



## **SUBMISSION**

**TO THE 143<sup>rd</sup> SESSION OF THE HUMAN RIGHTS COMMITTEE**

## **BURKINA FASO**

**Unlawful conscription, conscientious objection to military service and related issues**

Updated January 2025

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Contact:

Zaira Zafarana

International advocacy coordinator

[zaira.zafarana@connection-ev.org](mailto:zaira.zafarana@connection-ev.org)

## INTRODUCTION

There is a longstanding record of alleged human rights violations in the State Party, related to, or even allegedly committed by, (personnel of) the armed forces.<sup>1</sup>

This situation appears to have been possibly deteriorated, at least as of certain aspects, in recent years, particularly following, and in relation to, a Decree of April 2023 (hereinafter “the Decree No. 2023-0475”),<sup>2</sup> enforcing general mobilisation in order to defend the integrity of the national territory, restore security and protect population from “terrorist actions”. This Decree effectively permits the conscription of civilians in the armed forces.

Connection e.V. is particularly concerned of the consequences of this Decree, as well as of its apparent misuse as a tool of repression, with respect to the human rights situation in the State party, which require a comprehensive examination of issues related to conscription and the armed forces.

In view of the recent developments, occurred *after* the adoption, in 2020, of the List of Issues prior to the submission of the second periodic report (LOIPR),<sup>3</sup> (or, in many cases, even after the submission of the State Party’s second periodic report received on 16 June 2023),<sup>4</sup> Connection e.V. kindly invites the Human Rights Committee (hereinafter the Committee) to take in consideration such recently occurred issues, and the broader issue of conscription. Several aspects of the issues described in this submission can be examined in the context of issues already included in the LOIPR, such as for example: “Liberty and security of person, legality of detention and administration of justice (arts. 9, 10 and 14)”, including the issue of guarantee of the independence of the justice system; “Freedom of expression and protection of journalists and human rights defenders (arts. 2, 7, 9, 14 and 19)”; “State of emergency and counter-terrorism measures (arts. 2, 4, 6, 7, 9, 10, 12, 14 and 19)”; “Non-discrimination (arts. 2, 7, 24, 25 and 26)”, especially as for persons belonging to religious minorities; “Treatment of refugees, asylum seekers, stateless persons and displaced persons (arts. 12, 13, 14, 24 and 26)”, etc.

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## UNLAWFUL FORCED CONSCRIPTION

### International human rights law and standards

As the Committee has observed: “under article 8 of the Covenant, States parties may require service of a military character”.<sup>5</sup>

Indeed, article 8 of the Covenant does not prohibit the requirement of military service by clarifying that “For the purpose of this paragraph [i.e. 8 (3)] the term “forced or compulsory labour” shall not include: [...] (ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors”.<sup>6</sup>

However, while States have the authority to conscript members of the civilian population age 18 and over for national defence, nevertheless, “*conscription should be authorized and in accordance with domestic law. The conscription law needs to be carried out in a manner that gives the potential conscript*

<sup>1</sup> UN Human Rights Committee, Concluding observations on the initial report of Burkina Faso (CCPR/C/BFA/CO/1), 17 October 2016, paras 25-28. <https://undocs.org/en/CCPR/C/BFA/CO/1>

UN Human Rights Committee, List of issues prior to submission of the second periodic report of Burkina Faso, (CCPR/C/BFA/QPR/2), 1 September 2020, para. 15. <https://undocs.org/CCPR/C/BFA/QPR/2>

<sup>2</sup> [https://lefaso.net/IMG/pdf/decret\\_sur\\_la\\_mobilisation\\_generale-1.pdf](https://lefaso.net/IMG/pdf/decret_sur_la_mobilisation_generale-1.pdf)

<sup>3</sup> UN Human Rights Committee, List of issues prior to submission of the second periodic report of Burkina Faso, (CCPR/C/BFA/QPR/2), 1 September 2020. <https://undocs.org/CCPR/C/BFA/QPR/2>

<sup>4</sup> UN Human Rights Committee, “Second periodic report submitted by Burkina Faso under article 40 of the Covenant, due in 2021”, (CCPR/C/BFA/2), Distr.: General: 2 February 2024, [Date received: 16 June 2023]. <https://undocs.org/CCPR/C/BFA/2>

<sup>5</sup> E.g. *Foin v. France* (CCPR/C/67/D/666/1995), para. 10.3. <https://undocs.org/CCPR/C/67/D/666/1995>

<sup>6</sup> ICCPR, art. 8, para 3, (C), (II).

*notice of the duration of the military service and an adequate opportunity to contest being required to serve at that time. Conscription also needs to be carried out according to standards consistent with non-discrimination and equal protection under law. The use of conscription for politically motivated purposes [see further below] violates international human rights protection standards.”<sup>7</sup>*

Several aspects of the practice of conscription as it has been enforced since the issuing of the Decree No. 2023-0475 in April 2023, do not appear to comply with international human rights standards.

### **Lack of transparency**

The conscription process is not clear, and the number of conscripts is not public, nor are the options to challenge them.<sup>8</sup>

### **Disregard for court rulings**

In addition, court rulings concerning complaints against conscription appear to be ignored. As reported by Amnesty International: “On 6 December 2023, a court in Ouagadougou,<sup>9</sup> responding to a complaint by three conscripted people against their requisition orders, ruled their conscriptions were unlawful and ordered their suspension. The court also ordered the army to immediately refrain from carrying out those orders. This has been ignored.”<sup>10</sup>

According to Human Rights Watch, on 13 August 2024, a court in Bobo-Dioulasso, in western Burkina Faso, ruled that the requisition orders of certain magistrates from this city were “manifestly illegal” and violated “the fundamental freedoms of the persons concerned,” and ordered the government not to carry them out.<sup>11</sup>

### **Practices of forced conscription**

It has been reported that people have been allegedly taken “from their homes and offices without warning”<sup>12</sup> or “in the middle of traffic”.<sup>13</sup>

Such forms of forced conscription present similarities with practices which have been reportedly applied in countries such as Colombia<sup>14</sup>, Ukraine<sup>15</sup> and the Russian Federation<sup>16</sup> and have been criticised by the Committee.

### **Abductions amounting to enforced disappearance**

Furthermore, disappearance of people for months, without their families knowing their whereabouts, resembles more to enforced disappearance or unlawful, arbitrary and incommunicado detention, than a

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<sup>7</sup> Human Rights Watch, “Burkina Faso: Conscription Used to Punish Prosecutors, Judges”, 21 August 2024.

<https://www.hrw.org/news/2024/08/21/burkina-faso-conscription-used-punish-prosecutors-judges>

<sup>8</sup> Amnesty International, “Burkina Faso: Free human rights defender Daouda Diallo and end discriminatory conscription of independent voices”, 22 January 2024. <https://www.amnesty.org/en/latest/news/2024/01/burkina-faso-free-human-rights-defender-daouda-diallo-and-end-discriminatory-conscription-of-independent-voices/>

<sup>9</sup> RFI, “Burkina Faso: un tribunal juge illégales les réquisitions militaires de certaines personnalités”, 6 December 2023, available in French at: <https://www.rfi.fr/fr/afrique/20231206-burkina-faso-le-tribunal-juge-ill%C3%A9gales-les-r%C3%A9quisitions-de-certaines-personnalit%C3%A9s-dans-les-vdp>

<sup>10</sup> Amnesty International, “Burkina Faso: Free human rights defender Daouda Diallo and end discriminatory conscription of independent voices”, 22 January 2024. <https://www.amnesty.org/en/latest/news/2024/01/burkina-faso-free-human-rights-defender-daouda-diallo-and-end-discriminatory-conscription-of-independent-voices/>

<sup>11</sup> Human Rights Watch, “Burkina Faso: Conscription Used to Punish Prosecutors, Judges”, 21 August 2024.

<https://www.hrw.org/news/2024/08/21/burkina-faso-conscription-used-punish-prosecutors-judges>

<sup>12</sup> Committee to Protect Journalists, “Burkina Faso confirms conscription of 3 journalists, 1 still missing”, 25 October 2024.

<https://cpj.org/2024/10/burkina-faso-confirms-conscription-of-3-journalists-1-still-missing/>

<sup>13</sup> Reporters Without Borders, “Who are the four journalists that disappeared in Burkina Faso?”, 24 July 2024.

<https://rsf.org/en/who-are-four-journalists-disappeared-burkina-faso>

<sup>14</sup> CCPR/C/COL/CO/6, para. 22, <https://undocs.org/CCPR/C/COL/CO/6>; CCPR/C/COL/CO/7, paras. 34-35, <https://undocs.org/CCPR/C/COL/CO/7>.

<sup>15</sup> Human Rights Committee, Concluding observations on the eighth periodic report of Ukraine, (CCPR/C/UKR/CO/8), 9 February 2022, paras. 29-30. <https://undocs.org/CCPR/C/UKR/CO/8>

<sup>16</sup> CCPR/C/RUS/CO/8, 1 December 2022, paras 6, 8, as well 38 about Crimea and Sevastopol. <https://undocs.org/CCPR/C/RUS/CO/8>

lawful conscription or mobilisation.

