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Thematic Country of Origin Information Report Turkey: Military service

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Introduction

This thematic country of origin information report describes the situation in Turkey of conscription evaders and deserters from Turkey insofar as it is relevant to the assessment of asylum applications from such persons and to decisions on the repatriation of rejected Turkish asylum-seekers. This thematic report focuses in particular on the period from the unsuccessful coup attempt of July 2016 through to June 2019. The last general country of origin information report on Turkey in which the situation of conscripts and deserters in Turkey was covered dates from 28 July 2013.¹

The report is based on information from public and confidential sources. An overview of public sources consulted is included in the list of references.

In this report, a picture is sketched of relevant legislation and regulations on compulsory military service, evasion of conscription and desertion, and enforcement practice is examined. With regard to enforcement practice, attention is paid to specific groups of conscription evaders and deserters, including people from a Turkish Kurdish background.

Chapter One provides basic information about the Turkish armed forces and military service legislation. Chapter Two describes in particular the registration of conscripts, and deals with identity and travel documents. Chapter Three considers the call up and assignment of conscripts, including their possible deployment in armed conflicts. Chapter Four covers deferral, payment of a fee in lieu of and exemptions from military service. The position of those with conscientious objections to military service is also discussed. Chapter Five deals with punishments for evasion of compulsory military service.

¹ <https://www.rijksoverheid.nl/documenten/ambtsberichten/2013/07/31/turkije-2013-07-28>

1 Basic information

1.1 The position of the armed forces in society

Since the ruling *Justice and Development Party, Adalet ve Kalkınma Partisi* (AKP), founded and led by President Recep Tayyip Erdoğan, came to power in 2002, it has actively set itself the goal of exercising civilian control over the army. The role of the Turkish armed forces in internal security has been considerably reduced, and the army's influence on politics has also diminished.² After the failed coup of 2016³, the Turkish armed forces were brought under the direct control of the Ministry of National Defence. In the aftermath of the coup attempt, the Turkish government fired about 40% of all generals and admirals. The powerful National Security Council and security spending were placed under the supervision of civilians, and the universities and the media were safeguarded against military inspections.⁴

The Turkish military apparatus has focused in recent years on the threat posed by the civil war in Syria and the Kurdistan Workers' Party (PKK).⁵ See 3.2 for more details. The armed forces regard fundamentalism (the definition of which is sometimes a source of disagreement with the civilian government), separatism (the Kurdish pursuit of independence) and the extreme left as the main threats to the Turkish state. The Turkish government is strongly opposed to an autonomous Kurdish region in Iraq, Syria or Turkey.⁶

The 2016 coup attempt

In the period between the unsuccessful coup in 2016 and March 2017, the Turkish government fired more than 22,000 officers, soldiers and cadets for alleged links with the Gülen movement. In March 2017, Fikri Işık⁷, the then Turkish Minister for National Defence, announced that those fired consisted of 6,511 officers and 16,409 soldiers and military cadets. The latter group consisted of 4,090 cadets at military colleges, 6,140 at training centres for non-commissioned officers (NCOs) including privates and corporals, and 6,179 at university military training institutions.⁸ In addition, during the same period the Turkish government arrested tens of thousands of other people accused of being supporters of the Gülen movement, or of being involved in terrorism and the coup attempt. This also included a large number of soldiers.⁹ Even after March 2017, there were reports in the press and announcements by the Turkish government about arrests and/or convictions of soldiers in connection with the coup attempt. For example, in January 2019 the Turkish authorities reported that at least 58 generals and 629 senior officers had been sentenced to life imprisonment for involvement in the failed coup and for links with the Gülen movement. In January 2019, the Turkish authorities also arrested 63 people on charges of involvement with the Gülen movement, including 46 helicopter pilots in active service. Earlier that month, more than 100 soldiers and former

² CIA. *The World Factbook. Turkey*. Consulted 18 March 2019; Ahval. *Erdoğan politicising military after age of tutelage – scholar*. 18 October 2018.

³ The forthcoming general country of origin information report on Turkey, which is expected to be published in October 2019, will examine the failed coup, the security situation and human rights in more detail.

⁴ Al. Jazeera. *Why Turkey's military is not what it used to be. After several corrective measures after the 2016 failed coup, the military is enjoying better ties with the government*. 5 juni 2018; Ahval. *Erdoğan politicising military after age of tutelage – scholar*. 18 October 2018; Volkskrant. *Escaped Turkish officers on the purges following the suppressed coup*. 28 June 2019.

⁵ Confidential source. 31 May 2019.

⁶ CIA. *The World Factbook. Turkey*. Consulted 18 March 2019.

⁷ James in Turkey. *The 2017 cabinet reshuffle. Who wins and who loses? A snapshot of Turkish ministers' fate as the government completes its post-referendum reshuffle*. 19 July 2017. <http://www.jamesinturkey.com/2017-cabinet-reshuffle/>. Consulted on 22 May 2019. The current Minister for National Defence is Hulusi Akar.

⁸ Stockholm Center for Freedom. *Turkish gov't expelled over 22,000 from army, military schools over alleged Gülen links*. 17 March 2017; Confidential source. 31 May 2019;

⁹ Stockholm Center for Freedom. *Turkish gov't expelled over 22,000 from army, military schools over alleged Gülen links*. 17 March 2017.

cadets at military training institutions were arrested throughout Turkey.¹⁰ See also 5.2.

