ULIPOD
Uluslararası İlişkiler ve Politika Dergisi
Journal of International Relations and Politics
E-ISSN: 2792-0674
Ocak 2024 Cilt: 4 Sayı: 1

Makale Türü/ Article Type	Başvuru Tarihi/ Received	Kabul Tarihi/Accepted	Yayım Tarihi/Published Date
Araştırma Makalesi	22.10.2023	13.12.2023	10.01.2024

Conscientious Objection under European Regime of Human Rights: An Analysis on Turkey*

Avrupa İnsan Hakları Rejimi Kapsamında Vicdani Ret: Türkiye Üzerine Bir Analiz

Cerenmelis KICIROĞLU**

Abstract

This study examines the right to conscientious objection to military service in Turkey in light of the Council of Europe's (CoE) human rights system. The European Court of Human Rights recognized the right to conscientious objection (CO) in 2011. Accordingly, the member states of the CoE need to incorporate the right and make the necessary arrangements in their domestic law. However, Turkey is an exception to this rule. The internal tensions of modernization and historical specificities have been effective in this orientation. In conclusion, the non-recognition of the right to conscientious objection has had some negative effects on Turkish democracy and state-citizen relations. The objective of this study is to outline the approach of Turkey's domestic law to CO and suggest proposals for harmonizing domestic legislation with international human rights standards binding on Turkey.

Keywords: Conscientious Objection, Council of Europe, European Convention on Human Rights, European Court of Human Rights, Turkish Legal System

Özet

Bu çalışma, Avrupa Konseyi (AK) insan hakları sistemi ışığında Türkiye'de askerlik hizmetine karşı vicdani ret hakkını incelemektedir. Avrupa İnsan Hakları Mahkemesi vicdani ret hakkını 2011 yılında tanımıştır. Buna göre, AK üyesi devletlerin bu hakkı kendi iç hukuklarına dâhil etmeleri ve gerekli düzenlemeleri yapmaları gerekmektedir. Ancak Türkiye bu kuralın bir istisnasıdır. Modernleşmenin içsel gerilimleri ve tarihsel özgünlükler bu yönelimde etkili olmuştur. Sonuç olarak, vicdani ret hakkının tanınmaması, Türk demokrasisi ve devlet-vatandaş ilişkileri üzerinde birtakım olumsuz etkiler yaratmıştır. Bu çalışmanın amacı, Türkiye iç hukukunun vicdani ret konusundaki yaklaşımını ana hatlarıyla ortaya koymak ve yerel mevzuatın Türkiye için bağlayıcı olan uluslararası insan hakları standartlarıyla uyumlu hale getirilmesi için önerilerde bulunmaktır.

Anahtar Kelimeler: Vicdani Ret, Avrupa Konseyi, Avrupa İnsan Hakları Sözleşmesi, Avrupa İnsan Hakları Mahkemesi, Türk Hukuk Sistemi

* This article has emerged on the basis of the author's master's thesis titled "The right to conscientious objection under European regime of human rights, with special reference to Turkish practice", which was submitted to the Department of International Relations at Middle East Technical University in 2019.

** Res. Assist., Istanbul University, Faculty of Political Sciences, Political Science and International Relations, cerenmelis.kilic@istanbul.edu.tr, ORCID: 0000-0001-7111-4986.

Atıf/Cite: Kıcıroğlu, C. (2024). "Conscientious Objection Under European Regime Of Human Rights: An Analysis On Turkey", Uluslararası İlişkiler ve Politika Dergisi, Cilt: 4, Sayı: 1, ss. 67-85.

Introduction

The history of humanity is a history of violence. Much of this violence has been inflicted through organized political power. While well-organized territorial polities have had armies ever since ancient times, military service in most modern settings has typically taken the form of mandatory but temporary enlistment of male citizens in national armies. However, transitions in the history and forms of organized violence under public authority have not always been smooth and linear. On the contrary, there has always been resistance, which can be observed in early Christian theology. The specific understanding of service to God banned men from serving emperors or kings in a military context (Brock, 1994). In AD 295, a 21-year-old Roman named Maximilian, later sainted as Maximilian of Tebessa, was tried in court for refusing to serve in the Roman army. Wholly accepting the consequences of his objections, young Maximilian was eventually executed as a martyr (Brock, 1994: 202-209). He could not likely have imagined his legacy, which would become a significant topic of discussion for centuries: *conscientious objection to military service.*

It would not be an exaggeration to say that the issue of recognizing of the right to conscientious objection (CO) has prompted great controversy in virtually every country of the world. However, today, the right to CO is increasingly being accepted as a fundamental aspect of the right to freedom of thought, conscience, and religion. This consensus in the international arena imposes a range of human rights obligations on the states. This study focuses particularly on the practices of the Council of Europe (CoE) as one of the principal institutions of the region and sets the European Convention on Human Rights and Fundamental Freedoms (hereinafter "the Convention" or "ECHR") and the case-law of the European Court of Human Rights (hereinafter "ECtHR" or "the Court") as the main sources of reference. To apprehend the ECtHR's slow but constantly evolving interpretation of CO, the actual cases of CO brought before and decided by the organs of the CoE human rights regime have been analysed.

Among the CoE member states, only Turkey has not taken any steps regarding the issue. This study attempts to uncover the major reasons behind Turkish exceptionalism and the historical conditions that have made CO a proscribed subject in Turkey. The main objective of the study is to outline the approach of Turkey's domestic law to CO and to suggest proposals for the harmonization of domestic legislations with international human rights standards binding on Turkey. It also provides an analysis of formal domestic regulations and practices regarding the ECtHR's most recent evaluations of Turkish policies.

1. Conscientious Objection: From Religious Connotation to a Modern Right

Conscientious objection (CO) was for most of its history associated with Christian pacifism and hence with religion. Later, the concept would extend beyond these religious connotations. Compulsory military service emerged roughly towards the end of the 18th century with the rise of nation-states and around the ideology of nationalism (Aydın, 2009: 17-19). This proved to be greatly instrumental in bringing about gradual secularization of CO, therefore minimizing its religious connotations.

World War I would prove to be a turning point since CO became a significant political issue. The politicization of the concept occurred during the first quarter of the 20th century, when conscientious objectors were rapidly transformed into an organized movement questioning the very authority of the state (Kessler, 2015: 450-452). The state's resistance to such demands soon fractured, induced particularly by a certain awareness of the tolls in the

losses of human lives, hitherto unseen, and by brazen violations of basic rights by the military operations of states during World War II (Major, 1992: 349).

The end of the Cold War from the late 1980s saw further erosion of individual states' authorities, and an emphasis on states' interdependence rather than violent autonomy (Moskos and Chambers, 1993: 3-20). This shift in political relationships among states served to consolidate the right to CO, historically so long in the making. Today, it is widely accepted that CO is the refusal to fulfil the requirements of an order which contradict one's own profound convictions arising from religious, conscientious, political, moral, ethical, philosophical, humanitarian or similar motives.[1]

Under the human rights law of the CoE, the right to CO has evolved in relation to the interpretation of two specific rights protected by the ECHR, regulated in Articles 4 and 9. The first article prohibits forced labor; yet military service appears to be an exception, thus ostensibly limiting the right to CO. In the second article, the freedom of thought, conscience, and religion protect the manifestations of religious belief, moral conviction and intellectual thought, including the spirit of pacifism, which is largely behind the right to CO.