According to Ilaria Allegrozzi, senior Sahel researcher at Human Rights Watch: “The Burkinabè authorities use of abusive conscriptions are abductions that may amount to enforced disappearances and need to stop”.<sup>17</sup>

Indeed, the **Committee on Enforced Disappearances**, the body of independent experts which monitors the implementation of the **Convention for the Protection of all Persons against Enforced Disappearance** by the States parties, has highlighted the issue in its 2024 concluding observations:

**“Forced mobilization and enforced disappearances**

31. While taking into account the information provided by the State party on legal safeguards and means of challenging an act of forced mobilization, the Committee regrets that several practices implemented under Decree No. 2023-0475 on general mobilization and states of national emergency might constitute enforced disappearance (arts. 1, 11, 12, 17–22 and 24).

**32. The Committee recalls that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance. In this light, the Committee recommends that the State party ensure that the measures taken to combat terrorism do not give rise to enforced disappearances and that the families of recruited persons are systematically informed of their whereabouts and can contact them whenever they wish.”**<sup>18</sup>

The above-described practices are unacceptable, for any individual, and they appear to constitute serious violations of **article 9 of the Covenant on the right to liberty and security of person**, and possibly others, as well as provisions of other treaties such as the Convention for the Protection of all Persons against Enforced Disappearance.

However, what is more alarming is that the above-described practices appear to target predominantly critics of the authorities and dissidents, including journalists and human rights defenders – an aspect which requires a separate and more thorough examination, especially taking into consideration the issue of “Freedom of expression and protection of journalists and human rights defenders” cited in the LOIPR.<sup>19</sup>

### **Abductions of activists, journalists and political opponents**

Already in November 2023, following relevant local civil society announcements and media reports, Human Rights Watch alerted that: “*Burkina Faso's military junta is using a sweeping emergency law against perceived dissidents to expand its crackdown on dissent, Human Rights Watch said today. Between November 4 and 5, 2023, the Burkinabe security forces notified<sup>20</sup> in writing or by telephone at least a dozen journalists, civil society activists, and opposition party members that they will be conscripted to participate in government security operations across the country. [...]*

*The recent notifications for conscriptions targeted, among others, **Bassirou Badjo** and **Rasmane Zinaba**,<sup>21</sup> members of the civil society group **Balai Citoyen**; **Daouda Diallo**,<sup>22</sup> prominent rights defender, secretary-general of the **Collective Against Impunity and Stigmatization of Communities (Collectif contre l'Impunité et la Stigmatisation des Communautés, CISC)**, and laureate<sup>23</sup> of the 2022*

<sup>17</sup> Human Rights Watch, “Burkina Faso: Abductions Used to Crack Down on Dissent”, 27 February 2024.

<https://www.hrw.org/news/2024/02/27/burkina-faso-abductions-used-crack-down-dissent>

<sup>18</sup> UN CED, Concluding observations on the additional information submitted by Burkina Faso under article 29 (4) of the Convention, (CED/C/BFA/OAI/1), 15 March 2024, paras. 31-32. <https://undocs.org/CED/C/BFA/OAI/1>

<sup>19</sup> UN Human Rights Committee, List of issues prior to submission of the second periodic report of Burkina Faso, (CCPR/C/BFA/QPR/2), 1 September 2020, para. 22. <https://undocs.org/CCPR/C/BFA/QPR/2>

<sup>20</sup> TV5 Monde, “Burkina Faso: des opposants réquisitionnés”, 7 November 2023. Available in French at: <https://information.tv5monde.com/afrique/video/burkina-faso-des-opposants-requisitionnes-2674646>

<sup>21</sup> “Burkina Faso : Rasmane Zinaba et Bassirou Badjo du Balai citoyen réquisitionnés

Déclaration”, *LeFaso.net*, 5 November 2023. Available in French at: <https://lefaso.net/spip.php?article125516>

<sup>22</sup> « #Burkina : Daouda Diallo réquisitionné, le CISC accuse le MPSR2 de vouloir taire toute voix discordante », *OuagaNews.net*, 5 November 2023. Available in French at: <https://ouaganews.net/burkina-daouda-diallo-requisitionne-le-cisc-accuse-le-mpsr2-de-vouloir-taire-toute-voix-discordante/>

<sup>23</sup> Dr. Daouda Diallo, 2022 Laureate. <https://www.martinennalsaward.org/hrd/dr-daouda-diallo/>

*Martin Ennals Award for Human Rights Defenders; **Gabin Korbéogo**,<sup>24</sup> president of the Burkina Faso Democratic Youth Organization (Organisation Démocratique de la Jeunesse du Burkina Faso, ODJ); and the journalists **Issaka Lingani** and **Yacouba Ladj Bama**.<sup>25</sup>*

*Domestic civil society groups, media organizations, and trade unions have strongly condemned what one called the “selective and punitive”<sup>26</sup> application of the “general mobilization” decree. In a November 6 statement, the Burkinabe Movement of Human and Peoples’ Rights (Mouvement Burkinabè des Droits de l’Homme et des Peuples, MBDHP) said<sup>27</sup> the general mobilization “has been specifically designed and adopted not to contribute to the fight against terrorism,” but to repress critical opinions.”<sup>28</sup>*

Already in September 2023, the media had reported that on the 6<sup>th</sup> of September<sup>29</sup> the army had conscripted “an anesthesiologist, **Arouna Louré**, following a Facebook post in which he commented on the military response to the Islamist insurgency. He was sent to Koumbri, Yatenga province, one of the most dangerous areas in the country’s North region, to support the military medical services there. On September 5, the day before Louré was conscripted, Islamist fighters killed<sup>30</sup> at least 17 soldiers and 36 volunteers assisting the military in Koumbri, in one of the deadliest attacks against the security forces since the beginning of the year.”<sup>31</sup>

Subsequently, according to Amnesty International, Dr Daouda Diallo, Secretary-General of the Collective Against Impunity and Community Stigmatization (CISC), forcibly disappeared. Dr Diallo was abducted by security agents on 1 December 2023 as he left the passport office in Ouagadougou, Burkina Faso’s capital, and taken to an unknown destination. A few days later, in an image shared on social media,<sup>32</sup> he was shown in the back of an army truck wearing military uniform. By that time the government did not officially acknowledge his detention nor his whereabouts, but his family and lawyers believed he was on the frontline.

At the time of his enforced disappearance, Dr Diallo was subject to a call up for military duty, along with several other civil society and media figures, under a decree being used increasingly against critics of the country’s transitional government, Amnesty International reported.

On 6 December, a court ordered the suspension of the conscription orders of journalist Issiaka Lingani plus Bassirou Badjo and Rasmane Zinaba, members of the Balai Citoyen grassroots citizens movement, ruling that it violated their rights to freedom of expression and movement and caused a risk to their physical integrity. These three individuals were the only ones among 14 public Burkinabè figures, who were properly served conscription orders in November.

On 24 December 2023, former Foreign Affairs Minister **Ablassé Ouedraogo** was arrested at his home after returning from a trip abroad. He was singled out for conscription along with Dr Diallo and several

<sup>24</sup> Prisca F. Konkobo, « Burkina Faso : L’ODJ dénonce les réquisitions « sélectives et arbitraires » du MPSR 2 », *24Heures.bf*, 7 November 2023. Available in French at: <https://www.24heures.bf/burkina-faso-lodj-denonce-les-requisitions-selectives-et-arbitraires-du-mpsr-2/>

<sup>25</sup> « Burkina Faso : Vague de réquisitions pour le front en cours », *L’InfoH24*, 5 November 2023. Available in French at: <https://www.infoh24.info/burkina-faso-vague-de-requisitions-pour-le-front-en-cours/>

<sup>26</sup> « Réquisitions au Burkina Faso : La réaction du Collectif syndical CGT-B », *Faso7*, 5 November 2023. Available in French at: <https://faso7.com/2023/11/05/faso7-requisitions-au-burkina-faso-la-reaction-du-collectif-syndical-cgt-b/>

<sup>27</sup> « Réquisitions au Burkina Faso : La réaction du MBDHP », *Faso7*, 5 November 2023. Available in French at: <https://faso7.com/2023/11/05/requisitions-au-burkina-faso-la-reaction-du-mbdhp/>

<sup>28</sup> Human Rights Watch, “Burkina Faso: Emergency Law Targets Dissidents. Junta Using Conscription to Punish Critics”, 8 November 2023. <https://www.hrw.org/news/2023/11/08/burkina-faso-emergency-law-targets-dissidents>

<sup>29</sup> Daouda Kiekieta, « Burkina : Dr Arouna Louré, le médecin « révolté » », *LibreInfo*, 15 September 2023. Available in French at: <https://libreinfo.net/dr-arouna-loure/>

<sup>30</sup> “At least 53 Burkina Faso soldiers, volunteers killed in clashes with rebels”, *Al Jazeera*, 5 September 2023. <https://www.aljazeera.com/news/2023/9/5/over-50-burkina-faso-soldiers-volunteers-killed-in-clashes-with-rebels>

<sup>31</sup> Human Rights Watch, “Burkina Faso: Emergency Law Targets Dissidents. Junta Using Conscription to Punish Critics”, 8 November 2023. <https://www.hrw.org/news/2023/11/08/burkina-faso-emergency-law-targets-dissidents>

<sup>32</sup> <https://x.com/emmanutapsoba/status/1731934873848315950?mx=2>



members of the civil society, human rights defenders, activists, and journalists in November 2023.<sup>33</sup>

In February 2024, other pictures and videos of Mr. Diallo, with other conscripts, taking part in military exercises, were also shared. During the three months of his conscription, the government never communicated on his whereabouts and the legal challenges against his conscription. On 7 March, Daouda Diallo was freed and returned to his home in Ouagadougou.<sup>34</sup>