The *Daily Sabah* newspaper reported in an article on 30 August 2017 that the Turkish government was using a software program to detect people within the armed forces who might have links with the Gülen movement. The indications of affiliation said to be used by the program included placements abroad, disciplinary reports, rapid promotions, and assignments to recruit students and to assess educational levels and academic tasks.¹¹ Up to March 2019 this program was only used within the navy to find supporters of the Gülen movement among officers and NCOs. Since March 2019 it has apparently also been used within the terrestrial forces. The program uses more than 200 criteria to assess whether someone belongs to an organisation such as the Gülen movement, according to Al Monitor.¹² It is said to have been used within the navy to screen 810,000 active and retired personnel members and their first-degree relatives. On this basis, around 45,000 naval officers and NCOs were considered likely to have links with the Gülen movement. On the basis of information obtained through these individuals, 600 secret leaders of the network have been found. Within the Turkish navy, a million mobile phone numbers were also checked for *ByLock* connections, an online app developed by Gülenists to communicate with one another. About 1,500 people were found to be using this app.¹³

Turkish courts ruled in September 2017 that having this app was sufficient proof that someone had links with the Gülen network. The investigation into users of *ByLock* also led to thousands of people, including people with a military background, being fired and/or arrested on charges of ties with the Gülen movement.¹⁴

In September 2017, the website *Kurdistan 24* reported that two soldiers, including at least one conscript, had been arrested on charges of spreading propaganda for the PKK.¹⁵ A number of Turkish media outlets also reported arrests and convictions of soldiers for alleged PKK sympathies in 2017 and 2018, among other things because of messages on social media.¹⁶

¹⁰ Al-Monitor. *Ankara rounds up more 'Gülenist' military pilots*. 30 January 2019; TRT World. *Turkish police arrest 45 FETO-linked terror suspects*. 5 March 2019. TRT World reported that arrest warrants had been issued for 30 people, including 19 soldiers who were said to have formed a network of the Gülen movement within the Turkish air force. The Turkish government calls the Gülen movement the Fetullah Terrorist Organisation (FETÖ).

¹¹ Turkey Purge. *Pro-gov't daily: Turkish army develops software to identify Gülenist soldiers*. 30 August 2017. This article refers to an article in the *Daily Sabah* from the same day.

<https://www.sabah.com.tr/gundem/2017/08/30/tskda-fetocu-tarama-programi>

¹² Al-Monitor. *Turkey's incredible algorithm designed to root out Gülenists*. 18 March 2019. The criteria are used to look at aspects such as education, lifestyle, career, performance evaluations by superiors, family ties, marriage, service locations, courses taken, post-academic studies, education of wife and children and financial situation. <https://www.al-monitor.com/pulse/originals/2019/03/turkey-navys-incredible-algorithm-in-fight-against-gulen.html#ixzz5kbfD022q>

¹³ Al-Monitor. *Turkey's incredible algorithm designed to root out Gülenists*. 18 March 2019.

¹⁴ The Verge. *How a secretive, unknown smartphone app became the center of Turkey's post-coup crackdown*. 28 February 2018. <https://www.theverge.com/2018/2/28/17059806/turkey-overthrow-attempt-coup-bylock-app>; CBC. *'Terrifying': How a single line of computer code put thousands of innocent Turks in jail*. 19 January 2018/ last updated 19 June 2018. <https://www.cbc.ca/news/world/terrifying-how-a-single-line-of-computer-code-put-thousands-of-innocent-turks-in-jail-1.4495021>; Ahval. *Turkish court orders compensation payment in "Bylock" app case*. 14 July 2018. CBC reported that a naval officer who was the partner of someone suspected of using the *Bylock* app had lost his job as a result. According to Beşikçi, a digital forensic expert, other experts and a lawyer, users of a number of other apps were linked via those apps to the *ByLock* app without being aware of it. The aim of this was alleged to be to make it hard to track down Gülenists. The Turkish public prosecutor had digital experts investigate this practice and announced on 27 December 2017 that 11,480 people had been wrongly accused. This led to the release and rehabilitation of a large number of people, including a retired soldier. More than 11,000 people initiated claims for damages against the government. A court in Bursa ruled that the Turkish state had to pay compensation of TL 500 to a teacher for the two days she was detained in October 2017 after the *Bylock* app was found on her mobile phone.

¹⁵ Kurdistan 24. *Conscript in Turkish military arrested for PKK 'propaganda'*. 27 September 2017. The information about the conscript arrested in September 2017 was reported to have come from the Turkish Anadolu news agency. The arrest took place in the north-western province of Bolu.

¹⁶ See March 2017: <https://www.cnnturk.com/turkiye/pkk-propagandasi-yapan-askere-2-yil-hapis>; January 2018: <https://www.haberturk.com/teror-orgutu-pkk-propagandasi-yapmakla-suclanan-asker-tutuklandi-1808514> March 2018: <https://www.memurlar.net/haber/737533/pkk-propagandasi-yapan-asker-hakim-karsisina-cikti.html> May 2018: <http://www.hurriyet.com.tr/gundem/pkk-propagandasi-yapan-ere-10-ay-hapis-40829878>

1.2 Basic information about the armed forces

The Turkish armed forces (TSK) consist of the land forces (*Türk Kara Kuvvetleri*), the navy (*Türk Deniz Kuvvetleri*, including the naval air force and infantry) and the air force (*Türk Hava Kuvvetleri*). Turkey has NATO's second largest standing army, with an estimated size of more than 615,000 active or reserve personnel.¹⁷ Since the late 1990s, the proportion of professional soldiers and other professional personnel within the armed forces has increased sharply to around 50% of the total number of those on active duty.¹⁸ Conscripts are employed in all parts of the TSK, including the gendarmerie and the coast guard, but not with elite units deployed in operations against the PKK. Only professional soldiers are used in operations against the PKK in the south-east of Turkey.¹⁹

