



SUBMISSION

TO THE SPECIAL RAPPORTEUR ON FREEDOM OF RELIGION OR BELIEF

To inform the Special Rapporteur's report to be presented at the 80th session of the UN General Assembly in October 2025.

Conscientious objection to military service and refugees

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Updated: February 2025

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INTRODUCTION

Connection e.V. is a civil society organisation promoting the right to conscientious objection to military service and contributing to the acknowledgement of the persecution which conscientious objectors face as a reason for asylum.

This submission responds to the “Call for input: Report on freedom of religion or belief and migrants, IDPs, and refugees”¹, focusing specifically on the right to conscientious objection to military service in relation with refugees.

1. THEMATIC BACKGROUND

The right to conscientious objection to military service

According to the Human Rights 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.”²

The obligation for international protection

When the right to conscientious objection to military service, inherent to the right to freedom of thought, conscience and religion, is not adequately recognised in a country and conscientious objectors are persecuted, **there is a legal obligation of other States to provide international protection to conscientious objectors fleeing from such country**, (including selective conscientious objectors opposing specific wars and armies).

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

- 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].³ 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.”⁴
- as it has been highlighted by the **OHCHR**⁵:
 - 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

¹ <https://www.ohchr.org/en/calls-for-input/2025/call-input-report-freedom-religion-or-belief-and-migrants-idps-and-refugees>

² 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; *Dawletow v. Turkmenistan*, para. 6.3 and others.

³ 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.

⁴ UNHCR: Guidelines on International Protection No. 10, para. 3. <https://www.unhcr.org/sites/default/files/legacy-pdf/529efd2e9.pdf>

⁵ 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>

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”⁶

- **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.⁷
 - In 2019, the **WGAD** 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.⁸
 - In its general comment No. 4 (2017), the **CAT** 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.⁹
- More recently, the **OHCHR** 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.”¹⁰
 - 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.¹¹

Important but insufficient and not implemented call of the European parliament

On 16 February 2023, in the resolution ‘One year of Russia’s invasion and war of aggression against Ukraine’, the EU Parliament demanded that Member States provide protection for conscientious objectors and deserters fleeing Belarus, Russia (and occupied Ukraine).¹² However, this is not

⁶ 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>

⁷ 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>.

⁸ 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>

⁹ 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>

¹⁰ 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. 58. <https://undocs.org/A/HRC/56/30>

¹¹ See for example ECtHR, *M.D. and others v. Russia*, 14 September 2021, paras. 45 and 110. <https://hudoc.echr.coe.int/eng/?i=001-211791>

¹² European Parliament resolution of 16 February 2023 on one year of Russia’s invasion and war of aggression against Ukraine (2023/2558(RSP)), para. 30. https://www.europarl.europa.eu/doceo/document/TA-9-2023-0056_EN.html

guaranteed in most Member States.¹³

Furthermore, the call has been insufficient, insofar it was limited in citing Russian and Belarusian deserters and conscientious objectors, but not Ukrainian ones. Ukrainians should enjoy the right to conscientious objection to military service, which is blatantly violated, and there have been instances of even torture of conscientious objectors to military service.¹⁴

2. LEGAL UPDATES

German judgement concerning Syria

The Higher Administrative Court of Lower Saxony allowed the appeal submitted by BAMF and found that the applicant, a Syrian national, was not eligible for refugee status on grounds of military conscription or religious affiliation.

On military conscription, the court cited the CJEU judgment *EZ v Bundesrepublik Deutschland* (Federal Republic of Germany), (C-238/19, 19 November 2020) and found that the applicant was not subject to any prosecution act for having evaded military service before leaving Syria.

The court clarified that the assumption of an imminent threat of prosecution or punishment for refusal of military service within the meaning of Paragraph 3a(2)(5) of the AsylG (Article 4(4) of Directive 2011/95/EU) upon departure can only be considered if, from the point of view of the Syrian State, a man of the age of military service had clearly withdrawn from military service before the moment of his departure and he was, precisely for that reason, subject to the remarkably probable risk of suffering persecution measures. In the absence of such conditions with regard to the applicant, he was not eligible for refugee protection.