However, in the meantime, the crackdown continued. The two members of the Balai Citoyen grassroots citizens movement, for which the Court had ruled on 6 December 2023 the suspension of the conscription orders, were reportedly abducted. According to Human Rights Watch, “on February 20, 2024, armed men in civilian clothes abducted<sup>35</sup> Rasmané Zinaba, a member of the civil society group Balai Citoyen, at his home in Ouagadougou. ‘At least four gunmen took him between 6:15 and 6:30 a.m.,’ a Balai Citoyen member told Human Rights Watch. ‘They drove him off in a civilian vehicle.’ The following day, February 21, men in civilian clothes, presenting themselves as government security officers, abducted<sup>36</sup> Bassirou Badjo, also a member of the Balai Citoyen at the Ministry of Humanitarian Affairs office in Ouagadougou. Later that day, Balai Citoyen issued a statement condemning the abductions and calling for its members’ immediate release. The men’s families and Balai Citoyen filed a complaint with the police, but there has been no follow-up action.”<sup>37</sup>

In June and July 2024, it has been reported, *inter alia*, by the Reporters without Borders, that there has been an abduction of 4 journalists:

- **Kalifara Séré**, news commentator at BF1 – disappeared on 18 or 19 June 2024.
- **Atiana Serge Oulon**, investigative journalist at L’Événement, aged 38, 24 June 2024.
- **Adama Bayala**, news commentator at BF1, aged 44, 28 June 2024.
- **Alain Traoré**, better known by his pseudonym **Alain Alain**, editor-in-chief of Omega Media, aged 49, 13 July 2024.<sup>38</sup>

According to Human Rights Watch, on 18 June 2024, **Kalifara Séré**, commentator on BFI’s TV show *7Infos*, was reported missing after leaving a meeting with the Superior Council for Communication, Burkina Faso’s media regulator, to return to his office in Ouagadougou. People close to Séré told Human Rights Watch that the council questioned him about his June 16 TV commentary, in which he had expressed doubts about the authenticity of some photographs showing the head of state.<sup>39</sup>

On 24 June 2024, gunmen claiming to be working for the intelligence services abducted<sup>40</sup> **Atiana Serge Oulon**, director of the bimonthly publication L’Événement (The Event), from his home in Ouagadougou. In December 2022, Oulon had written an article<sup>41</sup> denouncing the alleged embezzlement

<sup>33</sup> Amnesty International, “Burkina Faso: Free human rights defender Daouda Diallo and end discriminatory conscription of independent voices”, 22 January 2024. <https://www.amnesty.org/en/latest/news/2024/01/burkina-faso-free-human-rights-defender-daouda-diallo-and-end-discriminatory-conscription-of-independent-voices/>

<sup>34</sup> Amnesty International, “Burkina Faso: Disappeared human rights defender released: Daouda Diallo”, 28 March 2024, Index Number: AFR 60/7830/2024. <https://www.amnesty.org/en/documents/afr60/7830/2024/en/>

<sup>35</sup> “Burkina : Rasmane Zinaba enlevé par des individus non identifiés. Déclaration”, *LeFaso.net*, 20 February 2024. Available in French at: <https://lefaso.net/spip.php?article128123>

<sup>36</sup> AFP, “Enlèvement d'une figure de la société civile burkinabè”, *VOA Afrique*, 22 February 2024.

Available in French at: <https://www.voaafrrique.com/a/burkina-enl%C3%A8vement-d-une-figure-de-la-soci%C3%A9t%C3%A9-civile/7497865.html>

<sup>37</sup> Human Rights Watch, “Burkina Faso: Abductions Used to Crack Down on Dissent”, 27 February 2024.

<https://www.hrw.org/news/2024/02/27/burkina-faso-abductions-used-crack-down-dissent>

<sup>38</sup> Reporters Without Borders, “Who are the four journalists that disappeared in Burkina Faso?”, 24 July 2024.

<https://rsf.org/en/who-are-four-journalists-disappeared-burkina-faso>

<sup>39</sup> Human Rights Watch, “Burkina Faso: Conscription Used to Punish Prosecutors, Judges”, 21 August 2024.

<https://www.hrw.org/news/2024/08/21/burkina-faso-conscription-used-punish-prosecutors-judges>

<sup>40</sup> “Disparition”, *Afrique XXI*, 28 June 2024. Available in French at: <https://afriquexxi.info/Disparition>

<sup>41</sup> Atiana Serge Oulon, “Lutte contre le terrorisme : Des soupçons de détournement de l’argent des VDP, Un capitaine empêche 400 000 000”, *L’Événement*, 12 December 2022.

Available in French at: <https://www.evenement-bf.net/lutte-contre-le-terrorisme-des-soupcons-de-detournement-de-largent-des-vdp-un-capitaine-empêche-400-000-000/>

by an army captain of some 400 million CFA (US\$660,000) that were part of a budget allocated to support the civilian auxiliaries.<sup>42</sup> This had led him to a hearing by a military court.<sup>43</sup>

On 28 June 2024, **Adama Bayala**, a commentator on the private television channel BF1's show *Presse Échos*, was reported missing after he left his office in Ouagadougou. He was supposed to meet a friend in the Cissin neighbourhood shortly after 2pm on 28 June. The friend waited in vain. Bayala, who was previously a journalist at the state-owned newspaper *Sidwaya*, is one of the few voices that openly criticizes the current government. "He had already received threats via intermediaries six months ago. His position in the civil service was also used as leverage," said a close friend, as Bayala had been director of communications at the Higher Institute for Information and Communication Technology (ISTIC). "But he never stopped appearing on BF1," said a close friend.<sup>44</sup> According to Human Rights Watch, days before his disappearance, a message posted on the pro-junta Facebook page Anonymous Élite Alpha referred to previous abductions of dissidents and journalists and warned that he "will be next."<sup>45</sup>

**Alain Traoré**, better known by his pseudonym **Alain Alain**, was kidnapped in similar circumstances, according to Reporters Without Borders (RSF)'s information. Two armed men wearing balaclavas and mufflers, accompanied by at least three other people, broke into the journalist's home in the early hours of 13 July. Former journalist for the private radio station *Horizon FM*, Traoré was then working as the editor of the "National Languages" desk at the privately-owned *Omega Média* press group. Most notably, Traoré was writing "Le Défouloir," a daily satirical column criticising the shortcomings of those in power. "His family, including his children, are regularly threatened by government supporters. Many people don't understand that his programme 'Le Défouloir' is satirical," explained a source close to Traoré.<sup>46</sup>

The above journalists remained missing for months, with the authorities not disclosing any information on their whereabouts. Worth noting though that, in July 2024, Captain Ibrahim Traoré, head of State, publicly stated that: "There is a journalist who was recently enlisted because since 2023, he has spent time lying."<sup>47</sup> A statement which was considered to potentially refer to Atiana Serge Oulon.<sup>48</sup>

The same month, the **African Commission on Human and Peoples' Rights (ACHPR)** expressed deep concerns over the reported disappearances of Kalifara Séré, Serge Oulon and Adama Bayala.<sup>49</sup>

Almost four months later, in October 2024, in front of the African Commission on Human and Peoples' Rights (ACHPR), the Burkinabe authorities broke their silence on the fate of three journalists who disappeared in June, stating that they were drafted into the army. The Director General for Human Rights at Burkina Faso's Ministry of Justice, Marcel Zongo, asserted that, "**Serge Oulon, Adama Bayala** and

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<sup>42</sup> Human Rights Watch, "Burkina Faso: Conscripted Used to Punish Prosecutors, Judges", 21 August 2024.

<https://www.hrw.org/news/2024/08/21/burkina-faso-conscription-used-punish-prosecutors-judges>

<sup>43</sup> Tatiana Kaboré, "Affaire 400 millions détournés: la justice militaire auditionne le directeur de publication du journal «L'Évènement», *BF1News*, 29 December 2024.

Available in French at: <https://bf1news.com/2022/12/29/affaire-400-millions-detournes-la-justice-militaire-auditionne-le-directeur-de-publication-du-journal-levenement/>

<sup>44</sup> Reporters Without Borders, "Who are the four journalists that disappeared in Burkina Faso?", 24 July 2024.

<https://rsf.org/en/who-are-four-journalists-disappeared-burkina-faso>

<sup>45</sup> Human Rights Watch, "Burkina Faso: Conscripted Used to Punish Prosecutors, Judges", 21 August 2024.

<https://www.hrw.org/news/2024/08/21/burkina-faso-conscription-used-punish-prosecutors-judges>

<sup>46</sup> Reporters Without Borders, "Who are the four journalists that disappeared in Burkina Faso?", 24 July 2024.

<https://rsf.org/en/who-are-four-journalists-disappeared-burkina-faso>

<sup>47</sup> Oumar Konate, "Burkina: Captain Ibrahim Traoré explains government silence on terrorist attacks", *Minute.bf*, 11 July 2024.

<https://www.minute.bf/burkina-le-capitaine-ibrahim-traore-explique-le-silence-du-gouvernement-sur-les-attaques-terroristes/>

<sup>48</sup> Reporters Without Borders: "Burkina Faso: Traoré admits forcibly conscripting an editor as journalist kidnappings rise", 12 July 2024, updated 16 July 2024. <https://rsf.org/en/burkina-faso-traore%3%A9-admits-forcibly-conscripting-editor-journalist-kidnappings-rise>

<sup>49</sup> Hon. Commissaire Idrissa Sow, Commissaire Rapporteur sur la situation des droits de l'homme au Burkina Faso, "Communiqué de presse sur la disparition de trois journalistes au Burkina Faso", 26 July 2024.