The land forces are the largest of the Turkish armed forces. According to statements by the chief of staff, at the end of 2017 they had an approximate strength of 355,000 personnel, including some 197,000 conscripts.²⁰ An important reason for the decrease²¹ in the proportion of conscripts in the armed forces is the possibility of paying a fee in lieu of military service (see Chapter 4).²² In addition, the aftermath of the failed coup of July 2016 also played a role, as no new conscripts were called up in the year following the coup. From 2018, conscripts were again called up for military service.²³

The land forces consist of four armies (*ordu*): the First Army, stationed in Istanbul, the Second Army, stationed in the south-east with headquarters in Malatya, the Third Army, stationed in the north-east with headquarters in Erzincan and the Fourth Army (also known as the Aegean Army), stationed on the west coast with headquarters in Izmir.²⁴

In addition to the armed forces (TSK) that fall under the Ministry of National Defence, there is the gendarmerie. Conscripts can also be assigned to the gendarmerie.²⁵ The gendarmerie (*general command of the gendarmerie/Jandarma Genel Komutanlığı*) falls under the Ministry of National Defence for training and education purposes. As regards actual deployment for security and public order, the gendarmerie falls under the Ministry of the Interior.²⁶

1.3 Relevant legislation

The rules and procedures for military service are set out in the Law on Military Service (Law 1111 from 1927) and in the Law on Reserve Officers and Reserve

¹⁷ CIA. *The World Factbook*. Turkey. Consulted 18 March 2019; NAOC. *Professionalization of the TSK: 'Contractual Soldiering' in Turkey*. 21 May 2016. Consulted 22 March 2019.

¹⁸ Al-Monitor. *Turkey's paid exemption from military service system begins*. 29 November 2018.

¹⁹ Confidential source. 24 April 2019; Confidential source. 31 May 2019.

²⁰ This figure is based on statements by the chief of staff. It should be noted that this information is not regularly disclosed, nor is it easy to verify. On 2 January 2017, the army's chief of staff stated in a press release that 398,513 people were working for the army: 39,420 civilian employees, 6,925 reservists, 197,149 conscripts and 155,199 professional soldiers. Consulted on 7 March 2019: <https://www.ntv.com.tr/turkiye/tskdaki-asker-sayisi-aciklandi,nxg9WniFLUWXrWZ9ymj2Aw>; figures correspond to data from Global Firepower, 2018. Consulted on 07-03-2019: https://www.globalfirepower.com/country-military-strength-detail.asp?country_id=turkey

²¹ The general country of origin information report on Turkey of July 2001 gave a figure of 495,000 personnel, 462,000 of whom were conscripts (p. 5).

²² NAOC. *Professionalization of the TSK: 'Contractual Soldiering' in Turkey*. 21 May 2016. Consulted on 07-03-2019: <http://natoassociation.ca/turkeys-military-service/>

²³ Confidential source. 7 March 2019. The general country of origin information report on Turkey, which is expected to be published in autumn 2019, will discuss the July 2016 coup attempt and its aftermath; Confidential source. 31 May 2019

²⁴ Hierarchy Structure (5 December 2017). Military Hierarchy of Turkey. Consulted on 07-03-2019: <https://www.hierarchystructure.com/military-hierarchy-of-turkey/>

²⁵ Al-Monitor. *Turkey's paid exemption from military service system begins*. 29 November 2018. Al Monitor states that the gendarmerie has 176,000 personnel; FIEP: International Association of Gendarmeries and Police Forces with Military Status. *The gendarmerie of the Turkish republic*. Consulted 23 April 2019.

²⁶ <http://www.jandarma.gov.tr/> Global Security. Consulted 12 May 2019; *Gendarmerie General Command /Jandarma Genel Komutanlığı*. <https://www.globalsecurity.org/military/world/europe/tu-gendarmerie.htm>. Consulted 23 April 2019. The gendarmerie's commando units and air force are not controlled by the Ministry of the Interior, but by the Ministry of National Defence.

Military Personnel (Law 1076) in accordance with Article 72 of the Turkish Constitution.²⁷ Ministerial circulars establish the rules and procedures for exemption from military service in exchange for a fee or other form of compensation, and release from military service in exchange for working in other government bodies (see also 4.4.2 on judges).²⁸

Articles 2, 25 and 26 of the Turkish Law on Military Service state that every man in Turkey is liable for conscription and must register from 1 January of the year in which he turns twenty. Military service does not apply to women. Those subject to conscription remain so until 1 January of the year in which they turn 41. In the event of a mobilisation, men may be called up for military service up to their sixty-fifth year.²⁹ Turkish men who are legally resident abroad are subject to conscription from the year in which they turn 19 until the end of the year in which they turn 38.³⁰

Men who volunteer to join the armed forces may do so from the age of 18. Turkish women may voluntarily serve as NCOs or officers in the Turkish army, in which case they may be called up as reservists up to the age of 40.³¹

Until 2014, the normal conscription period was 15 months.³² The maximum conscription period was then reduced to 12 months.³³ There are different variants in the conscription system as applied up to the amendment of the law on 26 June 2019. For those with two years of vocational training or a low level of education, the maximum conscription period of 12 months applies. There are two variants for conscripts with four years of secondary school and higher education: either twelve months as an officer (Third Lieutenant), or a reduced military service of six months as an NCO.³⁴ There are no exceptions to this, other than the generally applicable rules on deferral, exemption and payment of a fee in lieu of military service.³⁵ See also 4.2 for information about the amendment of the law.