Interpretations of these two articles in the context of the right to CO by the former European Commission of Human Rights (defunct from 1998[2]) and the European Court of Human Rights (ECtHR, the Court) has evolved over time. Initially, although the Parliamentary Assembly of the Council of Europe (PACE) and the Committee of Ministers recognized the right to CO as a fundamental human right derived from Article 9, the Court did not follow these developments and continued to insist on associating CO cases with Article 4 until 2011. Namely, the Commission was of the opinion that the Convention does not oblige member states to exempt conscientious objectors from military service. As proof of this, the Commission referred to the "in countries where they are recognized" expression in Article 4 (Decker and Fresa, 2001: 403). By referring to Article 4 of the Convention, which seems to make the right to CO no more than merely optional for state parties, the regime long refused to recognize the right as a dictate of Article 9. The case of Grandrath v. the Federal Republic of Germany (Grandrath v. Germany, 1966) has been a precedent for the Court's long-standing attitude towards CO.[3] In this trial, dated from 1966, the Commission decided that there was no violation of Article 9 on the grounds that this article does not guarantee the right to CO to military service. Therefore, CO cases have long been associated with Article 4 of the Convention. However, in 2011, the ECtHR would come to reverse this approach, which prevailed for more than forty years. The decision reached by the ECtHR in the Bayatyan v. Armenia case in 2011 (*Bayatyan v. Armenia*, 2011) has been considered as a precedent for CO cases. The Grand Chamber changed its former approach by recalling the living instrument doctrine; that is, as the Convention is a living instrument, present-day conditions would be taken into consideration when interpreting it.[4] There was no need for

[1] The existing literature categorizes conscientious objectors in a number of ways: religious and secular conscientious objectors; universal, selective, and discretionary conscientious objectors; noncombatant, alternativists, and total/absolutist conscientious objectors. For detailed information see, for example, Çınar and Üsterci, 2009; Lubell, 2002; Moskos and Chambers, 1993; Schroeder, 2011; and Wiberg, 1985.

[2] See Council of Europe, "Protocol No. 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, Restructuring the Control Machinery Established Thereby," 11 May 1994.

[3] See G. Z. v. Autriche, 1973; X. v. Federal Republic of Germany, 1977; N. v. Sweden, 1984; Peters v. The Netherlands, 1994; Thlimmenos v. Greece, 2000.

[4] See George Letsas, "The ECHR as a living instrument: Its meaning and legitimacy," in Constituting Europe: The European Court of Human Rights in a National, European and Global Context, eds. Andreas Føllesdal et al. (New York: Cambridge University Press, 2013), pp. 106-141.

the Convention to be rewritten or the Court to instigate judicial activism[5] for recognition of the right to CO. Reevaluation of the Convention in the light of current norms was enough to recognize the right (Muzny, 2012: 137-138). As a result of this reevaluation, the Court decided that Armenia's decision to punish Bayatyan for being a conscientious objector was a violation of his right to freedom of thought, conscience, and religion, which is protected by Article 9. As a justification for this, the Grand Chamber indicated that rejecting military service is a manifestation of a person's religious beliefs. Therefore, it was accepted that forcing a person to perform military service is an interference with the freedom to manifest one's religion. According to the ECtHR, since the Bayatyan case in 2011, the right to CO has been protected under Article 9; Article 4 is not necessarily relevant in the matter, and this established a consensus among all mechanisms of the CoE.

Following the Bayatyan case (*Bayatyan v. Armenia*, 2009; *Bayatyan v. Armenia*, 2011), the idea that the right to CO is a right derived from the right to freedom of thought, conscience, and religion has become a well-established principle of the European philosophy of human rights.[6] According to the dictates of the CoE[7], forcing a person to act in contravention of personal beliefs or to punish a person for refusing to perform that act constitutes a violation of an individual's rights as protected by the Convention. Hence, member states of the CoE are required to recognize the right to CO in their respective legal systems. All member states of the CoE having the compulsory military system, except Turkey, have either recognized CO to military service or at least expressed their intention to provide alternative services (European Bureau for Conscientious Objection, 2019). The reasons underlying this exceptional situation caused by Turkey's resistant attitude towards the right to conscientious objection to military service is a subject worth examining in detail. For this reason, the next section analyses the historical evolution of the conscientious objection issue in Turkey.

2. Historical Roots of Conscientious Objection in Turkey

The issue of conscientious objection in Turkey should be considered together with the nation-state building and modernization process. The 1920s and the 1930s in Turkey were a period of tumultuous modernization (Berkes, 1998; Lewis, 1993; Zürcher, 2000). The absence of a strong economic middle class meant that this transition was primarily directed by the Turkish military. In founding the new nation-state, the leaders of the Republic of Turkey adopted the idea that only powerful military nations could succeed in the struggle of nations. To create a powerful military nation, the vast majority of the population had to be turned into a nation (Çınar, 2014: 72-74).

After the end of the War of Independence in 1923, to reverse the negative public opinion towards the Turkish military, those in control adopted a strategy to keep civilians

[5] Although there is no absolute consensus on the definition of the term "judicial activism," it is commonly understood to be the act of a judicial body which interprets the relevant legislation beyond its existing authority. For further information on this subject see, for example, Canon 1983; Green 2009; Kmiec 2004; Young 2002.

[6] See Erçep v. Turkey, 2011; Feti Demirtaş v. Turkey, 2012; Buldu and Others v. Turkey, 2014; Mammadov and Huseynov v. Azerbaijan, 2016; Papavasilakis v. Greece, 2016; Savda v. Turkey, 2016; Adyan and Others v. Armenia, 2017; Mirzayev v. Azerbaijan, 2017; Baydar v. Turkey, 2018.

[7] See Parliamentary Assembly of the Council of Europe (PACE), Resolution 337, "Right of Conscientious Objection," Jan. 26, 1967 (22nd Sitting); PACE, Recommendation 816, "Right of Conscientious Objection to Military Service," Oct. 7, 1977 (10th Sitting); Committee of Ministers, Recommendation no. R (87) 8, "Recommendation no. R (87) 8 of the Committee of Ministers to Member States Regarding Conscientious Objection to Compulsory Military Service," Apr. 9, 1987 (406th meeting of the Ministers' Deputies); PACE, Recommendation 1518, "Exercise of the Right of Conscientious Objection to Military Service in Council of Europe Member States," May 23, 2001; PACE, Recommendation 1742, "Human Rights of Members of the Armed Forces," 11 April 2006.

in a constant state of alert and anxiety in order to provide support to the army (Çınar, 2014: 72-74). Military elites disseminated the idea that there would always be enemies inside and outside Turkey, and the army was defined as the protector of the regime and nation against those enemies (Bozdağlıoğlu, 2003: 136-140). The founders of the Republic of Turkey promoted the belief that the Turkish nation was a military nation and that military service was a sine qua non of Turkish national identity (Altınay, 2004). State-encouraged maxims, such as "*Her Türk asker doğar*" (every Turk is born a soldier), encouraged militarism as an inherent racial and cultural feature, and imbued it with a sense of national pride (Altınay, 2004: 32). Because of this, military service in Turkey has been accepted as an intrinsic and non-contestable reality. Military service is essentially inextricable from Turkish culture. Somewhat ironically (yet effectively), the secular state also used religious concepts such as the idea of martyrdom to smooth the religious public's reaction to control by a secular military. As a result, the civilian arena has long been under the strong influence of the military (Tachau and Heper, 1983).

