite his offer to perform alternative civilian service. The court claimed the Jehovah's Witness conscientious objector falsified his medical history to evade compulsory military service, charges he denies. As reported by Forum18, while held in a military unit in October 2020, he was threatened with torture if he did not put on a military uniform.²⁵

The UN Working Group of Arbitrary Detention opinion

In its 5 October 2017 opinion, the UN Working Group's Opinion (A/HRC/WGAD/2017/43) found that Tajikistan had contravened the International Covenant on Civil and Political Rights, and also noted that "The right to conscientious objection is well established in international law and derives from article 18 of the Covenant. The Government of Tajikistan has already been made fully aware of this by the Human Rights Committee, which has specifically recommended that Tajikistan provide for alternatives to military service in such cases".²⁶

The UN Working Group also stated that among the follow up actions were that within six months of the date of transmission of the October 2017 Opinion the government should inform the Working Group

20 See <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/462/38/PDF/G1346238.pdf?OpenElement>

21 See <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/250/10/PDF/G1925010.pdf?OpenElement>

22 See https://www.forum18.org/archive.php?article_id=2327

23 See https://www.forum18.org/archive.php?article_id=2559

24 See https://www.forum18.org/archive.php?article_id=2615

25 See https://www.forum18.org/archive.php?article_id=2629

26 See

https://www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session79/A_HRC_WGAD_2017_43_EN.pdf

"whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of Tajikistan with its international obligations in line with the present opinion".

No such reply had been received by the Working Group by the six months deadline.²⁷

Turkmenistan

In Turkmenistan, between January 2018 and May 2021, twenty five conscientious objectors to military service were reported to be imprisoned.²⁸ In May 2021, sixteen conscientious objectors still serving time in labour camps were freed under a government amnesty and currently there are no conscientious objectors reported to be behind bars in Turkmenistan. This doesn't mean that conscientious objectors may not face imprisonment in the future though.

Turkmenistan offers no alternative to its compulsory military service. Article 58 of the 2016 Constitution describes defence as a "sacred duty" of everyone and states that military service is compulsory for men.

Young men who refuse military service on grounds of conscience generally face prosecution under Criminal Code Article 219, Part 1. This punishes refusal to serve in the armed forces in peacetime with a maximum penalty of two years' imprisonment or two years' corrective labour.

Criminal Code Article 219, Part 2 punishes refusal to serve in the armed forces in peacetime "by means of inflicting injury to oneself, or by simulation of illness, by means of forgery of documents, or other fraudulent ways". Punishment is a jail term of one to four years.

Turkmenistan has ignored repeated international calls, for example by the UN Human Rights Committee, to introduce a genuine civilian alternative to compulsory military service, to stop prosecuting and punishing conscientious objectors, and to compensate those it has punished.²⁹

The UN Human Rights Committee has published 13 Decisions in favour of 15 conscientious objectors from Turkmenistan, all of them Jehovah's Witnesses. In its most recent such Decision, published on 17 September 2019 (C/126/D/2302/2013), it ruled that the right to freedom of religion or belief of former conscientious objectors Juma Nazarov, Yadgarbek Sharipov, and Atamurad Suvhanov had been violated by their jailing.³⁰

On 10 December 2020, four UN human rights Special Procedures wrote to Turkmenistan's government ([AL TKM 2/2020](#)) expressing "serious concern at the conviction and detention of Messrs. Sanjarbek Saburov and Eldor Saburov for their refusal, based on their religious conscience and opinion, to perform military service".³¹

The December 2020 Communication also expressed concern that the Saburov brothers were convicted and punished a second time, "which is a violation of the rule against double jeopardy, or non bis in idem, enshrined in article 14(7) ["Right to equality before courts and tribunals and to fair trial"] of the International Covenant on Civil and Political Rights".

"We deeply regret the criminalization of conscientious objection," the UN human rights Special Procedures wrote. Turkmenistan "must provide meaningful alternative service, that is, it must be compatible with the reasons for the conscientious objection, of a non-combatant or civilian character,

27 See https://www.forum18.org/archive.php?article_id=2533

28 See <https://www.forum18.org/archive.php?country=32>

29 See https://www.forum18.org/archive.php?article_id=2476

30 See <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/318/61/PDF/G1931861.pdf?OpenElement>

31 See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25740>

in the public interest and must not be punitive of character".³²

The UN Special Procedures asked the government to comment on the cases and explain why the Saburov brothers were convicted for a second time but the regime did not reply to the UN within the requested 60 days.