Turkish law does not provide for the possibility of alternative service for conscientious objectors (*vicdani retçi*). A person who fails to report for compulsory military service is regarded as a conscription evader and can be punished on that basis (see Chapter 5).

²⁷ Turkey: Law No. 1111 of 1927, Military Law. <https://www.refworld.org/docid/3ae6b4d020.html>; The Turkish Law on Military Service (Law 1111). <http://www.mevzuat.gov.tr/Metin1.aspx?MevzuatKod=1.3.1111&MevzuatIliski=0&sourceXmlSearch=1111&Tur=1&Tertip=3&No=1111>

²⁸ Permanent Mission of the republic of Turkey to the OSCE. *Questionnaire on the code of conduct on politico-military aspects of security*. p. 13. <https://www.osce.org/forum-for-security-cooperation/333126?download=true>.

²⁹ Confidential source. p. 1. 7 March 2019; CIA. *The World Factbook. Turkey*. Consulted 18 March 2019; Permanent Mission of the republic of Turkey to the OSCE. *Questionnaire on the code of conduct on politico-military aspects of security*. p. 20; United Kingdom. *Country Policy and Information Note. Turkey: Military service*. pp. 7 and 12. September 2018.

³⁰ Confidential source. p. 1. 7 March 2019; Confidential source. 24 April 2019. This is policy, not law.

³¹ CIA. *The World Factbook. Turkey*. Consulted 18 March 2019; Permanent Mission of the republic of Turkey to the OSCE. *Questionnaire on the code of conduct on politico-military aspects of security*. pp. 19 and 20. In March 2017, there was a total of 1,069 female NCOs and officers, not including women working in the coast guard and gendarmerie.

³² Ministry of Foreign Affairs. *General Country of Origin Information Report on Turkey*. 28 July 2013. p. 46.

³³ Immigration and Refugee Board of Canada. Turkey: *Military service, both compulsory and voluntary, including requirements, length, alternatives and exemptions; consequences of draft evasion and conscientious objection (2011-May 2014)* 4 June 2014. The source refers to media reports: Today's Zaman of 25 October 2013 and AFP of 21 October 2013.

³⁴ Law on Military Service Art. 5; United Kingdom. *Country Policy and Information Note. Turkey: Military service*. Pagina 13. September 2018; Immigration and Refugee Board of Canada. Turkey: *Military service, both compulsory and voluntary, including requirements, length, alternatives and exemptions; consequences of draft evasion and conscientious objection (2011-May 2014)* 4 June 2014. This source states that according to various media, the length of military service was reduced from 15 to 12 months from 1 January 2014 (ANSA 2 January 2014; Today's Zaman 25 October 2013; AFP 21 October 2013); Permanent Mission of the republic of Turkey to the OSCE. *Questionnaire on the code of conduct on politico-military aspects of security*. p. 14. <https://www.osce.org/forum-for-security-cooperation/333126?download=true>.

³⁵ Confidential source. p. 1. 7 March 2019.

2 Registration and screening

Around 300,000 men aged 20 are called up for military service every year. According to data from the Turkish government from 2018, a total of 1.9 million young men had obtained a deferral of military service because of their studies. Three million others had asked for a deferral for other reasons. Approximately 650,000 men are considered by the Turkish government to be evaders of military service and therefore to be breaking the law.³⁶ Exceptionally, during 2017, the year after the coup attempt, the Turkish government did not call for any new conscripts to register (see 1.2). No professional soldiers were recruited in 2017 either.³⁷ Only a small number of conscripts in Turkey openly state that they are refusing military service (see 4.3).³⁸

2.1 Call-up system

The Ministry of National Defence disseminates the call-up for military service through the Turkish state radio and television. Anyone subject to conscription for the first time that year is called up, along with those who received a temporary exemption or deferral in the previous year. Conscripts do not receive a personal call-for registration. Anyone who has completed their military service remains a reservist up to the indicated maximum age.³⁹

Conscripts are expected to respond to the call-up by presenting themselves with the necessary documents at one of the military registration offices, or if they live abroad, at the Turkish consulate or embassy.⁴⁰

The law distinguishes between three types of evasion of military service: evasion of registration/screening (*yoklama kaçakçılığı*), failure to report for actual service (*bakaya*), and desertion (*fırar*).⁴¹

If a person has not responded to the general call-up for registration and screening for military service, the military authorities send a call-up to the address of the person concerned stating that he is regarded as a conscription evader, and must still report to the military authorities to complete the relevant procedures.⁴² If the registration and screening of the person concerned has still not taken place by the time the other conscripts from that year are required to report for service, an offence has been committed.

When an instance of conscription evasion is discovered, the personal details of the person concerned are passed on via the military authorities to the police and/or gendarmerie. They then try to track down and arrest the person concerned. As a rule, the person is taken to the military registration office on being arrested, after which, and after the possible payment of a fine if an offence has been committed, he is required to serve. The concept of conscientious objection is not recognised in

³⁶ Al Monitor. *Young Turks with enough cash seek to skip military service*. 4 July 2018.

³⁷ Confidential source. 31 May 2019.

³⁸ War Resisters' International. *Silent / invisible Resistance to Turkish Military*. 10 October 2018; Confidential source. 28 June 2019. This source estimated the total number of conscientious objectors in Turkey as 400 people. Only a few of them openly stated that they were refusing military service on the grounds of conscientious objection.