This discourse of anxiety, stoked by militarist leadership in Turkey, has taken different forms over time. For example, after membership in the North Atlantic Treaty Organization (NATO) in 1952, the Union of Soviet Socialist Republics (USSR) and the possibility of nuclear war were presented as potential threats to Turkey. The Turkish government itself, which demonstrated dictatorial tendencies in the 1950s, was considered a threat by the military elite. Following the 1980 coup d'état, this time the threat was the Kurdish independence movement. In addition, throughout the latter half of the 20th century, there were several coups after which the military intervened and maintained order until a civil government could be reestablished. The eventual outcome of such developments was the increasing politicization of the army and the attainment of an almost sacred position. The assignment of this so-called sacred duty only to men resulted in the marginalization and reduction of a large proportion of the population — such as women, children, homosexuals, and conscientious objectors — to second-class citizenship. It was accepted that a man had to complete his military service to be useful to himself, his family, and his country (Altınay, 2009: 90). As a result of this strong legal and ideological link between military service and citizenship, CO has been seen as having a debilitating effect on the power of the entire country (Rumelili et al, 2011: 50-51).

Nevertheless, resistance to military service is a reality, and ignoring CO by state authorities does not mean that it does not exist. The concept of CO was introduced in Turkey in 1989. Tayfun Gönül became the first conscientious objector after publicly declaring his refusal to perform military service in the magazine *Sokak*. This declaration was followed by Vedat Zencir's statement of CO in 1990. Both were sued for 'alienating people from the armed forces' under Article 155 of the Penal Code, and both were tried in civil courts. After their declarations, there was a surge in the formation of CO associations and campaigns (Altınay, 2009: 96).

In 1992, the Izmir War Resisters' Association (Izmir Savaş Karşıtları Derneği) was established to struggle against war, militarism, and racism. However, the governorship of Izmir stated that since there was no militarism in Turkey, an institution against militarism was not necessary, and it closed the association. The association was later reestablished in 1993. It has become a place for the anti-militarist movement and conscientious objectors to organize. In 1994, the Istanbul War Resisters' Association was established, and it held a press conference to introduce new conscientious objectors. Shortly thereafter, the

association was raided by security forces and members were detained and arrested. Hence, the association was closed (Yorulmaz and Üsterci, 2009: 96).

In 1993, on the HBB channel, an interview was published with Aytek Özel, the president of the Izmir War Resisters' Association, and Menderes Meletli, a conscientious objector and member of the association. These two individuals, as well as the producer of the programme and the cameraman, were arrested. They were tried in a military court on charges of alienating people from the armed forces under Article 155 of the Turkish Penal Code (Altınay 2004, 94-95). This was the first time civilians were tried in a military court for CO. The military court consisted of two military judges and one officer. Since the active officer could not be considered independent or impartial under these circumstances, his presence can be considered a violation of the right to a fair trial under Article 6 of the ECHR.

On the other hand, external conditions affected Turkey's stance on the issue. For example, with the strong influence of the European Union, criticizing the military is no longer considered a crime requiring criminal sanctions. However, conscientious objectors have faced criminal sanctions as there is no law regarding CO. They have been sentenced to short prison terms in anticipation of changing their minds and longer prison terms to send a message to the public.

Objectors have also confronted many other obstacles, such as being expelled from their profession, being diagnosed with mental illness, deprived of civil rights and education, and denied the right to work. For example, in 1996, Osman Murat Ülke was arrested and indicted by a military prosecutor under Article 155 of the Penal Code and Article 58 of the Military Penal Code, on the charge of inciting conscripts to evade military service. In 1998, he appealed to the European Commission of Human Rights, which has since enabled the CO movement in Turkey to gain momentum. An international solidarity network was established for Ülke. Also, a wide variety of related activities, such as solidarity and legal support for prisoners, war protests, anti-militarism festivals, and "rice day" blossomed. The anti-militarism festival called "Militurism" is an unusual and significant kind of activism in Turkey. The main purpose of this festival is to visit and criticize the militarist and nationalist institutions, monuments, and symbols of Turkey. In addition, at a Militurism festival in 2004, for the first time, women declared their CO to militarism (Yorulmaz and Üsterci, 2009: 173).

In Turkey, most conscientious objectors have adopted an anti-militarist stance. Thus, their purpose goes beyond replacing compulsory military service with a strictly professional army. Rather, they call for army and compulsory military service to be removed altogether. They are worried that if the state recognizes the right to CO to military service, then alternative service will become compulsory for objectors. They claim that in this case, conscientious objectors may still be used for the interests of the state. However, conscientious objectors with a liberal background consider the recognition of the right to CO and removal of the compulsory military system as an achievement. This difference in opinion seems to be one of the biggest obstacles in the way conscientious objectors act as a united group.

There was no single CO declaration based on religious grounds until Enver Aydemir's in 2007.[8] After Aydemir (Enver Aydemir v. Turkey, 2016), religious objections began to emerge alongside political or philosophical objections. Muhammed Serdar Delice,

[8] This information has been reached by examining the conscientious objection declarations on the website of the Vicdani Ret Derneği. See https://vicdaniret.org/tarih-sirasina-gore/.

who refused to serve in a non-Muslim army; Muhammed Cihad Ebrari, who refused to serve any authority other than Allah; Mehmet Lütfü Özdemir, a member of the group called Anti-Capitalist Muslims; and Nebiye Arı, a woman who is a theology student, are all examples of people who have declared CO on religious grounds.[9]

3. Legal Context in Turkey: A Contradiction With The Constitution?

The right to CO is still not legally recognized in Turkey. This section examines how the issue is dealt with in Turkey's current legal system to determine whether there is a definitive obstacle to the recognition of the right to CO. Military service in Turkey is regulated on the basis of Article 72 of the Constitution of the Republic of Turkey (The Constitution), which states:

National service is the right and duty of every Turk. The manner in which this service shall be performed, or considered as performed, either in the armed forces or in public service, shall be regulated by law (The Constitution, Art. 72).

The relevant law mentioned here is Military Service Act No. 1111, dated 1927. According to Article 1 of Law No. 1111, all male citizens of the Republic of Turkey are obliged to perform military service (Military Service Act, 1927, Art. 1). According to Article 2 of the Military Service Act, military service conscription may begin on the first of January of the year when a man reaches the age of twenty and ends on the first of January of the year when he reaches the age of forty-one (Military Service Act, 1927, Art. 2). It is stated in Article 3 of the Military Service Act that "Military [eligibility] age shall be divided into three periods: the draft period, active service, and the reserve [list]."[10]

There are several noteworthy findings. First, there is no "military service" expression in Article 72 of the Constitution, rather the term "national service" is used. Article 72 of the Constitution concerning "national service" also states that "national service" can be fulfilled with either alternative public service or armed forces. In fact, the only article relating to military service in the Constitution is Article 76, which states that persons who have not performed military service shall not be elected as deputies to the Grand National Assembly of Turkey (The Constitution, Art. 76). Consequently, the Constitution does not demand a military obligation from the citizens. The Military Service Act No. 1111, on the other hand, interprets "national service" specifically as military duty served by male citizens, narrowing the scope of the Constitution. Using the term "military service" in Law No. 1111 is a limited interpretation of the Constitution.