Available in French at: <https://achpr.au.int/index.php/fr/news/communique-de-presse/2024-07-29/disparition-de-trois-journalistes-au-burkina-faso>

**Kalifara Séré** were not subjected to enforced disappearance.” The journalists were conscripted “on the basis of the general mobilization and warning decree.” Interviewed by RSF after his statement, Marcel Zongo said he did not wish to make “any further comments.”<sup>50</sup> Unfortunately, it appears that no information was provided for **Alain Traoré**.

The Committee to Protect Journalists (CPJ) said it was alarmed by the forced conscription of journalists Serge Atiana Oulon, Adama Bayala, and Kalifara Séré, who went missing in June, and called for them to be immediately returned home.

“It is outrageous and chilling that Burkinabe authorities feel it is acceptable to take journalists from their homes and offices without warning and wait four months before saying publicly that they have been forced into military service,” said Angela Quintal, CPJ’s Africa program head. “The repeated conscription of journalists appears to be just one, aggressive tactic in a wave of censorship deployed across Burkina Faso’s media landscape.” CPJ’s statement also noted that “A fourth journalist, Alain Traoré, was seized by men in masks in July and his whereabouts remain unknown.”<sup>51</sup>

### **Repression and arbitrary detention of the lawyer of unlawfully conscripted persons**

Worth noting also that among the legal representatives of the three men who filed the complaint, on which the court in Ouagadougou, on 6 December 2023, found that the conscription orders were unlawful, was Mr. Guy Hervé Kam. On the night of 24-25 January 2024, unidentified men abducted<sup>52</sup> Guy Hervé Kam, a prominent lawyer and coordinator of the political group Serve and Not be Served (Servir Et Non se Servir, SENS), inside Ouagadougou’s international airport. The group issued a statement on January 25 that men in civilian clothes presenting themselves as members of the national intelligence services took Kam into custody and drove him to “an unknown destination.”<sup>53</sup> He was held incommunicado. On 18 April 2024, the Ouagadougou administrative Court of Appeal ordered his release. On 29 May 2024, while he was finally freed near his home, he was arrested by state security forces. Samira Daoud, Regional Director for West and Central Africa at Amnesty International, said: “*We condemn the arbitrary detention of Me Guy Hervé Kam. Guy Hervé Kam was arrested and transferred to the custody of the gendarmerie on 29 May, and then remanded into a military prison, on new charges of conspiracy against the state. We believe the accusations against him are unfounded and call for his immediate and unconditional release.*”<sup>54</sup>

### **Conscription used to punish prosecutors, judges**

In the meantime, in August 2024 it was reported that Burkina Faso's military authorities were misusing the emergency law to unlawfully conscript magistrates – prosecutors and judges – who have opened legal proceedings against the regime supporters. This issue is particularly worrying, especially taking into consideration of the need to guarantee the effective independence of the justice system, which the Committee has highlighted both in the previous Concluding Observations,<sup>55</sup> as well in the LOIPR.<sup>56</sup>

Between 9 and 12 August 2024, the Burkinabè security forces notified by telephone at least seven

<sup>50</sup> Reporters Without Borders, “Burkina Faso: authorities confirm the conscription of three missing media professionals amidst a growing crackdown on the press”, 24 October 2024. <https://rsf.org/en/burkina-faso-authorities-confirm-conscription-three-missing-media-professionals-amidst-growing>

<sup>51</sup> CPJ, “Burkina Faso confirms conscription of 3 journalists, 1 still missing”, 25 October 2024. <https://cpj.org/2024/10/burkina-faso-confirms-conscription-of-3-journalists-1-still-missing/>

<sup>52</sup> “Burkina Faso : l’avocat Guy Hervé Kam enlevé, son mouvement accuse les autorités de transition”, Le Monde Afrique, 25 January 2024. Available in French at: [https://www.lemonde.fr/afrique/article/2024/01/25/burkina-faso-l-avocat-guy-herve-kam-enleve-son-mouvement-accuse-les-autorites-de-transition\\_6212945\\_3212.html](https://www.lemonde.fr/afrique/article/2024/01/25/burkina-faso-l-avocat-guy-herve-kam-enleve-son-mouvement-accuse-les-autorites-de-transition_6212945_3212.html)

<sup>53</sup> Human Rights Watch, “Burkina Faso: Abductions Used to Crack Down on Dissent”, 27 February 2024. <https://www.hrw.org/news/2024/02/27/burkina-faso-abductions-used-crack-down-dissent>

<sup>54</sup> Amnesty International, “Burkina Faso: Authorities must immediately release Guy Hervé Kam and Lt-Colonel Zoungrana”, 31 May 2024. <https://www.amnesty.org/en/latest/news/2024/05/burkina-faso-authorities-must-immediately-release-guy-herve-kam-and-lt-colonel-zoungrana/>

<sup>55</sup> UN Human Rights Committee, Concluding observations on the initial report of Burkina Faso (CCPR/C/BFA/CO/1), 17 October 2016, paras 31-32. <https://undocs.org/en/CCPR/C/BFA/CO/1>

<sup>56</sup> UN Human Rights Committee, List of issues prior to submission of the second periodic report of Burkina Faso, (CCPR/C/BFA/QPR/2), 1 September 2020, para. 18. <https://undocs.org/CCPR/C/BFA/QPR/2>



magistrates,<sup>57</sup> including four prosecutors, two deputy prosecutors, and an investigative judge, that they had been conscripted to participate in government security operations against Islamist armed groups in Kaya, Sanmatenga province, from 14 August to 13 November. On 14 August, six reported to a military base in Ouagadougou, Burkina Faso's capital, to respond to their notifications.

On 13 August, a court in Bobo-Dioulasso, in western Burkina Faso, ruled that the requisition orders of the two of the seven magistrates from this city were “manifestly illegal” and violated “the fundamental freedoms of the persons concerned,” and ordered the government not to carry them out.<sup>58</sup>

In an August 15 statement,<sup>59</sup> a coalition of three Burkinabè magistrates' unions said that the authorities had targeted the seven magistrates because they dealt with cases involving people “claiming to be staunch supporters of the current government.” The union also said that “these requisitions are acts of humiliation and intimidation of magistrates” and that they are being carried out “despite judicial decisions declaring them null and void.”

The judicial sources said that among those targeted by the conscription orders is the prosecutor of the high court in Ouagadougou, who had instructed the police to investigate claims by residents regarding the enforced disappearances of their loved ones.

The magistrates' union statement said that one of those conscripted is the judge of the high court in Ziniaré, Oubritenga province, handling the case of a supporter of the regime implicated in illegal mining activities that led to a landslide that killed about 60 people. It said that another is the prosecutor of the high court in Boromo, Balé province, who had instructed the police to investigate the alleged theft of livestock by an ally of the regime and civilian auxiliaries of the Burkinabè armed forces.<sup>60</sup>

## LACK OF INFORMATION ON, OR PROTECTION OF, THE RIGHT TO CONSCIENTIOUS OBJECTION

In the past, it has been reported that in the “Upper Volta”, as it was named by that time, “According to the law, conscientious objectors may face Imprisonment”,<sup>61</sup> and that in Burkina Faso “There is no known legal provision for conscientious objection. COs [i.e. conscientious objectors] may face imprisonment.”<sup>62</sup> But on the other hand, historically, it has been reported that “Upper Volta” was among the countries in which conscription exists but not enforced,<sup>63</sup> and that in Burkina Faso “There is no military conscription. In September 1990, military training during compulsory military service was abolished and replaced by a “civic and patriotic” training. “Civic and patriotic” duties last for one and a half months, followed by 10 months in the production sector. Military service formerly lasted one

<sup>57</sup> Morgane Le Cam, “Au Burkina Faso, la junte enrôle de force des magistrats récalcitrants sur le front antidjihadiste”, Le Monde Afrique, 16 August 2024. Available in French at: [https://www.lemonde.fr/afrique/article/2024/08/16/au-burkina-faso-la-junte-enrole-de-force-des-magistrats-recalcitrants-sur-le-front-antidjihadiste\\_6283669\\_3212.html](https://www.lemonde.fr/afrique/article/2024/08/16/au-burkina-faso-la-junte-enrole-de-force-des-magistrats-recalcitrants-sur-le-front-antidjihadiste_6283669_3212.html)

<sup>58</sup> Human Rights Watch, “Burkina Faso: Conscription Used to Punish Prosecutors, Judges”, 21 August 2024.

<https://www.hrw.org/news/2024/08/21/burkina-faso-conscription-used-punish-prosecutors-judges>

<sup>59</sup> « Communiqué de l'intersyndicale des magistrats relatif aux réquisitions ciblées de magistrats aux fins de «participer aux opérations de sécurisation du territoire auprès du Groupement de Forces de Sécurisation du Nord (GFSN) à Kaya » », 15 August 2024. Reproduced in: Hamadou Ouedraogo, « Réquisitions de magistrats : L'intersyndicale donne de la voix ! », *Burkina 24*, 16 August 2024.

