

Submission for the 142nd session of the UN Human Rights Committee

Review of Türkiye

by

The Initiative for Conscientious Objection in Cyprus

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About The Initiative for Conscientious Objection in Cyprus

The Initiative for Conscientious Objection in Cyprus is an activist movement advocating for the recognition of the right to conscientious objection in the context of compulsory military service in the northern part of Cyprus for many years. This initiative, primarily led by peace and anti-militarist activists, aims to promote the recognition of individual autonomy and freedom of conscience for those who refuse to participate in military activities based on ethical, moral, religious, or political grounds.

In Cyprus, both the Republic of Cyprus (RoC) controlled areas^[1] and in the northern part of Cyprus where RoC has no effective control, military service is compulsory for male citizens. While the Republic of Cyprus has introduced some provisions for conscientious objection, these provisions are often viewed as limited and problematic in their implementation. In the northern part of Cyprus, the 'legal' framework is even more restrictive, with conscientious objection not fully recognized, often resulting in legal consequences for those who refuse military service.

The Initiative focuses on raising awareness about the human rights implications of compulsory military service, advocating for legal reforms, and offering solidarity to conscientious objectors who face legal challenges or societal pressure. This movement

operates within the broader context of anti-militarist activism, which intersects with other struggles in Cyprus, such as peacebuilding efforts between the Cypriot communities. The Initiative also highlights the broader implications of militarism in Cyprus, a divided island with a complex political history, emphasising the importance of peaceful coexistence, demilitarization, and respect for individual rights.

Legal Framework in the Northern Part of Cyprus

Although the 'legal system' in the northern part of Cyprus is based on the Anglo-Saxon legal system (common law), it has been adapted to suit the conditions and requirements of the 'country'. Following its judgement in the *Loizidou v. Turkey* case, the European Court of Human Rights (ECtHR) ruled that Turkey is directly responsible for human rights violations in the northern part of Cyprus.[2] 'Article 90 of the constitution' lays down the status of international conventions in 'domestic law'. Accordingly, international conventions that have been duly enacted in the form of 'ratification laws' become part of domestic law. The provisions of these conventions have supremacy over laws and are considered equivalent to the 'constitution', and therefore the 'constitutional' rules should be interpreted in a manner which is as compatible with international law as possible.[3] There has been a ruling by the 'constitutional court' that 'laws' in the northern part of Cyprus must be enacted in accordance with international Conventions, or, if that is not the case, interpreted in accordance with international Conventions. Whenever the provisions of international conventions conflict with those of domestic law, the provisions of international conventions shall prevail. Constitutional or legal regulations cannot repeal or render ineffective the provisions of international Conventions.

There are legal "regulations" under 3 different legal texts about military service in the northern part of Cyprus.[4] In the current "regulation", two issues especially come to the fore. On the one hand, compulsory military duty appears as a right and duty of citizenship, such as working, voting and plebiscite. According to "Article 74" of the "Constitution", within the armed forces 'duty to the country' is defined as 'the right and sacred duty of every citizen' in the armed forces and envisages the "regulation" of the related rules within the legal texts.

The legal text regarding military service provides the 'duty of military service' to all of its citizens. However, by making an exception for women under "Article 6", it leaves the recruitment of women under only in exceptional cases and to the approval of the representatives of the Turkish Cypriot community and envisages a "by-law" to be prepared by the "security forces command" proposed by the "prime ministry" and approved by the "council of ministers". This difference in practice towards women based on not being seen as 'full

citizens' due to not being a man is also valid for men who do not match the male pattern that militarism accepts. In addition to women, even if the identified gender is male, those outside the acceptable patterns of masculinity are disabled people, children, extremely overweight and weak people, or gay, bisexual, trans men, etc. who are left out of compulsory military duty.[5]

Right to Conscientious Objection in the Northern Part of Cyprus

Conscientious objection in the northern part of Cyprus, while recognized globally as a fundamental human right, continues to face significant legal and political challenges. The lack of robust legal protections in the northern part of Cyprus has led to ongoing struggles, with conscientious objectors facing prosecution, imprisonment, and social marginalization.[6] The primary issue surrounding conscientious objection in the northern part of Cyprus is the absence of legal recognition and protection for objectors. Despite efforts by civil society and political actors to introduce legislation, the right to conscientious objection has not been enshrined in law.

The legislative proposal to amend the military service law, which was introduced in early January 2024, faced immediate rejection in 'parliament'. Citing "contextual conditions," a coalition of political parties (UBP-YDP-DP) voted against its urgency, effectively stalling any immediate action on the matter. As a result, conscientious objectors, like Mustafa Hürben and Halil Karapaşaoğlu, continued to face prosecution under military law, with some receiving prison sentences.