The second point is that although it is written in the Constitution that every Turk is obliged to perform national service, the relevant law only mentions men. It is written in Article 10 of the Constitution that "Everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds." However, according to Article 1 of the Military Service Act, only male citizens are obliged to provide military service. This situation may be interpreted as a contradiction between the Constitution and the law.

---

[9] See the following web addresses to reach their statements of conscientious objection: https://vicdaniret.org/muhammed-serdar-delice/; https://vicdaniret.org/muhammed-cihad-ebrari/; https://vicdaniret.org/mehmet-lutfu-ozdemir/; https://vicdaniret.org/nebiye-ari/.

[10] See the following web addresses to reach their statements of conscientious objection: https://vicdaniret.org/muhammed-serdar-delice/; https://vicdaniret.org/muhammed-cihad-ebrari/; https://vicdaniret.org/mehmet-lutfu-ozdemir/; https://vicdaniret.org/nebiye-ari/.

To understand how the issue of equality between men and women in military service has been interpreted in the case-law of the ECtHR, the Spöttl v. Austria (*Thomas Spöttl v. Austria*, 1996) case may be considered. In 1991, Thomas Spöttl, a recognized conscientious objector by the Austrian Federal Minister for Internal Affairs, asserted that the fact that women were exempted from civil service was discrimination on the grounds of sex. However, according to the Commission, this difference in practice is justified for objective reasons. "The Commission observes that a common standard exists among the Contracting States according to which women are not liable to mandatory military service" (*Thomas Spöttl v. Austria*, 1996). The Commission regarded the application as manifestly ill-founded and declared it inadmissible. In other words, according to the ECtHR, the fact that women do not have to provide military service does not cause discrimination on the grounds of sex.

Returning to Turkish law, a third noteworthy point regarding the question of CO is related to alternative service. The statement that "the national service shall be performed or considered as performed, either in the armed forces or in public service" in the Constitution strongly implies that there is an alternative service. In other words, serving in the armed forces is not the only way to fulfil national service. Conversely, there is no reference to alternative service in Law No. 1111. This indicates a conflict between the relevant law and the Constitution.

Finally, it is necessary to mention Articles 24 and 25 of the Constitution. Article 24 states that "Everyone has the freedom of conscience, religious belief and conviction." Article 25 states that "Everyone has the freedom of thought and opinion. No one shall be compelled to reveal his/her thoughts and opinions for any reason or purpose; nor shall anyone be blamed or accused because of his/her thoughts and opinions" (The Constitution, Articles 24 and 25). In fact, these two articles are in line with the right to freedom of thought, conscience, and religion, which is guaranteed under Article 9 of the ECHR. Therefore, the prosecution of conscientious objectors is contrary both to Articles 24 and 25 of the Turkish Constitution and the ECHR.

4. How to Judge Conscientious Objectors Without Saying Conscientious Objection

There is an absence of any laws or regulations specifically related to CO in Turkey. Article 45 of the Military Penal Code states that "The fact that a person is acting according to his conscience or religion does not free him from a punishment that is arising from doing or not doing an act."[11] On the basis of this article, military courts have rejected conscientious objector-status demands. The total number of known conscientious objectors in Turkey from 1989 to the present was 580.[12] Since CO is neither recognized as a crime nor as a right, conscientious objectors are taken to court on different grounds, such as desertion[13], draft evasion[14] (the difference between CO and draft evasion is that CO is publicly known), disobedience[15], persistent disobedience[16], *bakaya*[17], and revolt[18]. According the information

[11] Translation by author.
[12] This number has been reached from the website of the Vicdani Ret Derneği, see https://vicdaniret.org/vicdani-retlerini-aciklayanlar/.
[13] Leaving a unit without permission after joining the army, known as firar. See Military Service Act, Article 12.
[14] Not going to the drafting stage without an excuse written in the law, known as yoklama kaçağı. See Military Service Act, Article 12.
[15] Not fulfilling the orders of the superiors. See Military Penal Code, Article 87.
[16] Refusing to fulfil orders despite the repetition of orders. See Military Penal Code, Articles 87 and 88.
[17] Those who have been enlisted at the drafting stage but have not shown up when they were asked to or those who have shown up but not joined the army detachment. See Military Service Act, Article 12.
[18] Those who incite one or more soldiers to disobedience are considered to be fomenters of revolt. See Military Penal Code, Articles 93 and 94.

provided by former Prime Minister Binali Yıldırım at a meeting on June 2018, there are currently 570,422 draft evaders, 56,947 bakaya, and 5,722 deserters in Turkey.[19] It should be kept in mind that the numbers given by official authorities may be less than the actual numbers, on the grounds that public opinion towards the army may be negatively affected.

Until 2005, conscientious objectors were on trial for the offence of alienating people from military service, in accordance with Article 155 of the Turkish Penal Code.[20] In the new Turkish Penal Code No. 5237, which went into effect on June 1, 2005, the offence of alienating people from military service was regulated under Article 318 as part of the section on "Crimes against National Defense" (Turkish Penal Code, 2004, Art. 318). With the Law on the Amendment of Some Laws in the Context of Human Rights and Freedom of Expression adopted on April 11, 2013, Article 318 of the Turkish Penal Code was amended. Article 318 is currently as follows:

1) Any person who encourages, or uses repetition which would cause the persons to desert or have the effect of discouraging people from performing military service, shall be sentenced to a penalty of imprisonment for a term of six months to two years.

2) Where the act is committed through the press or broadcasting, the penalty shall be increased by one half. (European Commission for Democracy Through Law, 2016).

Offences regulated under Article 318 of the Turkish Criminal Code are considered terror crimes under Article 4 of the Anti-Terror Law (The Grand National Assembly of Turkey, 2006, Art. 4). Therefore, the penalties for those charged with Article 318 increased by half. The offence of alienating people from military service is also included in Article 96 of the Military Penal Code. In addition, according to Article 58 of the Military Penal Code, those who broadcast and deliver speeches to alienate people from military service are charged with the crime of damaging national morale (Military Penal Code 1930, Art. 58).

Article 301 of the Turkish Criminal Code is another article under which conscientious objectors were tried. Article 301 on Degrading Turkish Nation, State of the Turkish Republic, the Organs and Institutions of the State is as follows:

1) A person who publicly degrades Turkish Nation, State of the Turkish Republic, the Turkish Grand National Assembly, the Government of the Republic of Turkey and the judicial bodies of the State shall be sentenced a penalty of imprisonment for a term of six months to two years.

2) A person who publicly degrades the military or security organisations shall be sentenced according to the provision set out in paragraph one.

3) The expression of an opinion for the purpose of criticism does not constitute an offence.