Greece

In Greece, several categories of conscientious objectors to military service are still punished:

- Conscientious objectors refusing to perform a punitive and discriminatory alternative service (including those self-identified as total objectors),
- Conscientious objectors whose application has been unfairly rejected,
- Conscientious objectors who cannot afford to perform the punitive alternative service.
- Conscientious objectors who commit some disciplinary offence during alternative service.

All these categories are required to perform military service, and if they insist in their conscientious objection, they face punishment for insubordination.

The punishment for each period of insubordination includes an imprisonment for up to 2 years in a period of peace³³, a fine of 6,000 euros³⁴, deprivation of the right to vote and to be elected after an irrevocable conviction, as well as other sanctions and deprivations.³⁵

In the Petromelidis case, the Human Rights Committee found, *inter alia*, a violation of article 9(1) of ICCPR.³⁶

III. Repeated Punishment of COs

Conscientious objectors whose rights are not recognised by their State can face repeated punishment for their ongoing refusal to undertake military service. This violates article Article 14, paragraph 7 of the ICCPR, which states that no one shall be liable to be tried or punished again for an offence of which they have already been finally convicted or acquitted under the law and penal procedure of each country. The UN Working Group on Arbitrary Detention has also addressed the prohibition of repeated punishment of conscientious objectors because of their continued refusal to undertake military service, finding repeated imprisonment to be arbitrary detention.³⁷

Israel

In the last four years, conscientious objectors in the **State of Israel** have faced a cycle of call up, imprisonment, release and call up. These have been the case of Mattan Helman³⁸, Ayelet Brachfeld³⁹,

32 See <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25740>

33 [Military Penal Code](#), Article 32.

34 Joint decision of the Ministers of National Defence and Finance, Φ.429.1/17/281810/Σ.394/4-3-11 (OJ [517/B/2011](#)), Article 1.

35 Law 3421/2005, Article 53.

36 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, paras. 9.8, 10.

37 Opinion No. 36/1999 (TURKEY): United Nations: Working Group on Arbitrary Detention (E/CN.4/2001/14/Add.1); Working Group on Arbitrary Detention Recommendation No. 2 (E/CN.4/2001/14); and Opinion No. 24/2003 (ISRAEL) E/CN.4/2005/6/Add. 1.

38 See <https://wri-irg.org/en/programmes/rrtk/co-action-alert/2018/israel-conscientious-objector-mattan-helman-imprisoned-again>

39 See <https://wri-irg.org/en/programmes/rrtk/co-action-alert/2018/israel-conscientious-objectors-mattan-helman-and-ayelet>

Noa Gur Golan⁴⁰, Hadas Tal⁴¹, Luhar Altman⁴², Hilel Garmi⁴³, Adam Rafaelov⁴⁴, Hallel Rabin⁴⁵, Shahar Perets⁴⁶ and Eran Aviv⁴⁷ who were imprisoned several times before being released for the last time. There is currently no reported conscientious objector in Israel.

Singapore

In **Singapore**, Jehovah's Witnesses who are imprisoned for conscientious objection to military service usually receive a first sentence of 12 months (but it can be up to 15 months) and a second sentence of 18 months (but it can be up to 24 months). Therefore, the total time spent is usually 30 months (but it can be up to 39 months).⁴⁸

Turkey

In Turkey, where the right to conscientious objection to military service is not recognised, conscientious objectors continue to face conditions of 'civil death'. As reported by the Conscientious Objection Association (Turkey) in an extensive report published in July 2021, conscientious objectors continue to be criminalised as draft evaders or deserters.⁴⁹ They're being subject to repeated cycle of prosecutions; their right to freedom of travel is violated, they cannot vote (if they're deserters), their access to education is being limited, their right to work is restricted (i.e. they cannot be employed in public or private sector). Their only employment option is to work informally in private sector, which excludes them from the social security system. They also face difficulties with holding their own bank accounts.

As being party to both ECHR and ICCPR, Turkey is obliged to recognize the right to conscientious objection to military service as part of its commitments under international law. It's also Turkey's obligation according to its own constitution whose Article 24 protects freedom of religion and conscientious, and whose Article 90 recognizes the superiority of international law in matters related to fundamental rights and freedoms when there is a conflict between the national and international law. Yet, the Turkish government insists on not recognizing the right to conscientious objection as military service remains to be compulsory for men as they reach their 20.