<https://burkina24.com/2024/08/16/requisitions-de-magistrats-lintersyndicale-donne-de-la-voix/>

<sup>60</sup> Human Rights Watch, “Burkina Faso: Conscription Used to Punish Prosecutors, Judges”, 21 August 2024.

<https://www.hrw.org/news/2024/08/21/burkina-faso-conscription-used-punish-prosecutors-judges>

<sup>61</sup> CONSCIENTIOUS OBJECTION TO MILITARY SERVICE, Report prepared in pursuance of resolutions 14 (XXXIV) and 1982/30 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities by Mr. Asbjørn Eide and Mr. Chama Mubanga-Chipoya, members of the Sub-Commission, United Nations, New York, 1985, p. 29. <https://www.refworld.org/reference/themreport/un/1985/en/90388>

<sup>62</sup> War Resisters' International, “Country report and updates: Burkina Faso”, Last revision: 20 July 1998.

[https://wri-irg.org/en/programmes/world\\_survey/country\\_report/en/Burkina%20Faso](https://wri-irg.org/en/programmes/world_survey/country_report/en/Burkina%20Faso)

<sup>63</sup> CONSCIENTIOUS OBJECTION TO MILITARY SERVICE, Report prepared in pursuance of resolutions 14 (XXXIV) and 1982/30 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities by Mr. Asbjørn Eide and Mr. Chama Mubanga-Chipoya, members of the Sub-Commission, United Nations, New York, 1985, Annex II, p. 30. <https://www.refworld.org/reference/themreport/un/1985/en/90388>

year.”<sup>64</sup>

However, the situation might have been altered in recent years.

The State Party’s report does not appear to provide information on this issue. However, this is becoming increasingly important following the issuing of the Decree No. 2023-0475, which does not appear to provide information on conscientious objection to military service either.

### Legal obligation

All states must respect, protect and fulfil the right to conscientious objection to military service.

According to the Committee, “The right to conscientious objection to military service inheres in the right to freedom of thought, conscience and religion. It entitles any individual to an exemption from compulsory military service if this cannot be reconciled with that individual’s religion or beliefs. The right must not be impaired by coercion. A State may, if it wishes, compel the objector to undertake a civilian alternative to military service, outside the military sphere and not under military command. The alternative service must not be of a punitive nature. It must be a real service to the community and compatible with respect for human rights.”<sup>65</sup>

According to the OHCHR “States should give recognition to the right to conscientious objection to military service in their domestic legal systems.”<sup>66</sup>

### Particular importance and urgency in Burkina Faso

It is highly important and urgent to effectively respect, protect and fulfil the right to conscientious objection to military service particularly in Burkina Faso, and particularly this period, due to:

- the situation in the State party, which could possibly amount to an (non-international) armed conflict.<sup>67</sup> The right to conscientious objection to military service not only is fully applicable and should be guaranteed in times of armed conflict / wartime, as the Committee has ascertained,<sup>68</sup> but it is **particularly important to be protected especially in such times**. In the words of Committee’s members: “*It is precisely in time of armed conflict, when the community interests in question are most likely to be under greatest threat, that the right to conscientious objection is most in need of protection, most likely to be invoked and most likely to fail to be respected in practice.*”<sup>69</sup>
- the Decree No. 2023-0475 on mobilisation, which since 2023 permits conscription.

<sup>64</sup> Amnesty International, “Conscientious objection to military service”, 1 January 1991,

Index Number: POL 31/001/1991, Annex 2, p. 35. <https://www.amnesty.org/en/documents/pol31/001/1991/en/>

See also in: War Resisters’ International, “Country report and updates: Burkina Faso”, Last revision: 20 July 1998.

[https://wri-irg.org/en/programmes/world\\_survey/country\\_report/en/Burkina%20Faso](https://wri-irg.org/en/programmes/world_survey/country_report/en/Burkina%20Faso)

<sup>65</sup> See, *Min-Kyu Jeong et al. v. Republic of Korea* (CCPR/C/101/D/1642-1741/2007), para. 7.3. <https://undocs.org/CCPR/C/101/D/1642-1741/2007>

See also: *Jong-nam Kim et al. v. Republic of Korea*, para. 7.4; *Abdullayev v. Turkmenistan*, para. 7.7; *Mahmud Hedaybergenov v. Turkmenistan*, para. 7.5; *Ahmet Hedaybergenov v. Turkmenistan*, para. 7.5; *Sunnet Japparow v. Turkmenistan*, para. 7.6; *Akmurad Nurjanov v. Turkmenistan*, para. 9.3; *Shadurdy Uchetov v. Turkmenistan*, para. 7.6; *Dawletov v. Turkmenistan*, para. 6.3 and others.

<sup>66</sup> UN Human Rights Council, Conscientious objection to military service, Report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/56/30), 23 April 2024, para. 54. <https://undocs.org/A/HRC/56/30>

<sup>67</sup> Rule of Law in Armed Conflicts project (RULAC), “Non-international armed conflicts in Burkina Faso”.

<https://www.rulac.org/browse/conflicts/non-international-armed-conflicts-in-burkina-faso#collapse2accord>

See also references to “armed conflict”:

By UNHCR in <https://www.unhcr.org/countries/burkina-faso>

By Amnesty International, e.g. in: <https://www.amnesty.org/en/location/africa/west-and-central-africa/burkina-faso/report-burkina-faso/>

<sup>68</sup> E.g. CCPR/CO/82/FIN, 2 December 2004, para. 14. <http://undocs.org/CCPR/CO/82/FIN>

<sup>69</sup> Human Rights Committee, Communications Nos. 1853/2008 and 1854/2008, Views adopted by the Committee at its 104th session, 12 to 30 March 2012 (CCPR/C/104/D/1853-1854/2008), 19 June 2012. Individual opinion of Committee member Sir Nigel Rodley, jointly with members Mr. Krister Thelin and Mr. Cornelis Flinterman (concurring) <https://undocs.org/CCPR/C/104/D/1853-1854/2008>

- the reported **existence of religious communities**, e.g. Jehovah's Witnesses<sup>70</sup> or Mennonites,<sup>71</sup> known to conscientiously refuse the participation in (or support of) war or the armed forces. **[However, it should be emphasized that the right to conscientious objection to military service should be respected for all, not only for members of religious communities.** According to the Committee<sup>72</sup> and international human rights standards, there should be no discrimination on the basis of the grounds for conscientious objection and between groups of conscientious objectors, including "as to the nature of their religious or non-religious beliefs".<sup>73</sup>]
- the long-standing record of involvement of the military in the political developments, as well as in alleged human rights violations,<sup>74</sup> which could raise conscientious objection on non-religious grounds, or even non-pacifist grounds. In this regard, the issue of selective conscientious objection, according to international human rights standards, should also be taken into consideration.<sup>75</sup>

It should be noted that, according to international human rights law and standards, the right to conscientious objection to military service is not limited to those conscripted but extends also to

<sup>70</sup> Jehovah's Witnesses Around the World: Burkina Faso. <https://www.jw.org/en/jehovahs-witnesses/worldwide/BF/>

<sup>71</sup> Lynda Hollinger-Janzen, "Mennonites in Burkina Faso request prayer as they speak out against military taxation", 16 May 2023. Mennonite Mission Network.

<https://www.mennonitemission.net/news/mennonites-in-burkina-faso-request-prayer-as-they-speak-out-against-military-taxation/>

<sup>72</sup> 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. <https://undocs.org/CCPR/C/21/Rev.1/Add.4>

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

UN Human Rights Committee, Concluding observations on the eighth periodic report of Ukraine, (CCPR/C/UKR/CO/8), 9 February 2022, paras. 29-30. <https://undocs.org/CCPR/C/UKR/CO/8>

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

[See also in previous concluding observations: CCPR/C/UKR/CO/6, para.12, <https://undocs.org/CCPR/C/UKR/CO/6> ; CCPR/CO/73/UKR, para. 20, <https://undocs.org/CCPR/CO/73/UKR>]

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

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

<sup>73</sup> E.g. UN Human Rights Council, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, Report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/41/23), 24 May 2019, para. 60(e). <https://undocs.org/A/HRC/41/23>

OHCHR, Conscientious objection to military service, Analytical report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/50/43), 11 May 2022, para. 57(f). <https://undocs.org/A/HRC/50/43>

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

<sup>74</sup> UN Human Rights Committee, Concluding observations on the initial report of Burkina Faso (CCPR/C/BFA/CO/1), 17 October 2016, paras 25-28. <https://undocs.org/en/CCPR/C/BFA/CO/1>

UN Human Rights Committee, List of issues prior to submission of the second periodic report of Burkina Faso, (CCPR/C/BFA/QPR/2), 1 September 2020, para. 15. <https://undocs.org/CCPR/C/BFA/QPR/2>

<sup>75</sup> For the issue of selective conscientious objection see for instance:

UNHCR, Guidelines on International Protection No. 10, HCR/GIP/13/10/Corr. 1, 12 November 2014, para.3.

<https://www.unhcr.org/publications/legal/529efd2e9/guidelines-international-protection-10-claims-refugee-status-related-military.html>

UN Human Rights Council, 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, paras. 15, 63.