³⁹ Confidential source. pp. 1 and 2. 7 March 2019.

⁴⁰ Confidential source. p. 1. 7 March 2019: see Articles 2, 25 and 26 of the Law on Military Service (Law 1111): <http://www.mevzuat.gov.tr/MevzuatMetin/1.3.1111.pdf>. Article 26 states that the required documents are the birth certificate and a document from secondary school if the conscript attended secondary school.

⁴¹ Law on Military Service, Art. 89

⁴² United Kingdom. *Country Policy and Information Note. Turkey: Military service*. pp. 23 and 24. September 2018; Immigration and Refugee Board of Canada. *Turkey: Military service, both compulsory and voluntary, including requirements, length, alternatives and exemptions; consequences of draft evasion and conscientious objection (2011-May 2014)* 4 June 2014. Section 3: draft process; Law on Military Service, Article 30; confidential source, 31 May 2019. There is no one procedure for informing someone that they are considered to be evading conscription. Neither military criminal law nor the law on military service give any indication of how this notification takes place; the involvement of the mukhtar is not a given in all situations.

Turkey; those who refuse military service on this basis are therefore treated as conscription evaders.⁴³ The information from the arrest warrant is included in the so-called *Genel Bilgi Toplama Sistemi*, the General Information Collection System.⁴⁴ See also 2.3 and Chapter 5.

2.2 Screening

In the screening process, information about the health status, level of education, special skills such as language skills and occupation of the conscript is collected. The military registration office sends the conscript written notification that he can collect information from the office about reporting for duty. Conscripts can now also look up this information digitally (see Chapter 3, first paragraph).⁴⁵ See also Chapter 4 under exemption from military service.

2.3 Identity and travel documents

The legislation makes no mention of the specific moment at which particular documents relating to reporting for military service are issued to conscripts. All that is stated is that during military service a military identity document, *askerlik cüzdanı*, will be issued.⁴⁶

It is known that after a person has been approved for military service, he receives written notification from the military registration office stating that he can come and collect the documents concerning his registration and reporting for duty from that office. These documents also state to which unit the person has been assigned and to which training centre he must report for basic military training.⁴⁷ The military identity document is the official proof of identity of members of the Turkish armed forces.⁴⁸ Members of the armed forces are required to carry their military identity document, the *askerlik cüzdanı*, at all times, even if they are wearing civilian clothing. Conscripts receive the askerlik cüzdanı during their military service, usually at the start.⁴⁹

There is no legal provision that makes it impossible to obtain a passport during the period of military service, except when a conscript deserts *during* the performance of military service.⁵⁰ Applying for a passport follows the normal procedure: Turkish nationals can make an appointment through the Ministry of the Interior at a Ministry of the Interior registration office in their area.⁵¹

The *Genel Bilgi Toplama Sistemi*, the General Information Collection System, is linked to the authorities that issue passports, but also, for example, to police databases. As a result, conscription evaders and deserters can be arrested in various situations, such as at the border, during traffic controls or after registering at a hotel.⁵²

A 2010 constitutional amendment created the possibility for conscripts to leave the country legally. The thrust of the amendment is that the freedom of Turkish

⁴³ <https://randevu.nvi.gov.tr/> consulted 7 March 2019. Confidential source. 12 June 2019.

⁴⁴ Immigration and Refugee Board of Canada. *Turkey: Military service, both compulsory and voluntary, including requirements, length, alternatives and exemptions; consequences of draft evasion and conscientious objection (2011-May 2014)* 4 June 2014. Section 3: draft process.

⁴⁵ Articles 24 and 25 of the Law on Military Service (Law 1111); confidential source. 31 May 2019.

⁴⁶ Confidential source. 24 April 2019.

⁴⁷ Confidential source. p. 2. 7 March 2019.

⁴⁸ Law on the Turkish Armed Forces and Internal Services, Art. 34(a).

⁴⁹ Confidential source. p. 2. 7 March 2019.

⁵⁰ Confidential source. p. 2. 7 March 2019; Confidential source. 12 June 2019.

⁵¹ <https://randevu.nvi.gov.tr/> consulted 7 March 2019.

⁵² Confidential source. 31 May 2019

nationals to leave the country may only be restricted on the basis of a court decision, following a criminal investigation or prosecution.⁵³ See also 2.1.

If Turkish nationality is lost, citizenship is also lost and the person cannot serve in the army.⁵⁴

Under the state of emergency set up after the coup attempt in July 2016, a large number of decrees were published on the basis of which people were dismissed from their posts, various rights and licences were retracted, and institutions and organisations were banned.⁵⁵ For example, Decree 692 of 14 July 2017 concerns the withdrawal of various rights and licences, including the passport, of (former) government officials accused of membership of a terrorist organisation and/or of undermining national security.⁵⁶ As a result of this specific decree, 7,395 people were removed from office and had their passports withdrawn.⁵⁷ On the basis of these and other decrees⁵⁸, at least 155,350 passports were withdrawn in the aftermath of the coup attempt.⁵⁹

Presidential Decree 673 made it legally possible to withdraw partners' passports from 1 September 2016. There are known reports of the withdrawal of partners' passports, but no information on the exact numbers.⁶⁰ The Council of Europe Commissioner for Human Rights expressed concern about the automatic withdrawal of the passports of family members of persons who were the subject of a criminal investigation in the aftermath of the coup attempt.⁶¹

In the event of a passport being confiscated, the person can still be called up for military service. On 22 June 2017, the Turkish government issued Decree 691, which added an article to the Law on Military Service:

'Persons required to perform military service and whose membership of and/or connection with a terrorist organisation has been established shall perform compulsory military service on the basis of the standards and criteria set by the Ministry of National Defence.' This decree gave the government the right to immediately enlist persons accused of membership of or ties with terrorist organisations for military service. Whether this decree was applied in practice could not be determined.⁶²

⁵³ <http://www.judiciaryofturkey.gov.tr/Current-version-of--Constitution-of-the-Republic-of-Turkey--including-latest--amendments>. Article 23 of the Constitution, amendment dated 7 May 2010, Act No. 5982. consulted 24 April 2019.