The Higher Administrative Court stated that the case law of the vast majority of the Higher Administrative Courts in Germany is that military service evaders in Syria are not threatened with political persecution.¹⁵

This seemingly contradicts, *inter alia*, ECtHR jurisprudence,¹⁶ as well UNHCR standards that a well-founded fear of persecution may arise after an applicant has left her or his country of origin.¹⁷

German court rulings on Russian conscientious objectors

Recently, the Berlin Administrative Court issued two rulings¹⁸ granting subsidiary protection to Russian conscripts. By doing so, the Administrative Court challenged a landmark decision issued by the OVG Berlin-Brandenburg in November. “This is a truly remarkable development. **It has been recognized that Russian conscripts are indeed at risk of being recruited into the Russian army to fight in the war in Ukraine,**” explained Rudi Friedrich, Executive Director of Connection e.V. “This protection must now be extended to Russian conscientious objectors who can be called up as reservists.”

In one of the two detailed decisions, the Berlin Administrative Court stated¹⁹ that the 19-year-old Russian conscript in question has a “real risk” to be called up for basic military service in the Russian

¹³ “I believed I would find protection in Europe”, Joint Statement, 14 February 2025. <https://en.connection-ev.org/article-4371>

¹⁴ Felix Corley, “UKRAINE: Recruitment offices, military detain, pressure and torture conscientious objectors”, *Forum 18*, 18 October 2024. https://www.forum18.org/archive.php?article_id=2937

¹⁵ <https://caselaw.euaa.europa.eu/pages/viewcaselaw.aspx?CaseLawID=4355&returnurl=/pages/digest.aspx>

¹⁶ See for example ECtHR, *M.D. and others v. Russia*, 14 September 2021, paras. 45 and 110. <https://hudoc.echr.coe.int/eng/?i=001-211791>

¹⁷ 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>.

¹⁸ <https://www.berlin.de/gerichte/verwaltungsgericht/presse/pressemitteilungen/2025/pressemitteilung.1526847.php>

¹⁹ https://en.connection-ev.org/pdfs/2025-01-20_VG-Berlin-33-K-519-24-A.pdf

army in Russia “against his will and sent to the war in Ukraine, where he had to expect to be forced to participate in a war of aggression contrary to international law and acts contrary to international law and/or human rights or to suffer serious harm to life and body.” The Magdeburg²⁰ and Würzburg²¹ Administrative Courts had already ruled similarly.

In its decision, the court refers to current statements by Russian conscientious objection organizations, which highlight the fact that the recruitment methods used in Russia are considered to be particularly harsh, abusive, and largely illegal. In addition, the existing right to conscientious objection to military service can hardly be enforced and people in the alternative service can be called up to serve in the military. “Conscripts who invoke a possible anti-war stance to justify their refusal also run the risk of being prosecuted for ‘discrediting the army’ or similar offenses.”²²

German judgement concerning Ukraine

On the one hand it should be noted that the judgement concerns extradition of a conscientious objector for other offence, not draft evasion or desertion. On the other hand, the court appears not recognising the right to conscientious objection when a state is attacked with armed force in violation of international law and the person concerned must therefore expect to be called up for military service.²³

In any case, no extradition should be permitted to a country where conscientious objectors are in risk of torture.²⁴

Italian judgement about Egypt

The Tribunal of Naples granted a suspensive effect on enforcing a negative decision for an Egyptian national and ruled that Egypt could not be deemed a safe country for the applicant due to lack of investigation into the risks associated with evading military conscription.

The Tribunal found substantial and well-founded reasons to suspend the enforcement of the negative decision. It concluded that the applicant’s refusal to participate in military service and the fear of penalties upon a return were sufficient to challenge the presumption of safety in Egypt. The tribunal referenced the EASO COI Query: Information on Military Service in Egypt (22 June 2018), which indicates that conscientious objection and the punishment of deserters are significant issues warranting further investigation, including the evaluation of the document submitted by the applicant.²⁵

3. ANSWERS TO PROPOSED QUESTIONS

This part of the submission seeks to provide replies to the issues suggested.

- **What forms of discrimination or violence do migrants, refugees, and IDPs face based on their religion or belief?**

Conscientious objectors occasionally face serious violations of their human rights in other countries. For example, Eritreans fleeing from the indefinite National service, face arbitrary detention and ill-

²⁰ <https://www.asyl.net/rsdb/m32903>

²¹ <https://www.asyl.net/rsdb/m32643>

²² Connection e.V. “Russian objectors: Two remarkable court rulings raise hope”, 3 February 2025. <https://en.connection-ev.org/article-4360>

²³ “Kriegsdienstverweigerer darf and Ukraine ausgeliefert werden”, 12 February 2025. <https://www.mdr.de/nachrichten/sachsen/dresden/dresden-radebeul/ukraine-rieg-auslieferung-kriegsdienstverweigerer-gericht-100~amp.html>