<https://www.undocs.org/A/HRC/35/4>

UN Human Rights Council, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, Report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/41/23), 24 May 2019, paras. 26, 47, 60(d). <https://undocs.org/A/HRC/41/23>

UN Conscientious objection to military service, Analytical report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/50/43), 11 May 2022, paras. 12, 17(d), 57(e). <http://undocs.org/A/HRC/50/43>

United Nations, General Assembly, Conscientious objection to military service, Report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/56/30), 23 April 2024, para. 20. <https://undocs.org/A/HRC/56/30>

volunteers<sup>76</sup> / professional members of the armed forces.<sup>77</sup> This is particularly important in a State party where there is a long-standing record of involvement of the military in political developments, as well in alleged human rights violations, to which certain people might oppose at some point after they have voluntarily joined the armed forces.

### **Non-derogability in times of war or emergency**

It should be stressed that the right to conscientious objection to military service is non-derogable in times of war or emergency.

According to international human rights law and standards the right to conscientious objection applies both in wartime and in peacetime, as acknowledged by the Committee.<sup>78</sup> Article 4, paragraph 2, of the ICCPR does not permit any derogation from the obligations of a state party concerning Article 18 on freedom of thought, conscience and religion, (to which the right to conscientious objection to military service is inherent<sup>79</sup>) even in time of public emergency which threatens the life of the nation.<sup>80</sup>

### **Conscientious objection as an issue of non-discrimination**

Non-discrimination is included in the LOIPR, including a reference to “persons belonging to ethnic or religious minorities”.<sup>81</sup> The existence of religious minorities (e.g. Jehovah’s Witnesses, Mennonites), which could be affected in case of lack of protection of the right to conscientious objection to military service, has been documented above. However, discrimination could also affect non-religious conscientious objectors.

The Committee, throughout the years, has consistently examined the issue of conscientious objection to military service not only through the lens of the right to freedom of thought, conscience and religion, but also through the lens of the right to freedom from discrimination, consequently invoking not only article 18, but also article 26 of the Covenant.<sup>82</sup>

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<sup>76</sup> UN Human Rights Council, Conscientious objection to military service, Report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/56/30), 23 April 2024, para. 54(b). <https://undocs.org/A/HRC/56/30>

<sup>77</sup> 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(c). <https://undocs.org/A/HRC/41/23>

See also:

Council of Europe, Parliamentary Assembly, Recommendation 1518 (2001), para. 5.2.

[https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=16909&lang=en#\\_blank](https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=16909&lang=en#_blank)

Council of Europe, Committee of Ministers, Recommendation CM/Rec (2010) 4 “Human Rights of members of the armed forces”, paras. 42 - 46.

<https://www.refworld.org/docid/506979172.html>

OSCE, ODIHR, *Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel*, 2008, Chapter 10 Conscientious Objection to Military Conscription and Service, 4. Best Practices and Recommendations, p. 85 [second point]. <https://www.osce.org/odihr/31393?download=true>

<sup>78</sup> E.g. CCPR/CO/82/FIN, 2 December 2004, para. 14. <http://undocs.org/CCPR/CO/82/FIN>

<sup>79</sup> UN Human Rights Committee, Communication No. 1642-1741/2007, Jeong et al. v. Republic of Korea (CCPR/C/101/D/1642-1741/2007), 27 April 2011, para. 7.3. <http://undocs.org/CCPR/C/101/D/1642-1741/2007>

<sup>80</sup> See also: Amy Maguire, “Why banning men from leaving Ukraine violates their human rights”, *The Conversation*, 8 March 2022.

<https://theconversation.com/why-banning-men-from-leaving-ukraine-violates-their-human-rights-178411>

And “Right to freedom of thought, conscience and religion or belief, Public sector guidance sheet”.

<https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/right-freedom-thought-conscience-and-religion-or-belief#can-the-right-to-freedom-of-thought-conscience-and-religion-or-belief-be-limited>

<sup>81</sup> UN Human Rights Committee, List of issues prior to submission of the second periodic report of Burkina Faso, (CCPR/C/BFA/QPR/2), 1 September 2020, para. 7. <https://undocs.org/CCPR/C/BFA/QPR/2>

<sup>82</sup> E.g. Human Rights Committee, Views on Communication No. 666/1995, Frédéric Foin v France, (CCPR/C/67/D/666/1995), 9 November 1999, paras. 10.3, 11. <https://undocs.org/en/CCPR/C/67/D/666/1995>

UN Human Rights Committee, Views on Communications No. 690/1996 & 691/1996, Marc Venier and Paul Nicolas v. France, (CCPR/C/69/D/690/1996), paras. 10.4, 11. <https://www.refworld.org/jurisprudence/caselaw/hrc/2000/en/89601>

UN Human Rights Committee, Concluding observations on the second periodic report of Estonia, (CCPR/CO/77/EST), 15 April 2003, para 15.

<https://undocs.org/en/CCPR/CO/77/EST>

UN Human Rights Committee, Concluding observations on the fifth periodic report of the Russian Federation, (CCPR/CO/79/RUS), 1 December 2003,

## TRIALS OF CIVILIANS BY MILITARY COURTS

In the LOIPR, the State party is required, *inter alia*, to “specify the nature of the offences for which civilians may be tried before military courts and describe the measures taken or envisaged to eliminate this practice.”<sup>83</sup>

In the State party’s report, it is stated:

“As to offences for which civilians can be tried in military courts, under article 38 of the Code of Military Justice: “Others likewise subject to the jurisdiction of the military courts include persons not legally or contractually bound to the armed forces, but who are officially registered as performing services; civilian personnel employed in military facilities and establishments, persons excluded from the armed forces who have not yet returned home and civilians who are accomplices or co-perpetrators in offences subject to military jurisdiction.” Civilians can be tried by military courts for offences classified as military offences (incitement to desertion, harbouring of deserters, treason, conspiracy, unauthorized use of uniforms, decorations or distinctive signs and emblems, desecration or contempt of the flag or the army, etc.).”<sup>84</sup>

### International standards

#### *The Committee’s views*

*“The Committee notes the existence, in many countries, of military or special courts which try civilians. While the Covenant does not prohibit the trial of civilians in military or special courts, it requires that such trials are in full conformity with the requirements of article 14 and that its guarantees cannot be limited or modified because of the military or special character of the court concerned. The Committee also notes that the trial of civilians in military or special courts may raise serious problems as far as the equitable, impartial and independent administration of justice is concerned. Therefore, it is important to take all necessary measures to ensure that such trials take place under conditions which genuinely afford the full guarantees stipulated in article 14. Trials of civilians by military or special courts should be exceptional,<sup>85</sup> i.e. limited to cases where the State party can show that resorting to such trials is necessary and justified by objective and serious reasons, and where with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trials.”<sup>86,87</sup>*

The Committee has also stated that: *“It is incumbent on a State party that does try civilians before military courts to justify the practice. The Committee considers that the State party must demonstrate, with regard to the specific class of individuals at issue, that the regular civilian courts are unable to undertake the trials, that other alternative forms of special or high-security civilian courts are inadequate to the task and that recourse to military courts is unavoidable. The State party must further demonstrate how military courts ensure the full protection of the rights of the accused pursuant to article 14. [...] The State party’s failure to demonstrate the need to rely on a military court in this case means*

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para. 17. <https://undocs.org/en/CCPR/CO/79/RUS>

UN Human Rights Committee, Concluding observations on the fifth periodic report of Finland, (CCPR/CO/82/FIN), 2 December 2004, para. 14.

<https://undocs.org/en/CCPR/CO/82/FIN>

UN Human Rights Committee, Concluding observations on the fifth periodic report of Poland, (CCPR/CO/82/POL), 2 December 2004, para. 15.

<https://undocs.org/en/CCPR/CO/82/POL>

UN Human Rights Committee, Concluding observations on the fifth periodic report of Austria, (CCPR/C/AUT/CO/5), 3 December 2015, paras. 33-34.

<https://undocs.org/en/CCPR/C/AUT/CO/5>

UN Human Rights Committee, Concluding observations on the third periodic report of Greece, (CCPR/C/GRC/CO/3), 28 November 2024, paras. 28-29.

<https://undocs.org/en/CCPR/C/GRC/CO/3>

<sup>83</sup> CCPR/C/BFA/QPR/2, 1 September 2020, para. 18. <https://undocs.org/CCPR/C/BFA/QPR/2>

<sup>84</sup> UN Human Rights Committee, “Second periodic report submitted by Burkina Faso under article 40 of the Covenant, due in 2021”, (CCPR/C/BFA/2), Distr.: General: 2 February 2024, [Date received: 16 June 2023], para. 157. <https://undocs.org/CCPR/C/BFA/2>

<sup>85</sup> Also see Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, art. 64 and general comment No. 31 (2004) on the *Nature of the General Legal Obligation Imposed on States Parties to the Covenant*, para. 11.

<sup>86</sup> See communication No. 1172/2003, *Madani v. Algeria*, para. 8.7.