Greece

In Greece, punishment for insubordination does not entail exemption from military duties, Consequently, the conscientious objectors are repeatedly called-up, and repeatedly punished - which is in violation of the *ne bis in idem* principle (Article 14.7 of ICCPR), as it has been found by the Human Rights Committee⁵⁰ in its concluding observations on Greece. It has also been highlighted by the current and previous Special Rapporteurs on freedom of religion or belief.⁵¹

In the Petromelidis case, the Human Rights Committee found, *inter alia*, a violation of articles 9(1) and

40 See <https://wri-irg.org/en/programmes/rrtk/co-action-alert/2017/israel-refuser-noa-gur-golan-imprisoned>

41 See <https://wri-irg.org/en/programmes/rrtk/co-action-alert/2017/israel-conscientious-objectors-noa-gur-golan-and-hadas-tal>

42 See <https://wri-irg.org/en/programmes/rrtk/co-action-alert/2018/israel-refusers-hilel-garmi-and-luhar-altman-imprisoned>

43 See <https://wri-irg.org/en/programmes/rrtk/co-action-alert/2018/israel-hilel-garmi-imprisoned-again-0>

44 See <https://wri-irg.org/en/programmes/rrtk/co-action-alert/2018/israel-refusers-hilel-garmi-and-adam-rafaelov-imprisoned-again>

45 See <https://wri-irg.org/en/programmes/rrtk/co-action-alert/2020/israel-conscientious-objector-hallel-rabin-imprisoned>

46 See <https://www.refuser.org/refuser-updates/shaharfree>

47 See <https://www.refuser.org/refuser-updates/eranisfree>

48 See <https://www.jw.org/en/news/legal/by-region/singapore/jehovahs-witnesses-in-prison/>

49 See https://wri-irg.org/sites/default/files/public_files/2021-07/conscientious_objection_to_military_service_in_turkey.pdf

50 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>

51 UN Special Rapporteur on freedom of religion or belief, [Communication GRC 3/2016](#), 31 October 2016. UN Special Rapporteur on freedom of religion or belief, [Communication GRC 3/2019](#), 11 July 2019.

14(7) of ICCPR⁵².

IV. Application procedures for Conscientious Objection to Military Service

Colombia

In the case of **Colombia**, since Law 1861 of 2017 started to be implemented it has been pointed out the obstacles conscientious objectors have to face during their application process. The application is evaluated by the Interdisciplinary Commission which is composed of four members of the military and one person from the Public Ministry. There is no impartial, technical, or legal instrument that guarantees neutrality in decisions.⁵³

Greece

The decision regarding the conscientious objector status is still not under the full control of civilian authorities in Greece, as the Human Rights Committee had asked. This is corroborated by the OHCHR.

According to the current practice, the decision is still taken by the Minister of National Defence, following a recommendation of a 5 membered committee which still has military participation. The only development is that in 2019 the number of military officers was reduced from 2 to 1.⁵⁴

V. Gap between policy and provision

Of those states that do recognise conscientious objection to military service, there remains some with a mismatch between constitutional recognition, and the accompanying recognition of conscientious objectors in practice.

Azerbaijan

In Azerbaijan, where the military service of 18 months (12 months for those with higher education) is compulsory for all young men, Article 76, Part 2 of the Constitution states: "If the beliefs of citizens come into conflict with service in the army then in some cases envisaged by law alternative service instead of regular army service is permitted." However, no mechanism or regulation in law exists to enact this provision. A recent inquiry by the Oslo-based human rights organisation *Forum18* regarding the issue has revealed that there are no plans by the Azerbaijani authorities to introduce alternative service any time soon.⁵⁵

In January 2001, before joining the Council of Europe, Azerbaijan promised "to adopt, within two years of accession, a law on alternative service in compliance with European standards and, in the meantime, to pardon all conscientious objectors presently serving prison terms or serving in disciplinary battalions, allowing them instead to choose (when the law on alternative service has come into force) to perform non-armed military service or alternative Civilian service".⁵⁶

52 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](https://www.humanrights.org/docs/default-source/communications/3065-2017-adv-une-2021.pdf), 6 December 2021, paras. 9.10, 9.11, 10.