4) The conduct of an investigation into such an offence shall be subject to the permission of the Minister of Justice. (European Commission for Democracy Through Law, 2016).

These articles are quite problematic in terms of the freedom of expression protected under Article 10 of the Convention. Furthermore, the ECtHR has stated that "Article 10 protects not only the information or ideas that are favorably received or regarded as inoffensive or as a matter of indifference but also those that offend, shock or disturb; such

[19] Vahap Munyar, "5.5 Milyonun Askerlik Sorunu Çözüm Bekliyor," Hürriyet, June 4, 2018, http://www.hurriyet.com.tr/gundem/5-5-milyonun-askerlik-sorunu-cozum-bekliyor-40856762.

[20] Turkish Penal Code [Türk Ceza Kanunu (mülga)], no. 765, March 1, 1926, Official gazette dated March 13, 1926 (no. 320), Article 155. http://www.ceza-bb.adalet.gov.tr/mevzuat/765.htm.

are the demands of that pluralism, tolerance, and broad-mindedness without which there is no democratic society" (Macovei, 2004).

Even if conscientious objectors are tried for any of these articles and complete their sentences, they are tried again and again with the same articles when they repeat their CO. Therefore, conscientious objectors in Turkey are locked into an unending cycle of criminal prosecution. Those who do not want to be suspended in a repeated cycle of persecution live as fugitives. As can be seen in the case of Osman Murat Ülke, the ECtHR refers to this situation as civil death (*Ülke v. Turkey*, 2006).

In Turkey, not only does the right to CO not exist but there is no regulation applying to alternative service. Under Article 10 of the Military Service Act, the conditions of exemption from military service is regulated. Article 10 (2) of the Military Service Act includes the following expressions:

If in a call-up term the number of the soldiers being transferred to the training centres in each draft period is higher than the requirement specified by the Office of the Chief of General Staff, the surplus number of soldiers to be conscripted shall be considered to have fulfilled their military service, following their military training, by paying half the Turkish lira equivalent of the fixed foreign exchange fee for exemption from military service at the Turkish Central Bank's foreign currency buying rate for 1st January of that year, or by working in a public institution or organization, if so desired (Military Service Act 1927, Art. 10).

However, as stated in Article 10 (4), those who will serve in public institutions and organizations are determined by the lottery method, according to the amounts and principles determined by the Office of the Chief of General Staff. The forms of employment of these people and the principles and procedures to which they are subject were previously determined by the Council of Ministers. However, from now on these procedures are to be determined by the President of the Republic in accordance with Decree-law No.700, officially dated 02.07.2018. In disciplinary cases, those who serve in public institutions or organizations, military courts, or disciplinary courts are authorized. They cannot fulfil their military service obligations in the event of war and mobilization by working in public institutions or paying fees. To summarize, those who would be able to perform military service obligations by working in public institutions or paying the fee are also subject to the Military Service Act as well. It is decided by the state, looking at the human resources that the army needs, that these people can fulfil their military service with the means mentioned above. In other words, the fulfilment of their military service in this way depends on the discretion of the state and not on their own preferences. Therefore, it is impossible to acknowledge the existence of an authentic alternative civil service in Turkey.

5. External Factors Affecting The Issue of Conscientious Objection

Since Turkey is one of the founding members of both the UN and the CoE, it is a signatory state to the Universal Declaration of Human Rights (United Nations Genearl Assembly, 1948), International Covenant on Civil and Political Rights (United Nations General Assembly, 1966), and European Convention on Human Rights (Council of Europe, 1950). All of these human rights instruments recognize that the right to CO to military service derives from the right to freedom of thought, conscience, and religion. However, the Turkish government avoids recognizing a legal right to CO, claiming that, due to Turkey's geostrategic position, the army must remain strong, and that if the right to CO is granted, it will weaken the military. However, in Resolution 1380, it is stated that "Despite Turkey's geostrategic position, the Assembly also demands that Turkey recognize the right of

conscientious objection and introduce alternative civilian service" (PACE Resolution 1380, 2004). Although the amended Turkish Penal Code in 2004 can be considered a development in terms of human rights, there has not been any improvement in regard to CO in these amendments. Based on Article 9 (2) of the Convention, the government of Turkey is still considering public safety and order as legitimate reasons for restricting the freedom to manifest one's religion or belief, despite the fact that with the Bayatyan case, the ECtHR — the sole interpreter of the Convention — has abandoned this interpretation.

While interpreting the relationship between domestic and international law, Turkey embraces a monistic approach, which means that domestic and international law are related and not separated, and international law is superior to domestic law (Çınar 2014, 82). Article 90 of the Constitution states that "In the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail."[21] However, Turkey still does not recognize the right to CO, although it has adopted these texts and accepted their superiority.

With the impact of the Ülke case, the European Commission stated in a progress report dated 2005 that Turkey does not recognize the right to CO and has no alternative civilian service in accordance with the principles of CO put forward by the CoE (European Commission, 2005). In 2006, the European Parliament directly asked Turkey to recognize the right to CO and reported that the recognition of the right is a condition for EU membership. The European Parliament, in the resolution on Turkey's progress towards accession, called on Turkey to recognize the right to CO and to offer an alternative service as the right to CO is recognized in the EU Charter of Fundamental Rights (European Parliament Resolution 2006/2118, 2006). In addition, the European Parliament, referring to a recent case, stated that the Turkish courts' rejection of relevant ECtHR rulings and prison sentences for conscientious objectors were concerning (Euopean Parliament Resolution 2006/2118, 2006).

In 2007, the Committee of Ministers of the Council of Europe issued a resolution (Committee of Ministers Resolution *CM/ResDH(2007)109*, 2007) entitled Execution of the Judgment of the ECtHR, where the legal situation in Turkey after the ECtHR's decision regarding the Ülke case was assessed. It is stated that, in accordance with Article 90 of the Turkish Constitution, the Court's decisions were directly applicable, and that despite this fact, the applicant faced the risk of being tried for the previous reasons yet again. In recent years, the government has tried to avoid the problem of conscientious objectors, with the effect of decisions made by the ECtHR against Turkey in CO cases. For instance, with the adoption of individual applications to the Constitutional Court in 2010, it is aimed to prevent violations that lead to negative decisions on Turkey by the ECtHR.

In 2011, the Committee of Ministers asked the Turkish government to provide information on Ülke's case and urged the government to bring necessary legal arrangements on CO (Committee of Ministers Decision Case no. 24, 2011). With this decision, the Deputies "reiterated that legislative measures are required to prevent similar violations" and "strongly invited the Turkish authorities to give priority to the adoption of

[21] This sentence was added to Article 90 in 2004 with the law containing amendments to some articles of the Constitution. See Türkiye Cumhuriyeti Anayasasının Bazı Maddelerinin Değiştirilmesi Hakkında Kanun, no. 5170, adopted on 07.05.2004

the necessary legislative measures without any further delay after the general elections of June 2011."