⁵⁴ Confidential source. p. 8. 7 March 2019; Law on Military Service. Article 1. "Every male Turkish citizen is obliged to perform his military service in accordance with this law".

⁵⁵ Council of Europe. Commissioner for human rights. Memorandum on the human rights implications of the measures taken under the state of emergency in Turkey. CommDH (2016)35. 7 October 2016. <https://rm.coe.int/16806db6f1>; IHOP. Human Rights Joint Platform. 21 July 2016- 20 March 2018. *State of emergency in Turkey. Updated situation report*. 17 April 2018; The state of emergency was ended on 18 July 2018. BBC. *Turkey ends state of emergency after two years*. 18 July 2018.

⁵⁶ Decree 692 under the state of emergency of 14 July 2017. Article 3 deals with the rights and licences of retired soldiers. <http://www.resmigazete.gov.tr/eskiler/2017/07/20170714M1-1.htm>

⁵⁷ IHOP. Human Rights Joint Platform. 21 July 2016- 20 March 2018. *State of emergency in Turkey. Updated situation report*. 17 April 2018. p. 25.

⁵⁸ Council of Europe. European commission for democracy through law (Venice Commission). *Turkey extracts emergency decree laws. Nos KHK/668, 670, 671, 675, 677, 679, 680, 683, 685, 685, 687*. Opinion no.872/2016. CDL-REF (2017)011. 20 February 2017. [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2017\)011-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2017)011-e)

⁵⁹ <http://www.hurriyetdailynews.com/turkish-interior-ministry-reinstates-155-350-passports-135000>, <https://ahvalnews.com/passports/turkey-reinstates-over-150000-cancelled-passports>, <https://www.amnesty.nl/content/uploads/2017/05/No-End-In-Sight-ENG.pdf?x82182>.

⁶⁰ <https://www.foxnews.com/world/turkey-crackdown-leaves-some-terminally-ill-patients-banned-from-seeking-healthcare-abroad>; Huffpost. *How the Turkish government cancels the passports of its critics*. Updated 10 June 2017. Consulted 31 May 2019; [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2016\)061-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2016)061-e) p. 10.

⁶¹ ARC. Asylum Research Consultancy. *Turkey Country Report*. 15 December 2016. https://www.ecoi.net/en/file/local/1253794/1226_1481885250_58529e5b4.pdf; Council of Europe. Commissioner for human rights. *Memorandum on the human rights implications of the measures taken under the state of emergency in Turkey*. CommDH (2016)35. 7 October 2016. <https://rm.coe.int/16806db6f1>

⁶² European Bureau for Conscientious Objection. *Annual report conscientious objection in Europe 2017*. 10 December 2017. p. 33; Confidential source. p. 8. 7 March 2019. It concerns Decree 691, Article 2 of 22 June 2017. It can be deduced from this provision that the authorities wanted on the one hand to introduce into the law a security measure to keep members of certain organisations out of the army, while these individuals evidently also remain subject to

3 Reporting for military service and assignment

The *Directorate-General (DG) Drafting Services (ASAL)* of the Ministry of National Defence is responsible for planning the deployment of conscripts. No further information is known about the criteria or the system used within this DG for determining deployment. There is no policy or regulation on the basis of which younger brothers must perform their military service in areas where older brothers have not previously served.⁶³ Information on reporting for military service, such as location and date, can be viewed by the conscript at the military district registration offices, and can now also be looked up by the conscript via the online government account (*E-Devlet*, at www.turkiye.gov.tr).⁶⁴

Conscripts cannot object to their assignment other than on the grounds of health complaints.⁶⁵

3.1 Human rights violations within the Turkish armed forces

According to media reports, some conscripts have undergone severe bullying, physical abuse and torture, sometimes resulting in suicide.⁶⁶ Turkish media reported in 2012 and 2013 on the large number of suicides within the Turkish armed forces. In March 2015, the Turkish Minister for National Defence instructed a military academy to investigate this. As a preventive measure, the Turkish government assigned each soldier a 'buddy' to help deal with any problems.⁶⁷ Recent figures on the numbers of suicides within the Turkish armed forces are not available.

Fethi Aydemir, a Kurdish-speaking conscript, was severely abused by his superiors in the province of Van in May 2018 after singing in Kurdish. He suffered serious injuries to his face and internal organs. In another incident in Gaziantep province, a soldier was attacked by other soldiers because he had a photo on his smartphone of Selahattin Demirtas, the detained leader of the pro-Kurdish People's Democratic Party (HDP).⁶⁸

3.2 Use of conscripts in armed conflicts

compulsory military service and could therefore be deployed; Confidential source. 24 April 2019; War Resisters' international. *Turkey: New Executive Decree threatens conscientious objectors*. 8 October 2017. <https://www.wri-irg.org/en/story/2017/turkey-new-executive-decree-threatens-conscientious-objectors>

⁶³ Confidential source. pp. 2 and 9. 07-03-2019; the abbreviation ASAL stands for Asker Alma Daire Baskanligi.