53 See the 2018 report by *Acción Colectiva de Objetores y Objetoras de Conciencia* and *Justapaz* Page. 28 <https://drive.google.com/file/d/1A30MXUQBGMwsAhUbpZlhqoCF5ZK7Tl/view>

54 Article 23 para. 2 of Law 4609/2019.

55 See https://www.forum18.org/archive.php?article_id=2695

56 See https://www.forum18.org/archive.php?article_id=2695

However, Azerbaijan has never made legislation regarding conscientious objection to military service or alternative service. Instead, conscientious objectors to military service have been repeatedly prosecuted and even jailed under Criminal Code Article 321.1, which states: "Evasion without lawful grounds of call-up to military service or of mobilisation, with the purpose of evading serving in the military, is punishable by imprisonment for up to two years [in peacetime]".⁵⁷

In November 2016 Concluding Observations on Azerbaijan's report to the UN Human Rights Committee (CCPR/C/AZE/CO/4), the Committee again expressed concern about the lack of a civilian alternative to military service.⁵⁸

The Committee stated that Azerbaijan "should adopt without delay the legislation necessary to give effect in practice to the constitutionally recognized right to conscientious objection to military service, without limitation on the category of conscientiously held beliefs. Moreover, it should provide for alternative service of a civilian nature for conscientious objectors and repeal all sanctions against them." In March 2016, European Commission Against Racism and Intolerance (ECRI) of the Council of Europe again condemned Azerbaijan's violations of freedom of religion or belief, and other human rights, and noted the continuing sentencing of conscientious objectors: "ECRI strongly recommends that the authorities fulfil the undertaking given upon accession to the Council of Europe to enact legislation on alternatives to military service."⁵⁹

On 3 April 2019, in its Conclusions on Azerbaijan's follow-up to the March 2016 report, ECRI declared: "ECRI notes that the Azerbaijani authorities have not taken any initiative to enact legislation on alternatives to military service. ECRI therefore considers that this recommendation has not been implemented."⁶⁰

Since 2017, the European Court of Human Rights (ECtHR) has found violations of the Conventions by Azerbaijan twice for its treatment of conscientious objectors to military service. On 7 October 2021, the European Court of Human Rights (ECtHR) in Strasbourg issued a decision that Azerbaijan had violated the human rights of two Jehovah's Witness young men, Emil Mehdiyev and Vahid Abilov, who had been convicted in 2018 for refusing compulsory military service on grounds of conscience.

On 17 October 2019, the ECtHR found in favour of five Jehovah's Witnesses punished through the courts between 2007 and 2013 for refusing compulsory military service on grounds of conscience. Four of them had been jailed, while the fifth had been given a suspended prison sentence and a fine. The decision covered four cases (one involving two applicants), which the Court considered together.⁶¹

In its decision, the European Court found that Azerbaijan had violated the rights of all five. It specified compensation and legal expenses totalling 38,269 Euros payable to the applicants.⁶²

Currently there are no conscientious objector reported to be in prison in Azerbaijan, however as campaigners reported to WRI, some conscientious objectors whose cases are sitting dormant with the prosecutors can't leave the country.

57 See https://www.forum18.org/archive.php?article_id=2429

58 See https://www.forum18.org/archive.php?article_id=2408

59 See <https://rm.coe.int/fourth-report-on-azerbaijan/16808b5581>

60 See <https://rm.coe.int/interim-follow-up-conclusions-on-azerbaijan-5th-monitoring-cycle-/168094ce04>

61 See https://www.forum18.org/archive.php?article_id=2490

62 See https://www.forum18.org/archive.php?article_id=2695

vi. Punitive Alternative Service

The Republic of Korea

Despite the positive development of the recognition of conscientious objection to military service in the Republic of Korea, the new law of military service set extreme punitive measures for conscientious objectors, including requiring them to work in a jail or other correctional facilities for 36 months, which is a double duration of military service. According to the law, during this 3-year period, conscientious objectors are required to work, eat and sleep in prisons although they live apart from the inmates. The alternative service in the Republic of Korea, therefore, still has several points that need to be improved.

The civil society in the Republic of Korea⁶³ and International organisations⁶⁴ including the United Nations have been noting that the duration of the alternative service at its current form is punitive.⁶⁵ 36 months of alternative service is twice longer than the duration of the military service. This is a clear discrimination, and punitive aspect which violates the freedom of conscience.

Greece

In Greece, according to the legislation, in principle the length of alternative service is double the length of military service. For certain categories of reduced service, the alternative service is 50% or even 67% longer.