In more recent cases, it is possible to trace the positive effects of ECtHR decisions. The Malatya Military Court's decision in the Muhammed Serdar Delice case was considered milestone. After five months of military service, Delice refused to serve in a non-Muslim army and declared his CO (Karaca, 2012a). The Malatya Military Court referred to the European Court of Human Rights' decisions on CO and stated that the ECtHR adopted the idea that the right to CO was within the scope of the right to freedom of thought, conscience, and religion. Therefore, this approach should be taken as a basis for serious consideration (Vicdani Red Davasında Tarihi Karar, 2012). For the first time, a Turkish military court referred to Article 9 of the ECHR and expressed positive opinions on the CO. Moreover, the Malatya Military Court referred to the Bayatyan case and stated that Bayatyan was a Jehovah's Witness and that the European Court of Human Rights had decided in view of this fact; however, Islam was not a system of beliefs and thoughts that prevented military service. To wit, while the military court was not convinced that Delice was sincere in his CO, it accepted the existence of the right to CO (Türkiye'de Vicdani Ret İlk Defa Tanındı, 2012; Balcı, 2012). The Isparta Military Court took this decision a step further and acquitted Barış Görmez, a member of the Jehovah's Witnesses, who was sentenced to four years of imprisonment for refusing to perform military service. The Isparta Military Court reached this decision by referring to the recent judgments of the ECtHR (Karaca, 2012b; "Turkey: Military courts recognize right to conscientious objection", 2012) .

Turkey made an arrangement for men who were over thirty years old and had not fulfilled their military service requirements. It was ruled that these men could be exempted from military service for 30,000 Turkish liras (Military Service Act 1927, Provisional Article 46, 2011). Later, changes were made one after another regarding military service fees and age limits. The duration of military service has shortened considerably compared to previous regulations, and the age to benefit from the paid military service arrangement has decreased considerably. However, these regulations can be read as being related to the government's efforts to generate economic income rather than a willingness to make substantive changes in domestic law related to CO. It seems that these paid military service arrangements, far from making any progress on the status of conscientious objectors, lead to obvious inequality of opportunity.

The Turkish government has paved the way for yet another inequality with a concrete step that closely concerns conscientious objectors. With Resolution No. 93/4613 (Resmi Gazete, 1993, 93/4613 Sayılı Bakanlar Kurulu Kararı), the Council of Ministers made several arrangements concerning the military service of those who had multiple citizenships. According to Article 5 of this resolution, those who live abroad and who prefer, due to their beliefs, to complete their military service by serving in civil institutions and organizations are considered to have fulfilled their military service, provided that they document these constructs. This situation forms the basis for serious inequality. On the one hand, the right to CO is not recognized for citizens living in Turkey; on the other hand, this right is recognized for those who live abroad, even though the term "conscientious objection" is not used directly.

It is stated in Recommendation no. R (87) 8 of the Committee of Ministers that "States may lay down a suitable procedure for the examination of applications for conscientious objector status or accept a declaration giving reasons by the person concerned." Accordingly, the Committee of Ministers left this choice to states' discretion. In a possible

alternative service arrangement, Turkey's government should consider the following statements in Recommendation No. R (87) 8:

Alternative service, if any, shall be in principle civilian and in the public interest. Nevertheless, in addition to civilian service, the state may also provide for unarmed military service, assigning to it only those conscientious objectors whose objections are restricted to the personal use of arms;

Alternative service shall not be of a punitive nature. Its duration shall, in comparison to that of military service, remain within reasonable limits;

Conscientious objectors performing alternative service shall not have less social and financial rights than persons performing military service. Legislative provisions or regulations which relate to the taking into account of military service for employment, career or pension purposes shall apply to alternative service (Committee of Ministers Recommendation no. R (87) 8, 1987).

Conclusion

This paper sought to address the reasons behind Turkey's exceptional situation among member states of the CoE regarding the right to CO to military service. The paper begins by presenting the historical development of the concept of the right to CO. It has been observed that the issue of CO, which initially emerged on religious grounds, turned into a secular right in time. After establishing the conceptual framework, the entry of the issue of CO into Turkey's political agenda has been examined in detail. Then, the existing legal regulations regarding CO in Turkey were analyzed. Based on these analyses, the following conclusions were drawn.

First, it has been observed that Turkish regulations on CO were incompatible with the European human rights regime. The right to CO is derived from the right to freedom of thought, conscience, and religion as defined in the UDHR, ICCPR, and ECHR. The current approach of these institutions reveals the necessity for Turkey to take legal steps regarding CO as soon as possible. In accordance with Article 46 of the Convention, Turkey has undertaken to abide by the final decision of the Court. As there is not worldwide accepted approach regarding how the right to CO should be applied, how to regulate this right in domestic law is at the discretion of the government of Turkey. The key point for the CoE is that the state shall not allow a similar violation to be repeated.

Second, the analysis of the current laws and regulations in Turkey revealed that there is not any judicial obstacle preventing Turkey from recognizing CO as a right. If Turkish authorities accept that the right to CO is derived from the right to freedom of thought, conscience, and religion, as adopted in the ECHR and UDHR, this right can be developed within the scope of Articles 24 and 25 of the Constitution. In addition, it is possible to claim that the right to CO has already been recognized by the Constitution, which does not necessarily limit national service to military service. Last but not least, there is a possibility of making amendments to the Military Service Act, rather than changing the articles of the Constitution. By amending Article 1 of the Military Service Act, the perception that national service is equivalent to military service could be changed.

Third, the traditional emphasis on the sacredness of military service in Turkey should not be an obstacle for conscientious objectors to express their ideas. According to the ECtHR, the principles of pluralism and tolerance, which are vital for democratic societies, require consideration of ideas which can and may offend, shock, or disturb the state and certain sections of society, and yet are still within the scope of freedom of expression.

After the Bayatyan case, although the Turkish government took some precautions to avoid convictions given by the Court, these measures were far from recognizing the right to CO, and they usually took the form of practical daily solutions. For example, the introduction of the right to individual petition to the Constitutional Court of Turkey aims to circumvent any decisions made by the ECtHR against Turkey. The implementation of this policy is difficult for Turkish citizens, who must exhaust domestic remedies before applying to international courts. The unspoken goal of this policy is to preempt the number of cases that might go to the ECtHR by resolving them in the Turkish Constitutional Court.

However, several questions remain to be explored. Answering these questions is crucial for a fruitful discussion on laws or regulations that can be legislated in the future concerning CO. Is declaration by the objector sufficient to achieve the status of the conscientious objector? If not, will the application be examined by a competent authority? If an individual's application for this status is rejected by the competent authority, will there be an appeal mechanism? Should both religious and non-religious grounds be considered valid to obtain conscientious objector status? Will objectors be offered an alternative service option? What should be the character and duration of this alternative service?

References

Altınay, A. G. (2004). The Myth of the Military-Nation: Militarism, Gender, and Education in Turkey, New York: Palgrave Macmillan.

Altınay, A. G. (2009). "Refusing to identify as obedient wives, sacrificing mothers, and proud warriors", Özgür Heval Çınar and Coşkun Üsterci (Ed.), Conscientious Objection: Resisting Militarized Society, London: Zed Books, pp. 88-104.

Aydın, S. (2009). "The militarization of society: Conscription and national armies in the process of citizen creation", Özgür Heval Çınar and Coşkun Üsterci (Ed.), Conscientious Objection: Resisting Militarized Society, London: Zed Books, pp. 17-36.