⁶⁴ Confidential source. p. 2. 7 March 2019; <https://www.turkiye.gov.tr>. E-devlet: e-government gateway. Consulted 26 April 2019; confidential source. 31 May 2019. E-Devlet is the equivalent of Digid in the Netherlands. In other words, if a person fails to keep the required data secret, someone else can log in. The data required are ID number/passport number and the password for the system that was created the first time the person logged in.

⁶⁵ Confidential source. p. 9. 7 March 2019.

⁶⁶ US Department of State. *Turkey 2018 human rights report*. 20 April 2018. p. 6.

⁶⁷ Al Monitor. *Suicides Add to Turkish Army's Troubles*. 28 January 2013; Hürriyet Daily News. *Military academy to investigate suicide among Turkish soldiers*. 24 February 2015. The newspaper provided the following information: Between 2002 and the first quarter of 2013, 983 soldiers committed suicide, according to the Turkish Minister for National Defence. Between 2 January 2012 and 15 July 2013, according to the Ministry of National Defence, 166 soldiers died. About 108 of these committed suicide; the number of people killed by gunshot wounds due to accidents was 40; Daily Sabah. *More Turkish soldiers died from suicide than combat in 10 years: Panel*. 14 March 2015.

⁶⁸ US Department of State. *Turkey 2018 human rights report*. 20 April 2018. p. 6; Kurdistan 24. *Conscript in Turkish army 'lynched' for singing in Kurdish, MPs say*. 10 May 2018. The Turkish HDP parliamentarian Lezgin Botan asked the Turkish Minister for National Defence questions about the severe mistreatment of Fethi Aydemir. He stated that conscripts are at risk of arrest, imprisonment, violence, harassment, insult or discrimination purely because they listen to Kurdish music, sing or speak in Kurdish or phone family members who do not speak Turkish; De Telegraaf. *Turkish politician Demirtas still being held*. 4 December 2018. In November 2018, the ECHR called for the release of Demirtas.

The law in Turkey makes no distinction between people of different ethnicity. This also applies to the rules concerning military service and recruitment. It is therefore possible for a Turkish conscript of Kurdish origin to be deployed in a province where the majority of the population is Kurdish. There is no policy of deploying Turkish-Kurdish conscripts against Turkish-Kurdish fighters. The army stopped deploying conscripts in combat operations a few years ago. Military operations are carried out by professional soldiers, both in south-eastern Turkey and in Iraq and Syria. Although conscripts could still be deployed in active conflicts or military operations, including counter-terrorism operations, in the 1990s and early 2000s, this is no longer the case.⁶⁹ The NGO *NATO Association of Canada (NAOC)* also indicates that the armed forces in the border areas largely consist of professional soldiers, who are trained to work in these areas with high security risks.⁷⁰ According to *Daily Sabah Turkey*, Turkey has in particular reduced the number of conscripts in dangerous areas (including border areas) where counter-terrorism operations are carried out.⁷¹

South-eastern Turkey

In July 2015, a two-and-a-half year ceasefire between the Turkish armed forces and the Kurdistan Workers' Party (PKK) ended. Turkey, the United States and the EU regard the PKK as a terrorist organisation. The armed struggle, which has been going on for almost four decades, thus entered a new phase with many casualties, according to information from the NGO *International Crisis Group (ICG)*. During the first half of 2016, violent confrontations took place in a number of urban areas in south-eastern Turkey, where the majority of the population is Kurdish. The conflict has since shifted to the countryside in the south-east. There were also a number of bloody attacks in the largest cities in Turkey.⁷² After the peace talks between the Turkish government and the Kurdistan Workers' Party (PKK) stalled in the spring of 2016, no further progress was made in finding a political solution to the conflict.⁷³

From 20 July 2015 to 6 May 2019, the ICG recorded at least 4,280 victims who died as a result of armed confrontations and terrorist attacks: 464 civilians, 1,140 members of the Turkish security forces, 2,453 militant PKK supporters and 223 persons of whom it could not be ascertained whether they were civilians or PKK militants. Most of the fatalities occurred in the winter of 2015/2016 when the fighting was concentrated in a number of Kurdish-majority urban districts in the south-east. The 1,140 fatalities in the Turkish security forces included 741 soldiers, 294 police officers and 105 village guards (militias consisting of armed ethnic Kurds funded by the Turkish state).⁷⁴ In Diyarbakir (among other places), the unofficial capital of the Kurdish part of Turkey in the south-east and a place where the pro-Kurdish HDP party enjoys a lot of support, fierce fighting took place in late 2015 and early 2016. During this fighting between PKK militants and Turkish forces, part of the old city centre (*Sur*) was ruined and then razed to the ground by the Turkish

⁶⁹ Confidential source. 25 June 2019; Confidential source. p. 8. 7 March 2019. The *International Crisis Group* investigated where members of the Turkish security forces who had died in the fight against the PKK since 2015 came from. Although hard data is lacking (it cannot be said with certainty whether soldiers were Turkish or Kurdish-Turkish), the data suggests that most of the soldiers who were killed were *not* from south-eastern Turkey. <https://www.crisisgroup.org/content/turkeys-pkk-conflict-visual-explainer#6>; confidential source, 31 May 2019. The possibility cannot be excluded that a Kurdish Turk, or any other conscript of a particular origin, will be assigned to barracks in the south-east. Combat operations are carried out by professional soldiers. Only professional soldiers are active in Syria and Iraq.; *Daily Sabah. Turkey. Over half a million Turkish citizens apply for paid military exemption. 15 September 2018.* <https://www.dailysabah.com/turkey/2018/09/15/over-half-a-million-turkish-citizens-apply-for-paid-military-exemption>

⁷⁰ NAOC. Professionalization of the TSK: 'contractual soldiering' in Turkey. May 2016.