Also, conscientious objectors who receive food and housing in the institution they serve, they are not provided any salary, while conscripts, who receive food and housing by the armed forces, they receive some small salary.

Only conscientious objectors who do not receive food and housing are entitled to a salary. This salary has been set since 2005 to 223.53 euros. Such a salary is completely insufficient to provide an adequate standard of living according to international human rights standards. In 2015, when the minimum salary was less than the current one, namely it was €586.08 or €510.95 for workers under 25 years of age, the Committee on Economic, Social and Cultural Rights had raised concerns that it was not sufficient to provide workers and their families with a decent living in line with article 7 of the ICESCR.

In addition, for those above 33 years of age, the cost for buying out the rest of alternative service is much higher than the cost for buying out the rest of military service.

Another measure that makes alternative service in Greece punitive is that there is an explicit prohibition in law for conscientious objectors to serve in the place of residence.

vii. Substitute service provision with discrimination against non-religious COs

No discrimination is permitted amongst conscientious objectors. The Human Rights Committee's General Comment 22, paragraph 11 affirms that "*there shall be no differentiation among conscientious objectors on the basis of the nature of their particular beliefs*"⁶⁶. This is not upheld by a number of states.

Colombia

As informed by human rights activists and conscientious objection organisations in **Colombia**, the application of conscientious objectors who claim religious reasons to not perform the military service are

63 See <https://wri-irg.org/en/story/2020/statement-south-korean-organisations-new-alternative-service-law>

64 See <https://www.amnesty.org.uk/press-releases/south-korea-alternative-military-service-new-punishment-conscientious-objectors>

65 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=24979>

66 Human Rights Committee, General Comment 22, Article 18 (Forty-eighth session, 1993). Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 35 (1994).

more likely to be accepted by the Interdisciplinary Commission in comparison to conscientious objectors who claim political, philosophical, ethical or pacifist reasons.

The Republic of Korea

In the Republic of Korea, the conscientious objectors with secular pacifist beliefs are being convicted. As reported by the Seoul-based organisation *World Without War* to War Resisters' International, even after the constitutional court decision, the conscientious objectors, who had been indicted before the decision, had to be tried. Almost all conscientious objectors who are Jehovah's Witnesses, have been found not guilty, but the objectors based on secular pacifist beliefs, have been found guilty, and imprisoned or had to pay a fine. The constitutional court stated that the government cannot judge the form of conscience, but the courts call the individual objectors' conscience into question. At the moment a few objectors who refuse to serve in the reserve force, are standing at courts.

Also in the Republic of Korea, the alternative service is still not allowed to the soldiers who are on active duty, while it is open to the reserve force candidates.

Belarus

In July 2016 an Alternative Service Law took place in **Belarus**. This alternative service is twice the length of military service: usually 36 months or 24 months for those with higher education. The men who can apply for alternative civilian service instead of compulsory military service are those who claim a religious pacifist objection. Men with non-religious pacifist convictions are not eligible for alternative civilian service.

Men who have performed alternative service are exempt from reservist military service or training. However, there is the case of Dmitry Mozol who expressed his willingness to do an alternative civilian service before it existed in the law, who was classified as "unfit for health reasons" (although he wasn't informed about it) being exempted to perform military service or alternative service, but who was called up for compulsory military training anyway in 2019.⁶⁷

Greece

According to official figures, from 2020 until March 2022, while the percentage of recognition of conscientious objectors on religious grounds is almost 97%, the percentage of acceptance for those citing ideological (non-religious) grounds, has fallen to 27%.⁶⁸

VIII. Forced recruitment

In **Colombia**, arbitrary detentions, or raids known as "Batidas" were declared unconstitutional by the Constitutional Court in 2014 and, in 2017 were explicitly prohibited in Law 1861 (Article 4 Paragraph 2). However, between 2019 to 2022, the recruitment quota was increased to more than 75,000 young men which have led to irregular and illegal recruitment practices by the Army. This includes the retention of the ID documents of young men, forcing them to go to the Battalion where psychophysical aptitude tests are carried out, being recruited soon after.⁶⁹

⁶⁷ Read more about Dmitry Mozol case about his refusal to perform reservist military training on grounds of conscience: https://www.forum18.org/archive.php?article_id=2710