Balcı, A. (2012). "Askeri mahkeme vicdani reddi tanıdı", Sabah Gazetesi, 10 March 2012.

Berkes, N. (1998). The Development of Secularism in Turkey, New York: Routledge.

Bozdağlıoğlu, Y. (2003). Turkish Foreign Policy and Turkish Identity: A Constructivist Approach, New York: Routledge.

Brock, P. (1994). "Why did St. Maximilian refuse to serve in the Roman army?", The Journal of Ecclesiastical History, Vol:45, Issue: 2, pp. 195-209.

Canon, B. C. (1983). "Defining the dimensions of judicial activism", Judicature, Vol: 66, pp. 236-247.

Committee of Ministers (2011). "Decision case no. 24: Case against Turkey, 8 June 2011 (115th Meeting)", https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805b0a14, Accessed: 13.12.2023).

Constitution of the Republic of Turkey (2019). Grand National Assembly of Turkey Printing House.

Council of Europe (1949). "Statute of the Council of Europe", https://rm.coe.int/1680306052, (Accessed: 13.12.2023).

Council of Europe (1953). "The Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)", https://www.echr.coe.int/Documents/Convention_ENG.pdf, (Accessed: 13.12.2023).

Council of Europe (1987). "Recommendation no. R (87) 8 of the Committee of Ministers to Member States Regarding Conscientious Objection to Compulsory Military Service, 9 April 1987 (406th meeting of the Ministers' Deputies)", https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016804e6689, (Accessed: 13.12.2023).

Council of Europe (1994). "Protocol No. 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, Restructuring the Control Machinery Established Thereby", https://www.echr.coe.int/Documents/Library_Collection_P11_ETS155E_ENG.pdf , (Accessed: 13.12.2023).

Council of Europe (2007). "Committee of Ministers, Resolution CM/ResDH(2007)109, Execution of the Judgment of the European Court of Human Rights: Ülke against Turkey, 17 October 2007 (1007th meeting of the Ministers' Deputies", https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805adea0#globalcontainer, (Accessed: 13.12.2023).

Çınar, Ö. H. (2014). The Right to Conscientious Objection to Military Service and Turkey's Obligations under International Human Rights Law, New York: Palgrave Macmillan.

Çınar, Ö. H. and Üsterci, C. (2009). Conscientious Objection: Resisting Militarized Society, London: Zed Books.

Decker, C. D. and Fresa, L. (2001). "The status of conscientious objection under Article 4 of the European Convention on Human Rights", New York University Journal of International Law & Politics, Vol: 33, pp. 379-418.

European Bureau for Conscientious Objection (2019). "Annual Report: Conscientious Objection to military service in Europe", http://ebco-beoc.org/sites/ebco-beoc.org/files/attachments/EBCOreport2018fin.pdf, (Accessed: 13.12.2023).

European Commission (2005). "SEC (2005) 1426, Turkey: 2005 Progress Report", http://ec.europa.eu/transparency/regdoc/rep/2/2005/EN/2-2005-1426-EN-1-0.Pdf, (Accessed: 13.12.2023).

European Commission for Democracy Through Law (Venice Commission) (2016). "Opinion No. 831/2015, Penal Code of Turkey", https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2016)011-e, (Accessed: 13.12.2023).

Green, C. (2009). "An intellectual history of judicial activism", Emory Law Journal, Vol: 58, Issue: 5, pp. 1195-1264.

Karaca, E. (2012a). "Mahkeme, Delice'yi değil ama vicdani reddi tanıdı", Bianet, 9 March 2012.

Karaca, E. (2012b). "Yehova Şahidi'ne vicdani ret hakkı", Bianet, 13 March 2012.

Kessler, J. K. (2015). "A war for liberty: On the law of conscientious objection", The Cambridge History of World War II, Vol: 3, pp. 447-474.

Kmiec, K. D. (2004). "The origin and current meanings of judicial activism", California Law Review Vol: 92, Issue: 5, pp. 1441-1477.

Letsas, G. (2013). "The ECHR as a living instrument: Its meaning and legitimacy", Andreas Føllesdal, Birgit Peters and Geir Ulfstein (Ed.), Constituting Europe: The European Court of Human Rights in a National, European and Global Context, New York: Cambridge University Press, 106-141.

Lewis, B. (1993). Modern Tu̇rkiye'nin Doğuşu, Ankara: Tu̇rk Tarih Kurumu Basımevi.

Lubell, N. (2002). "Selective conscientious objection in international law: Refusing to participate in a specific armed conflict", Netherlands Quarterly of Human Rights Vol: 20, Issue: 4, pp. 407-422.

Macovei, M. (2004). Freedom of Expression: A Guide to the Implementation of Article 10 of the European Convention on Human Rights. No. 2 of Human Rights Handbooks, Germany: Council of Europe, https://rm.coe.int/168007ff48, (Accessed: 13.12.2023).

Major, M. F. (1992). "Conscientious objection and international law: A human right. Case Western Reserve Journal of International Law", Vol: 24, Issue: 2, pp. 349-378.

Moskos, C. C. and John, W. C. (1993). The New Conscientious Objection: From Sacred to Secular Resistance, Oxford: Oxford University Press.

Munyar, V. (2018). "5.5 Milyonun askerlik sorunu çözüm bekliyor", Hürriyet, 4 June 2018.

Muzny, P. (2012). "Bayatyan v Armenia: The Grand Chamber renders a grand judgment", Human Rights Law Review Vol: 12, Issue: 1, pp. 135-147.

Parliamentary Assembly of the Council of Europe (1967). "Resolution 337, Right of Conscientious Objection (22nd Sitting)", http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=15752&lang=en, (Accessed: 13.12.2023).

Parliamentary Assembly of the Council of Europe (1977). "Recommendation 816, Right of Conscientious Objection to Military Service (10th Sitting)", http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=14850&lang=en, (Accessed: 13.12.2023).

Parliamentary Assembly of the Council of Europe (2001). "Recommendation 1518, Exercise of the Right of Conscientious Objection to Military Service in Council of Europe Member States", https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=16909&lang=en, (Accessed: 13.12.2023).

Parliamentary Assembly of the Council of Europe (2004). "Resolution 1380, Honouring of Obligations and Commitments by Turkey (18th Sitting)", http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-EN.asp?FileID=17225&lang=EN, (Accessed: 13.12.2023).

Parliamentary Assembly of the Council of Europe (2006). "Recommendation 1742, Human Rights of Members of the Armed Forces (11th Sitting)", http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17424&lang=en, (Accessed: 13.12.2023).

Resmi Gazete, 1111 Sayılı Askerlik Kanunu, 12-17 July 1927, https://www.mevzuat.gov.tr/MevzuatMetin/1.3.1111.pdf, (Accessed: 13.12.2023).

Resmi Gazete, 1632 Sayılı Askeri Ceza Kanunu, 15 June 1930, http://www.mevzuat.gov.tr/MevzuatMetin/1.3.1632.pdf, (Accessed: 13.12.2023).

Resmi Gazete, 3713 Sayılı Terörle Mücadele Kanunu, 12 April 1991, https://www.mevzuat.gov.tr/mevzuatmetin/1.5.3713.pdf, (Accessed: 13.12.2023).