²⁴ Felix Corley, “UKRAINE: Recruitment offices, military detain, pressure and torture conscientious objectors”, *Forum 18*, 18 October 2024. https://www.forum18.org/archive.php?article_id=2937

²⁵ Italy, Civil Court [Tribunali], *Applicant v Ministry of the Interior (Territorial Commission of Caserta)*, R.G. 15869, 19 July 2024. <https://caselaw.euaa.europa.eu/pages/viewcaselaw.aspx?CaseLawID=4459>

treatment in Sudan,²⁶ forcible return from Türkiye,²⁷ crackdown,²⁸ deportations from Ethiopia,²⁹ or even unlawful killings.³⁰

In Lithuania, Belarusian conscientious objectors are considered even as “a threat to national security in Lithuania”, facing even solitary confinement.³¹

- **To what extent is the principle of non-refoulement upheld for refugees fleeing religious persecution?**

See the part of legal updates.

- **What role do faith-based organizations play in supporting migrants, refugees, and IDPs, particularly in relation to their freedom of religion or belief?**

Certain faith-based organisations play an important role in supporting the right to conscientious objection to military service. Organisations such as “Mouvement Chrétien Pour la Paix” or “Evangelische Arbeitsgemeinschaft für Kriegsdienstverweigerung und Frieden (EAK) / Protestant Association for Conscientious Objection and Peace” are cited among the member organisations of the European Bureau for Conscientious Objection.³² Several religious organisations have pronounced on the issue of conscientious objection to military service.³³ In particular, Jehovah’s Witnesses have traditionally played a pivotal role in the recognition and defence of the right to conscientious objection to military service, and provide accurate and updated information on persecution of conscientious objectors.³⁴ The Asia-Pacific Association of Jehovah’s Witnesses (APAJW) and The European Association of Jehovah’s Witnesses (EAJW) provide regular inputs to UN procedures.³⁵

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- **How can collaboration between States, international organizations, religion and belief communities, and faith-based actors be strengthened?**

The organisation of events, especially in the context of UN and other international organisations, such as for example the Intersessional workshop organised in October 2023,³⁶ could be useful.

This is particularly important in raising awareness, especially as far as it concerns the international standards on conscientious objection to military service, including UNHCR and OHCHR standards on the obligation for international protection.

²⁶ Tesfalem Araia & Netsanet Debessai, “I recognised my sister in video of refugees captured in Sudan war”, BBC, 1 July 2024.

<https://www.bbc.com/news/articles/c3g3nk15jrd0>

²⁷ Amnesty International, “Türkiye: Eritreans at imminent risk of forced return”, 6 September 2024

Index Number: EUR 44/8493/2024. <https://www.amnesty.org/en/documents/eur44/8493/2024/en/>

²⁸ Teklemariam Bekit, “Eritrean refugees describe police crackdown in Ethiopia”, BBC, 29 November 2024.

<https://www.bbc.com/news/articles/ce89717256ro>

²⁹ BBC, “Why is Ethiopia deporting hundreds of Eritreans?”, 13 December 2024. <https://www.bbc.com/audio/play/p0kbvjyv>

³⁰ HRCE, “Urgent Appeal: Fatal Shooting of Eritrean Asylum Seekers at Lafto Prison, Ethiopia”, 26 February 2025. <https://hrc-eritrea.org/urgent-appeal-fatal-shooting-of-eritrean-asylum-seekers-at-lafto-prison-ethiopia/>

³¹ “JOINT PRESS RELEASE: Protection for Belarusian conscientious objectors like Vitali Dvarashyn and Mikita Sviryd”, 29 July 2024.

<https://ebco-beoc.org/node/631>

³² <https://ebco-beoc.org/memberorganizations>

³³ <https://centeronconscience.org/religious-statements-on-conscientious-objection/>

³⁴ <https://www.jw.org/en/news/region/global/jehovahs-witnesses-in-prison/>

³⁵ E.g. The Asia-Pacific Association of Jehovah’s Witnesses And The European Association of Jehovah’s Witnesses, “Joint Submission to the United Nations Human Rights Committee Prior to the Adoption of the List of Issues, 140th session (4–28 March 2024), Mongolia”, 8 January 2024.

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FICO%2FMNG%2F56995&Lang=en

³⁶ <https://www.ohchr.org/en/events/events/2023/intersessional-workshop-good-practices-and-recent-developments-implementation>