⁶⁸ Amnesty International, Connection e.V., European Bureau for Conscientious Objection (EBCO), International Fellowship of Reconciliation (IFOR), War Resisters' International (WRI), "Greece: Give Charis Vasileiou and Nikolas Stefanidis a fair examination of their grounds for conscientious objection under an amended legislative framework in line with international law and standards", Joint NGOs Statement, 21 March 2022, EUR 25/5374/2022. Available at: <https://www.amnesty.org/en/documents/eur25/5374/2022/en/>

⁶⁹ This was the case of 13 young men recruited irregularly by the Army in August 2021. There have been more cases since

Most of these recruitment raids happen in the streets especially inside stations of public transport, prohibiting the free mobility of young men. This is the case of Bogotá, Medellín and most of the main cities across the country. The Army gives appointments to young men for the same day when approached on the streets, even when the law establishes that they must give enough time to young men to gather all the relevant documents in the case they comply with any of the reasons for an exception to perform the military service.

IX. Freedom of expression

Turkey

Freedom to advocate conscientious objection to military service, and make accompanying criticisms of military institutions, are not always respected. Article 318 of the Turkish penal code prohibits 'alienating the people from military service'. Article 318 represents an unfair limitation of the right to freedom of expression in Turkey, potentially criminalising any criticism of the Turkish military. The Human Rights' Committee's General Comment 34 on Article 19 makes explicit that State parties should not prohibit criticism of institutions, such as the army or the administration.⁷⁰

Ukraine

Ukrainian journalist, conscientious objector and a member of the Ukrainian Pacifist Movement Ruslan Kotsaba has been on trial again since January 2021 for a video he posted in 2015 in which he was calling to boycott military mobilisation for the conflict in the eastern Ukraine, announcing his refusal to be called up, and calling on his fellow countrymen to do likewise. Kotsaba had already spent 524 days under arrest for his expressions in the video and was duly acquitted in 2016. His retrial stands to be a politically motivated persecution.⁷¹

X. Barriers to accessing the information on conscientious objection

There is no strong divulgation of the right of conscientious objection to military service by educational entities, the Public Ministry Office, and the Military Forces in **Colombia**. The Law 1861 of 2017 specifies that educational institutions are obliged to inform young men about conscientious objection, however, this is not being followed. On the other hand, the Army does not inform young men, when they are in the process of resolving their military situation, about their right of conscientious objection or they simply deny that they can appeal to it to not perform the military service.

XI. Lack of information

Of the status of conscientious objection in some states, we remain woefully ignorant. For example, our information regarding military service in **Eritrea** is obtained through accounts of those who have fled from Eritrea. Many of the Eritrean Diaspora remain too scared to speak out because of perceptions of the strength of the Eritrean regime to reach them in exile, and their families in Eritrea. We have details of Jehovah's Witnesses who have been imprisoned, however, the reasons for imprisonment are unknown or undisclosed, so we cannot confirm that they are incarcerated due to conscientious objection to military service.⁷²

then. To read more: <https://www.contagioradio.com/acooc-denuncia-regreso-de-batidas-y-reclutamiento-ilegal-del-ejercito-en-bogota/>

⁷⁰ General comment No. 34, CCPR-C-GC-34, 12 September 2011, para 38.

⁷¹ See <https://wri-irg.org/en/story/2021/wri-stands-solidarity-ukrainian-conscientious-objector-ruslan-kotsaba>

⁷² See <https://www.jw.org/en/news/legal/by-region/eritrea/jehovahs-witnesses-in-prison/>

XII. Right to Refugee Status

In December 2021, the UK government has rejected the application of an asylum seeker who fled forcible conscription into Bashar al-Assad's army in 2017, saying that he would have been forced to kill other Syrians, and sought sanctuary in the UK in May 2020.⁷³ As reported by the Guardian, in its rejection letter, the Home Office of the UK Government has accepted that he had fled forced conscription but also said "It is not accepted that you will face a risk of persecution or real risk of serious harm on return to the Syrian Arab Republic due to your imputed political opinion as a draft evader."⁷⁴ The Home Office's decision to return a Syrian asylum seeker opposing to President Assad's regime in Syria where the civil war continues is thought to be first of its kind and criticized by human rights organisations.⁷⁵ It's currently being challenged by the asylum seeker's lawyer.

⁷³ See <https://www.theguardian.com/uk-news/2022/jan/09/home-office-tells-syrian-asylum-seeker-he-can-return-safely>

⁷⁴ Ibid.

⁷⁵ Ibid.