Resmi Gazete, 5237 Sayılı Türk Ceza Kanunu, 12 October 2004, https://www.mevzuat.gov.tr/MevzuatMetin/1.5.5237.pdf, (Accessed: 13.12.2023).

Resmi Gazete, 765 Sayılı Türk Ceza Kanunu (mülga), 13 March 1926, https://www.mevzuat.gov.tr/mevzuatmetin/5.3.765.pdf, (Accessed: 13.12.2023).

Resmi Gazete, 93/4613 Sayılı Bakanlar Kurulu Kararı Birden Fazla Tabiiyetli Vatandaşların Askerlik Yükümlülüklerini Yerine Getirmiş Sayılmalarına Dair Esaslar, 25 July 1993, http://www.resmigazete.gov.tr/arsiv/21648.pdf, (Accessed: 13.12.2023).

Rumelili, B., Keyman, F. and Isyar, B. (2011). "Turkey's conscientious objectors and the contestation of European citizenship", J. Peter Burgess and Serge Gutwirth (Ed.), A Threat Against Europe? Security, Migration and Integration, Brussels: VUBPRESS Brussels University Press, pp. 47-62.

Schroeder, J. B. (2011). "The role of Jehovah's Witnesses in the emergent right of conscientious objection to military service in international law", Kirchliche Zeitgeschichte, Vol: 24, Issue: 1, pp. 169-206.

Tachau, F. and Heper, M. (1983). "The state, Politics, and the Military in Turkey", Comparative Politics, Vol: 16, Issue: 1, pp. 17-33.

The European Commission of Human Rights (1996). "Thomas Spöttl v. Austria. No. 22956/93", https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22\%2222956/93\%22%22],%22itemid%22:[%22001-2889%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (1966). "Grandrath v. Germany. No: 2299/64", https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22grandrath%22],%22itemid%22:[%22001-73650%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (1973). "G.Z. v. Autriche. No: 5591/72", https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22g.z.%20autriche%22],%22itemid%22:[%22001-100491%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (1977). "X. v. Federal Republic of Germany. No: 7705/76", https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22\%227705/76\%22%22],%22itemid%22:[%22001-74554%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (1984). "N. v. Sweden. No: 10410/83", https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22\%2210410/83\%22%22],%22itemid%22:[%22001-74737%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (1994). "Peters v. The Netherlands. No: 22793/93", https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22\%2222793/93\%22%22],%22itemid%22:[%22001-2432%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (2000). "Thlimmenos v. Greece. No: 34369/97", https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%2234369%22],%22itemid%22:[%22001-58561%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (2006). "Ülke v. Turkey. No: 39437/98", https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%2239437%22],%22itemid%22:[%22001-72146%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (2009). "Bayatyan v. Armenia. No: 23459/03, Chamber", https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22\%22BAYATYAN%20v.%20ARMENIA\%22%22],%22documentcollectionid2%22:[%22CHAMBER%22,%22DECISIONS%22,%22COMMUNICATEDCASES%22,%22CLIN%22,%22ADVISORYOPINIONS%22,%22REPORTS%22,%22RESOLUTIONS%22],%22itemid%22:[%22001-95386%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (2011). "Bayatyan v. Armenia. No: 23459/03, Grand Chamber", https://hudoc.echr.coe.int/eng#{%22appno%22:[%2223459/03%22],%22documentcollectionid2%22:[%22GRANDCHAMBER%22],%22itemid%22:[%22001-105611%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (2011). "Erçep v. Turkey. No: 43965/04", https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-121130%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (2012). "Feti Demirtaş v. Turkey. No: 5260/07", https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-120170%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (2014). "Buldu and Others v. Turkey. No: 14017/08", https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-156378%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (2016). "Enver Aydemir v. Turkey. No: 26012/11", https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-169942%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (2016). "Mammadov and Huseynov v. Azerbaijan. No: 14604/08", https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22mammadov%20huseynov%22],%22itemid%22:[%22001-170069%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (2016). "Papavasilakis v. Greece. No: 66899/14", https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%2266899%22],%22documentcollectionid2%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-166850%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (2016). "Savda v. Turkey (No. 2). No: 2458/12", https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-172977%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (2017). "Adyan and Others v. Armenia. No: 75604/11", https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22\%2275604/11\%22%22],%22documentcollectionid2%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-177429%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (2017). "Mirzayev v. Azerbaijan. No: 41792/15", https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22\%2241792/15\%22%22],%22itemid%22:[%22001-171871%22]}, (Accessed: 13.12.2023).

The European Court of Human Rights (2018). "Baydar v. Turkey. No. 25632/13", https://hudoc.echr.coe.int/eng#{%22fulltext%22:[%22\%22BAYDAR%20v.%20TURKEY\%22%22],%22itemid%22:[%22001-184882%22]}, (Accessed: 13.12.2023).

The European Parliament (2006). "Resolution No. 2006/2118(INI), Turkey's Progress towards Accession", https://www.europarl.europa.eu/doceo/document/TA-6-2006-0381_EN.html?redirect, (Accessed: 13.12.2023).

Turkey: Military Courts Recognise Right to Conscientious Objection (2012). War Resisters' International, 1 May 2012, https://www.wri-irg.org/en/story/2012/turkey-military-courts-recognise-right-conscientious-objection, (Accessed: 13.12.2023).

Türkiye Büyük Millet Meclisi (The Grand National Assembly of Turkey), 5170 Sayılı Türkiye Cumhuriyeti Anayasasının Bazı Maddelerinin Değiştirilmesi Hakkında Kanun, 7 May 2004, http://www.anayasa.gen.tr/5170sk.htm, (Accessed: 13.12.2023).

Türkiye Büyük Millet Meclisi (The Grand National Assembly of Turkey), 5532 Sayılı Terörle Mücadele Kanununda Değişiklik Yapılmasına Dair Kanun, 29 June 2006, https://www.tbmm.gov.tr/kanunlar/k5532.html, (Accessed: 13.12.2023).

Türkiye'de Vicdani Ret İlk Defa Tanındı (2012). Birgün Gazetesi, 10 March 2012.

United Nations General Assembly (1948). "Universal Declaration of Human Rights", https://www.un.org/en/universal-declaration-human-rights/, (Accessed: 13.12.2023).

United Nations General Assembly (1966). "International Covenant on Civil and Political Rights", https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf, (Accessed: 13.12.2023).

Vicdani Red Davasında Tarihi Karar (2012). Agos Gazetesi, 9 March 2012.

Vicdani Ret Derneği (T.Y.). "Vicdani retlerini açıklayanlar", https://vicdaniret.org/tarih-sirasina-gore/, (Accessed: 13.12.2023).

Wiberg, M. (1985). "Grounds for recognition of conscientious objection to military service: The deontological–teleological distinction considered", Journal of Peace Research Vol: 22, Issue: 4, pp. 359-364.

Young, E. A. (2002). "Judicial activism and conservative politics", University of Colorado Law Review, Vol: 73, Issue:4, pp. 1139-1216.

Zürcher, E. (2000). Modernleşen Türkiye'nin Tarihi, İstanbul: İletişim.