<sup>87</sup> UN Human Rights Committee, General Comment No. 32 “Article 14: Right to equality before courts and tribunals and to a fair trial”, (CCPR/C/GC/32), 23 August 2007, para. 22. <https://undocs.org/en/CCPR/C/GC/32>



that the Committee need not examine whether the military court, as a matter of fact, afforded the full guarantees of article 14.”<sup>88</sup>

However, on another occasion, the Committee has even recommended: “that the Criminal Code be amended so as to prohibit the trial of civilians by military tribunals in any circumstances”.<sup>89</sup>

### **Principles**

Connection e.V. points out that the Principle No. 5 of the “Draft principles governing the administration of justice through military tribunals” requires that: “Military courts should, in principle, have no jurisdiction to try civilians. In all circumstances, the State shall ensure that civilians accused of a criminal offence of any nature are tried by civilian courts”.<sup>90</sup> This Principle has been cited also by the Special Rapporteur on the independence of judges and lawyers, pointing out that according to it: “military courts should have no jurisdiction to try civilians”.<sup>91</sup> This has also been cited by the European Court of Human Rights.<sup>92</sup>

Connection e.V. also stresses that Principle 29 of the “Updated Set of principles for the protection and promotion of human rights through action to combat impunity” requires explicitly that: “The jurisdiction of military tribunals must be restricted solely to specifically military offences committed by military personnel...”<sup>93</sup>

Similarly, in the “Principles and guidelines on the right to a fair trial and legal assistance in Africa”, the section L, titled “Right of civilians not to be tried by military courts”, para. (a) requires that: “The only purpose of Military Courts shall be to determine offences of a purely military nature committed by military personnel.” And para (c) requires that: “Military courts should not in any circumstances whatsoever have jurisdiction over civilians.”<sup>94</sup>

### **Regional Courts**

The Inter-American Court of Human Rights has ruled that “*The State must align the domestic legal system to the international standards regarding criminal military jurisdiction within a reasonable period of time, so that in case it considers the existence of a military criminal jurisdiction to be necessary, this must be restricted only to crimes committed by military personnel in active service. Therefore, the State shall set limits to the material and personal jurisdiction of the military courts through its legislation, so that under no circumstances may a civilian be subjected to the jurisdiction of military criminal courts....*”<sup>95</sup>

The European Court of Human Rights has repeatedly ruled against the trial of civilians by military courts or courts with even some participation of military judges (“composed, even if only in part, of members of the armed forces”) finding a violation of article 6.1 of the ECHR, equivalent to Article 14.1 of the ICCPR.<sup>96</sup>

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<sup>88</sup> See communication No. 1172/2003, *Madani v. Algeria*, (CCPR/C/89/D/1172/2003), 21 June 2007 para. 8.7.

<https://undocs.org/en/CCPR/C/89/D/1172/2003>

<sup>89</sup> UN Human Rights Committee, Concluding observations on the initial report of Slovakia, (CCPR/C/79/Add.79), 4 August 1997, para. 20.

<https://undocs.org/en/CCPR/C/79/Add.79>

<sup>90</sup> UN Economic and Social Council, Commission on Human Rights, Civil and political rights, including the question of independence of the judiciary, administration of justice, impunity, Issue of the administration of justice through military tribunals, Report submitted by the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights, Emmanuel Decaux, (E/CN.4/2006/58), 13 January 2006, Draft principles governing the administration of justice through military tribunals, Principle No. 5 “Jurisdiction of military courts to try civilians”. <https://undocs.org/en/E/CN.4/2006/58>

<sup>91</sup> Report of the Special Rapporteur on the independence of judges and lawyers, (A/HRC/11/41) 24 March 2009, para. 36.

<https://undocs.org/en/A/HRC/11/41>

<sup>92</sup> ECtHR, *Ergin v Turkey (No.6)* (47533/99), 4 May 2006, para. 24. <https://hudoc.echr.coe.int/eng/?i=001-75327>

<sup>93</sup> UN Economic and Social Council, Commission on Human Rights, Report of the independent expert to update the Set of principles to combat impunity, Diane Orentlicher, Addendum, Updated Set of principles for the protection and promotion of human rights through action to combat impunity, (E/CN.4/2005/102/Add.1), 8 February 2005, Principle 29. <https://undocs.org/en/E/CN.4/2005/102/Add.1>

<sup>94</sup> Principles and guidelines on the right to a fair trial and legal assistance in Africa. [http://hrlibrary.umn.edu/research/ZIM%20Principles\\_And\\_G.pdf](http://hrlibrary.umn.edu/research/ZIM%20Principles_And_G.pdf)

<sup>95</sup> Inter-American Court: *Palamara-Iribarne v Chile* (2005), para. 269(14). [https://www.corteidh.or.cr/docs/casos/articulos/seriec\\_135\\_ing.pdf](https://www.corteidh.or.cr/docs/casos/articulos/seriec_135_ing.pdf)

<sup>96</sup> E.g. *Onaran v. Turkey* (65344/01), 5 June 2007; *Düzgören v. Turkey*, (56827/00), 9 November 2006; *Ergin v Turkey (No.6)* (47533/99), 4 May 2006; *Öcalan v. Turkey* [GC], (46221/99), 12 May 2005; *Canevi and Others v. Turkey*, (40395/98), 10 November 2004; *Şahiner v. Turkey*, (29279/95), 25 September 2001.

The European Court of Human Rights has stated that it “*has attached importance in numerous previous judgments to the fact that a civilian has had to appear before a court composed, if only in part, of members of the armed forces (see, most recently, Öcalan v. Turkey [GC], no. 46221/99, § 116, ECHR 2005-..., and Şahiner v. Turkey, no. 29279/95, § 45, ECHR 2001-IX). It has held that such a situation seriously undermined the confidence that courts ought to inspire in a democratic society.*”<sup>97</sup> Noting also that such concern “is all the more valid when a court is composed solely of military judges.”<sup>98</sup> And concluded that: “*Lastly, situations in which a military court has jurisdiction to try a civilian for acts against the armed forces may give rise to reasonable doubts about such a court’s objective impartiality. A judicial system in which a military court is empowered to try a person who is not a member of the armed forces may easily be perceived as reducing to nothing the distance which should exist between the court and the parties to criminal proceedings, even if there are sufficient safeguards to guarantee that court’s independence.*”<sup>99</sup>

### **Increased risk for conscientious objectors to military service and their supporters**

The State party’s response as to offences for which civilians can be tried in military courts, includes several particularly worrying wording (“persons not legally or contractually bound to the armed forces, but who are officially registered as performing services”, “persons excluded from the armed forces who have not yet returned home”, “civilians who are accomplices or co-perpetrators in offences subject to military jurisdiction”, “Civilians can be tried by military courts for offences classified as military offences (incitement to desertion, harbouring of deserters,...”<sup>100</sup>) which could potentially affect conscientious objectors to military service or even their supporters and defenders of their human rights.

As it has been repeatedly stressed by the OHCHR: “Those who support conscientious objectors or who support the right of conscientious objection to military service should fully enjoy their freedom of expression.”<sup>101</sup>

As for the issue of possible trials of conscientious objectors by military courts, it should be noted that conscientious objectors should not be punished for exercising their right to conscientious objection to military service, and therefore they should not be tried, in the first place.

However, in cases of trials of conscientious objectors by military courts, an additional violation occurs, that of the right to fair trial.

Apart from the broader issues of lack of impartiality raised, in general, in cases of civilians tried by military courts, the particular issue of trials of conscientious objectors by military courts raises further and even more obvious and severe issues of lack of impartiality.

As it has been put in the “Draft principles governing the administration of justice through military tribunals”: “By definition, in such cases military tribunals would be judges in their own cause”.<sup>102</sup>

The European Court of Human Rights has repeatedly ruled against the trials of conscientious objectors by military courts, finding a violation of article 6.1 of the ECHR, equivalent to Article 14.1 of the

<sup>97</sup> *Ergin v Turkey (No.6)* (47533/99), 4 May 2006, para. 43. <https://hudoc.echr.coe.int/eng/?i=001-75327>

<sup>98</sup> *Ibid.* para. 44.

<sup>99</sup> *Ibid.* para. 49.

<sup>100</sup> UN Human Rights Committee, “Second periodic report submitted by Burkina Faso under article 40 of the Covenant, due in 2021”, (CCPR/C/BFA/2), Distr.: General: 2 February 2024, [Date received: 16 June 2023], para. 157. <https://undocs.org/CCPR/C/BFA/2>

<sup>101</sup> UN General Assembly, Human Rights Council, 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. 63. <https://www.undocs.org/A/HRC/35/4>

UN Human Rights Council, Approaches and challenges with regard to application procedures for obtaining the status of conscientious objector to military service in accordance with human rights standards, Report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/41/23), 24 May 2019, para. 60(m). <https://undocs.org/A/HRC/41/23>

OHCHR, Conscientious objection to military service, Analytical report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/50/43), 11 May 2022, para. 57(r). <https://undocs.org/A/HRC/50/43>

<sup>102</sup> UN Economic and Social Council, Commission on Human Rights, (E/CN.4/2006/58), 13 January 2006, Draft principles governing the administration of justice through military tribunals, Principle No. 6 “Conscientious objection to military service”, para. 22. <https://undocs.org/en/E/CN.4/2006/58>

The European Court of Human Rights, in such cases of conscientious objectors tried by military courts has considered that: “*It was understandable that, as a conscientious objector being prosecuted for offences of a purely military nature before a tribunal made up exclusively of military officers, the applicant should have been apprehensive about being tried by judges who were attached to the armed forces, which could be equated to a party to the proceedings. As a result, he could legitimately have feared that the Air Force Command Tribunal might allow itself to be unduly influenced by one-sided considerations. The applicant’s doubts as to the independence and impartiality of the tribunal could therefore be said to have been objectively justified.*”<sup>104</sup>

## JURISDICTION OF MILITARY COURTS ON ACTS OF ENFORCED DISAPPEARANCE

In previous parts of this report, it has been documented “that several practices implemented under Decree No. 2023-0475 on general mobilization and states of national emergency might constitute enforced disappearance”, as the Committee on Enforced Disappearances has stated.<sup>105</sup>

Therefore, it is becoming more crucial to emphasise another recommendation of CED, concerning the jurisdiction of military courts:

### “Military jurisdiction

17. The Committee takes note of the information provided during the dialogue about the security context, the organization of the judicial system and Act No. 013-99/AN of 7 April 1999 enacting regulations for the personnel of the military courts, which guarantees the independence of military judges and the right of appeal. The Committee is nonetheless concerned that, under national law, military courts have jurisdiction to investigate allegations of acts of enforced disappearance committed by military personnel (art. 11).

