



European Bureau for Conscientious Objection

35 Van Elewyck street, 1050 Brussels, Belgium
Tel: +32 2 648 5220, Fax: +32 2 648 6988
ebco@ebco-beoc.org / www.ebco-beoc.org



P R E S S R E L E A S E

Northern part of Cyprus: Constitutional Court rules on constitutionality of conscientious objection

Brussels, 11 October 2013

"EBCO urges the full recognition of the right to conscientious objection for conscripts, reservists and professional members of the armed forces, in line with European and international standards", Friedhelm Schneider, EBCO's President stated today, following yesterday's ruling of the Constitutional Court in the northern part of Cyprus on the case of conscientious objector and EBCO Board member Murat Kanatli. The case was referred to the Constitutional Court by the Military Court on the grounds that the articles obliging the objector to attend the reservist army services were in conflict with articles safeguarding the freedom of thought and expression and gender equality.

Murat Kanatli, an EBCO Board member, had declared his conscientious objection on ideological grounds in 2009 and has since refused each year to participate in the annual compulsory military exercises in the northern part of Cyprus. On 14th June 2011 he was summoned to appear in the Military court on charges relating to his refusal in 2009. After numerous postponements, on 8 December 2011 the Military Court accepted the demand of Murat Kanatli to refer his case to the Constitutional Court.

The Constitutional Court cited the decisions of the European Court of Human Rights in *Bayatyan v Armenia*, *Erçep v Turkey* and *Savda v Turkey*, emphasizing on *Savda v Turkey* where the objection was based on ideological grounds, as well as the decisions of the United Nations Human Rights Committee in *Atasay and Sarkut v Turkey* which recognized that although the right of conscientious objection is not explicitly referred in the European Convention on Human Rights and International Covenant on Civil and Political Rights, opposition to military service, where it is motivated by a serious and insurmountable conflict between the obligation to serve in the army and a person's conscience or his deeply and genuinely held religious or other beliefs, constituted a conviction or belief of sufficient cogency, seriousness, cohesion and importance to attract the guarantees that are safeguarded in Article 9 of European Convention of Human Rights and Article 18 of the International Covenant on Civil and Political Rights. The Constitutional Court recognized that Article 23 of the Constitution relating to the freedom of thought, conscience and religion is in line with especially Article 9 of the European Convention on Human Rights.

The Constitutional Court stated that according to the laws and regulations in northern Cyprus one is exempt of armed services solely on grounds of physical and mental health conditions, and unavailability of alternative service constitutes an interference with the right to freedom of thought, conscience and religion safeguarded in the Article 23 of the Constitution. The Constitutional Court expressed that the role of a decision of the Court when it declares that an article of a legislation is in conflict with the Constitution helps to resolve the conflict between parties to the case or prevents the relevant article from being applied in that case.

The Constitutional Court went on to state that it does not constitute a conflict with the Constitution. The Court added that the duty is upon the legislator to provide in laws and regulations for alternative service to military service and when doing so to review the article of the Constitution that relates the right and duty to homeland to armed service only. In addition to the decision, one judge sitting in the Constitutional Court gave an opinion stating that this case shall be dealt in line with rules that are applied when laws are in conflict with the European Convention on Human Rights.

After this decision of the Constitutional Court the case of Murat Kanatli will continue at the Military Court. The Court days will be announced by the Initiative for Conscientious Objection in Cyprus.

EBCO press contacts:

Friedhelm Schneider, EBCO's President, +49 152 044 776 75
Sam Biesemans, EBCO's Vice-President, +32 477 268 893

EBCO was founded in Brussels in 1979 as an umbrella structure for national associations of conscientious objectors in the European countries to promote the right to conscientious objection to preparations for, and participation in, war and any other type of military activity as a fundamental human right. It enjoys participatory status with the Council of Europe since 1998 and is a member of its Conference of International Non-Governmental Organisations since 2005. It provides expertise and legal opinions on behalf of the Directorate General of Human Rights and Legal Affairs of the Council of Europe. It is involved in drawing up the annual report of the Committee on Civil Liberties, Justice and Home Affairs of the European Parliament on the application by the Member States of its resolutions on conscientious objection and civilian service, as determined in the "Bandrés Molet & Bindi Resolution" of 1994. It is a full member of the European Youth Forum since 1995.