In addition, The European Court of Human Rights (ECHR), in a landmark 2024 ruling regarding the case of conscientious objector Murat Kanatlı, condemned Turkey for violating Article 9 of the European Convention on Human Rights, which guarantees freedom of thought, conscience, and religion.[7] Despite this decision, which has implications for the northern part of Cyprus, there has been no immediate legal reform. Furthermore, there are currently more cases of conscientious objectors from the northern part of Cyprus which are already pending against Türkiye before the European Court of Human Rights (ECtHR):

1. Halil Karapaşaoğlu Türkiye (case number 40627/19). The case was accepted by the ECtHR on 10/01/2020. On 05/07/2019 Halil Karapaşaoğlu submitted an application to the ECtHR against Türkiye for violations of articles 5, 6 and 9 of the European Convention of Human Rights: (Art. 5) Right to liberty and security, (Art. 6) Right to a fair trial, (Art. 9) Freedom of thought, conscience and religion.

2. Haluk Selam Tufanlı Türkiye (case number 29367/15). The application concerns the refusal of the applicant, a conscientious objector, to attend reservist service for military mobilisation training in 2011. On 02/06/2015 Haluk Selam Tufanlı submitted an application to the ECtHR against Türkiye for violations of articles 5 § 1, 4 and 5, 9 and 13 of the European Convention of Human Rights: (Art. 5) Right to liberty and security, (Art. 9) Freedom of thought, conscience and religion, (Art. 13) Right to an effective remedy.

What stands out about this judgement of *Kanatlı v. Türkiye* is that it marks the first time international jurisprudence has been applied to a case involving reserve service, particularly involving someone who had already completed military service. It's reassuring that the Court decisively ruled that these factors did not affect the underlying principles, and similarly, it did not allow the seemingly minor nature of the service in question to divert its focus. Additionally, unlike some earlier cases, the Court refrained from explicitly referring to conscientious objection to military service as a "manifestation" of religion or belief. While it might be too early to conclude that the Court now aligns with the UN Human Rights Committee's view that the right to conscientious objection is an inherent part of freedom of conscience, this interpretation would not contradict such a potential shift.

One of the other key achievements in the conscientious objection movement in the northern part of Cyprus has been the growing visibility and international support for the cause. The Initiative for Conscientious Objection in Cyprus has played a pivotal role in mobilizing public opinion and advocating for legal recognition of conscientious objection. In January 2024, the Initiative launched a successful social media campaign, gathering widespread support for conscientious objectors, with the slogan "Vicdani Ret Haktır" ("Conscientious Objection is a Right"). This campaign not only raised awareness locally but also attracted international attention, particularly from organizations such as the European Bureau for Conscientious Objection (EBCO) and War Resisters' International (WRI), whose representatives actively monitored trials and supported local activists.

Another significant achievement came during the International Conscientious Objection Day on May 15, 2024. The Initiative for Conscientious Objection in Cyprus organized public events, coinciding with Pride Week, that emphasized the intersectionality of anti-militarism and LGBTQ+ rights. This event demonstrated a growing solidarity between movements and reinforced the need for an inclusive approach to human rights in the northern part of Cyprus. Additionally, the declaration of conscientious objection by Alp Bürge, the first to do so without undergoing any military service, marked a new phase in the movement, expanding its reach and influence.

The Initiative for Conscientious Objection in Cyprus and its allies have articulated clear demands for both 'legal' and social reform. Additionally, activists demand that the northern part of Cyprus align its legal framework with international human rights standards, particularly those set forth by the European Court of Human Rights and other global bodies. This would involve parliamentary action to amend existing military laws, incorporating protections for conscientious objectors and ensuring that they are not subjected to punitive measures as well as the introduction of an alternative civilian service.

Recommendations:

The Turkish Government and the authorities in the northern part of Cyprus should

- provide for conscientious objection to military service in law, for all those affected by military service, including reservists,
- resolve all current cases of conscientious objectors, releasing them from any further military obligations, threat of imprisonment or fine.

[1] 'The whole of Cyprus is a territory of the European Union (EU). However, in the northern part of the island, where the Republic of Cyprus does not exercise effective control, EU legislation is suspended in accordance with Protocol 10 of the Accession Treaty signed in 2003' https://cyprus.representation.ec.europa.eu/about-us/turkish-cypriot-community_en accessed on September 14th, 2024.

[2] Loizidou v. Türkiye, no. 15318/89, 18 December 1996, ECHR.

[3] Queer Cyprus Association, 'Analysis of the 'legislation' in the northern part of Cyprus in terms of Discrimination against LGBTI+s ' (2021).

[4] Queer Cyprus Association, 'Booklet on LGBTI+ & The Struggle Against Militarism in the northern part of Cyprus' (2020).

[5] Ibid

[6] Human Rights Platform, '2024 Yılında Kıbrıs'ın kuzeyindeki Vicdani Ret Süreci ile ilgili Önemli Gelişmeler' (2024) <https://insanhaklariplatformu.eu/detail/2024-yd-ld-nda-kd-brd-sv%D1%92-d-n-kuzeyindeki-vicdani-ret-sg%D1%98reci-ile-iliglig-nemli-gelie%D1%9Fmeler/1501> accessed on September 15th, 2024.

[7] Kanatlı v. Türkiye, no. 18382/15, 12 March 2024, ECHR.