**18. Recalling its statement on enforced disappearances and military jurisdiction,<sup>106</sup> the Committee recommends that the State party take the legislative measures necessary to exclude the investigation and prosecution of acts of enforced disappearance from the competence of the military courts in all cases.**<sup>107</sup>

## ASYLUM TO REFUGEES CONSCIENTIOUS OBJECTORS FROM OTHER COUNTRIES

The Committee has included the issue of treatment of refugees and asylum seekers in the LOIPR.<sup>108</sup>

Taking into consideration the list of countries of registered asylum seekers in Burkina Faso in recent years,<sup>109</sup> including countries enforcing conscription without adequate legal framework for the protection of the right to conscientious objection to military service, or even with a record of violations of human rights of conscientious objectors to military service, it should be paid particular attention to the examination of cases of asylum-seekers which may include such elements of conscientious objection, as well in raising awareness and providing adequate training to officials examining applications for asylum,

<sup>103</sup> ECtHR, *Ercep v Turkey* (43965/04), 22 November 2011, para. 70; *Savda v Turkey* (42730/05), 12 June 2012, para. 111; *Feti Demirtaş v Turkey* (5260/07), 17 January 2012, para. 125; *Bouldou and others v. Turkey*, (14017/08), 3 June 2014, para. 99.

<sup>104</sup> Excerpt from the Information Note on the Court’s case-law No. 148, January 2012, *Feti Demirtaş v. Turkey* (5260/07) Judgment 17.1.2012 [Section II], as published in the website of the ECtHR: <http://hudoc.echr.coe.int/eng/?i=002-5>

<sup>105</sup> UN CED, Concluding observations on the additional information submitted by Burkina Faso under article 29 (4) of the Convention, (CED/C/BFA/OAI/1), 15 March 2024, paras. 31-32. <https://undocs.org/CED/C/BFA/OAI/1>

<sup>106</sup> A/70/56, annex III. <https://undocs.org/en/A/70/56>

<sup>107</sup> UN CED, Concluding observations on the additional information submitted by Burkina Faso under article 29 (4) of the Convention, (CED/C/BFA/OAI/1), 15 March 2024, paras. 17-18. <https://undocs.org/CED/C/BFA/OAI/1>

<sup>108</sup> CCPR/C/BFA/QPR/2, 1 September 2020, para. 21. <https://undocs.org/CCPR/C/BFA/QPR/2>

<sup>109</sup> UN Human Rights Committee, “Second periodic report submitted by Burkina Faso under article 40 of the Covenant, due in 2021”, (CCPR/C/BFA/2), Distr.: General: 2 February 2024, [Date received: 16 June 2023], paras 183-185. <https://undocs.org/CCPR/C/BFA/2>

as for the issue of the international protection which should be granted to conscientious objectors to military service fleeing from countries where the right to conscientious objection to military service is not adequately protected.

### **International standards on international protection of conscientious objectors**

A non-exhaustive compilation of international standards on the issue of international protection of conscientious objectors to military service follows:

- the UNHCR has included the issue of persecution of conscientious objectors in its guidelines for international protection. The UNHCR has also clarified that “Such an objection is not confined to absolute conscientious objectors [pacifists], that is, those who object to all use of armed force or participation in all wars. It also encompasses those who believe that ‘the use of force is justified in some circumstances but not in others, and that therefore it is necessary to object in those other cases’ [partial or selective objection to military service].<sup>110</sup> A conscientious objection may develop over time, and thus volunteers may at some stage also raise claims based on conscientious objection, whether absolute or partial.”<sup>111</sup>
- as it has been also highlighted by the OHCHR<sup>112</sup>:
  - the Human Rights Council has encouraged States “to consider granting asylum to those conscientious objectors to military service who have a well-founded fear of persecution in their country of origin owing to their refusal to perform military service when there is no provision, or no adequate provision, for conscientious objection to military service”<sup>113</sup>
  - UNHCR has noted that a well-founded fear of persecution may arise after an applicant has left her or his country of origin, owing to circumstances arising in the country of origin during the applicant’s absence and/or as a result of her or his own actions after she or he has left the country of origin, for example for having expressed objections or taken a stance against a situation of armed conflict and violence.<sup>114</sup>
  - in 2019, the Working Group on Arbitrary Detention reminded States to respect, protect and fulfil the right to personal liberty of conscientious objectors to military service by exercising due diligence to prevent their expulsion, return (refoulement) or extradition to another State where there are substantial grounds for believing that they would be in danger of being subjected to arbitrary deprivation of liberty.<sup>115</sup>
  - in its general comment No. 4 (2017), the Committee against Torture noted that “violations of the right to freedom of thought, conscience and religion” (as well “desertion from the national armed forces or armed groups”) were indications of the complainant’s personal risk and that the Committee would assess “substantial grounds” and consider the risk of torture as foreseeable, personal, present and real when the existence of facts relating to the risk by itself, at the time of its decision, would affect the rights of the complainant under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in case of the complainant’s deportation.<sup>116</sup>

<sup>110</sup> See, UN Conscientious Objection to Military Service, E/CN.4/Sub.2/1983/30/Rev.1, 1985 (the “Eide and Mubanga-Chipoya report”), <http://www.refworld.org/pdfid/5107cd132.pdf>, para. 21. See also, paras. 128-135 regarding persecution in the context of conscientious objection to conflicts which violate basic rules of human conduct.

<sup>111</sup> UNHCR: Guidelines on International Protection No. 10, para. 3. <https://www.unhcr.org/sites/default/files/legacy-pdf/529efd2e9.pdf>

<sup>112</sup> United Nations, General Assembly, Conscientious objection to military service, Analytical report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/50/43), 11 May 2022, paras. 20-22. <http://undocs.org/A/HRC/50/43>

<sup>113</sup> UN Human Rights Council, Resolution 24/17 (A/HRC/RES/24/17), 8 October 2013, para. 13. <http://undocs.org/A/HRC/RES/24/17>

<sup>114</sup> UNHCR, Handbook on procedures and criteria for determining refugee status and guidelines on international protection, Reissued, Geneva, February 2019, p. 226. <https://www.refworld.org/pdfid/5cb474b27.pdf>.

<sup>115</sup> UN Human Rights Council, "Arbitrary detention. Report of the Working Group on Arbitrary Detention", (A/HRC/42/39), 16 July 2019, para. 63. <http://undocs.org/A/HRC/42/39>

<sup>116</sup> Committee against Torture, “General comment No. 4 (2017) on the implementation of article 3 of the Convention in the context of article 22”, (CAT/C/GC/4), 4 September 2018, para. 45. <http://undocs.org/CAT/C/GC/4>

- More recently, the OHCHR has stressed: “States should respect and protect the rights of conscientious objectors arriving from third States, including through adherence to the principle of non-refoulement and international human rights and refugee law and the implementation and dissemination of guidance on the interpretation of applicable international law, such as the UNHCR guidelines on international protection on claims to refugee status related to military service.”<sup>117</sup>
- There is an evolving jurisprudence of the European Court of Human Rights, which takes into consideration the issue of conscientious objection to military service as for the expulsion of persons.<sup>118</sup>

## SUGGESTED QUESTIONS DURING THE DIALOGUE

- Please, provide the numbers of people conscripted following the issuing of the Decree No. 2023-0475.
- Please, describe the criteria which are applied in selecting the people who are conscripted / mobilised.
- Please, provide information about the existence or not of a legal framework protecting the right to conscientious objection to military service. If there is such a framework, please provide details. If there is not such a framework, please inform about any plan to introduce it.
- Please, provide information on what measures have been taken to raise awareness and provide adequate training to officials examining applications for asylum, as for the issue of the international protection which should be granted to conscientious objectors to military service fleeing from countries where the right to conscientious objection to military service is not adequately protected.

## SUGGESTED RECOMMENDATIONS

- Release immediately and unconditionally all persons unlawfully conscripted; implement any judicial decisions concerning unlawfully conscripted persons and amend legislation and practice about conscription and mobilisation in order to bring them in line with international human rights law and standards.
- Amend or adopt legislation with a view to effectively protecting the right to conscientious objection to military service in line with international human rights law and standards.
- Abolish the competence of military courts to undertake cases involving civilians.
- Take the necessary legislative measures to exclude the investigation and prosecution of acts of enforced disappearance from the competence of the military courts in all cases.
- Provide adequate training to officials examining applications for asylum, as for the issue of the international protection which should be granted to conscientious objectors to military service fleeing from countries where the right to conscientious objection to military service is not adequately protected.

<sup>117</sup> UN Human Rights Council, Conscientious objection to military service, Report of the Office of the United Nations High Commissioner for Human Rights, (A/HRC/56/30), 23 April 2024, para. 58. <https://undocs.org/A/HRC/56/30>

<sup>118</sup> See for example *M.D. and others v. Russia*, paras. 45 and 110. <https://hudoc.echr.coe.int/eng?i=001-211791>