⁷¹ *Daily Sabah Turkey. A professional army not far away as conscription times set to shorten.* 19 February 2019.

⁷² International Crisis Group. Turkey's PKK conflict: a visual explainer. Consulted 27 March 2019. <https://www.crisisgroup.org/content/turkeys-pkk-conflict-visual-explainer>

⁷³ Confidential source. 26 September 2018.

⁷⁴ International Crisis Group. Turkey's PKK conflict: a visual explainer. Consulted 27 March 2019. <https://www.crisisgroup.org/content/turkeys-pkk-conflict-visual-explainer>. ICG gives an explanation on its website of the research methodology it uses and the sources it has consulted; Ahval, *Turkey gives firearms licenses to village guards.* 12 October 2018. <https://ahvalnews.com/village-guards/turkey-gives-firearms-licenses-village-guards>. The village guards were established by the Turkish government in rural areas in 1985 to support the armed forces in their fight against the PKK. The PKK has punished or killed some village guards for their activities.

government.⁷⁵ On 4 October 2018, the most deadly attack in two years took place, in which eight Turkish soldiers were killed by a roadside bomb.⁷⁶ The *International Crisis Group* reported that 600 people were killed in 2018 as a result of the armed struggle in south-eastern Turkey: 459 armed PKK insurgents, 124 members of the security forces and 17 civilians. In the first five months of 2019, 74 people were killed as a result of the conflict in this region: 47 armed PKK insurgents and 27 members of the security forces.⁷⁷

⁷⁵ Confidential source. 25 February 2019.

⁷⁶ Confidential source. 2 November 2018; Hürriyet. Daily news. *8 Turkish soldiers killed in PKK attack*. 4 October 2018.

⁷⁷ International Crisis Group. *Turkey's PKK Conflict: A Visual Explainer*. Consulted 5 June 2019. <https://www.crisisgroup.org/content/turkeys-pkk-conflict-visual-explainer>

4 Deferral, exemption and alternative service

Turkish legislation and regulations only make an exception from compulsory military service for those who are ill or disabled, and for anyone otherwise liable for conscription whose brother has died in combat during military service. In addition, it is in practice possible to obtain an exemption by stating that you are homosexual.

4.1 Deferral

Deferral of military service may be obtained on the basis of Law 1111, Article 35:

- A request on the grounds of indispensability for someone working for the government, (defence) industry, or as a professional athlete (Article 35 e);
- If the person is still studying: universities request a standard deferral for their students (Article 35 f);
- If the person is working abroad (Article 35 g);
- In cases of poor health (with a doctor's statement).⁷⁸

A deferral of military service may also be requested on the grounds of being in detention.

As a rule, a deferral is requested for one year; this can be further extended by one year on presentation of the correct documents.⁷⁹

The Turkish Law on Military Service allows students subject to call-up for military service to first complete their university education (up to the year in which they turn 30) or postdoctoral training and research (up to the year in which they turn 36).⁸⁰

Depending on the situation, the person requesting the deferral must provide evidence to the military district registration office, which then assesses the request. Such evidence might consist of medical reports, documents from the educational institution, or a document explaining the reasons for detention. These documents form the basis for approving or rejecting the deferral request.⁸¹

Turks living abroad who are unable to do military service for medical reasons must have a medical examination carried out at a hospital recognised by the Turkish consulate or embassy. The medical evaluation report approved by the consulate or embassy is shared with the Ministry of National Defence, which decides on individual cases. In the event of an objection to this decision, a follow-up medical examination may be conducted in a military hospital in the country concerned.⁸²

Persons who have been granted deferral of military service will receive a written statement from the military registration office to this effect.⁸³

4.2 Exemption

The Law on Military Service states that persons who are physically or mentally unfit for military service may gain an exemption. To obtain an exemption, a medical report drawn up by a hospital designated for this purpose by the Turkish

⁷⁸ Ministry of Foreign Affairs. *General Country of Origin Information Report on Turkey*. 28 July 2013. p. 46.

⁷⁹ Confidential source. p. 4. 7 March 2019. If a person partly fails the screening process due to his physical condition, he must have follow-up checks every two years during the period of liability for military service, to ensure that he is still unfit for service.

⁸⁰ Confidential source. p. 2. 7 March 2019; Permanent Mission of the republic of Turkey to the OSCE. *Questionnaire on the code of conduct on politico- military aspects of security*. p. 14. <https://www.osce.org/forum-for-security-cooperation/333126?download=true>

⁸¹ Confidential source. pp. 4 and 5. 7 March 2019

⁸² Confidential source. p. 5. 7 March 2019

⁸³ Confidential source. p. 5. 7 March 2019

government must be submitted. If a person partly fails the screening process due to his physical condition, he must have further checks every two years during the period of liability for military service, to ensure that he is still unfit for service.⁸⁴

Brothers of conscripts who have died in combat are automatically exempted from conscription.⁸⁵ The same applies to brothers and sons of conscripts who died in a terrorist attack during their military service. A similar exemption has recently been introduced for the children and brothers of conscripts who died during the attempted coup.⁸⁶

Turkish nationals who have obtained their citizenship through naturalisation and have completed their military service in their country of origin can obtain an exemption from Turkish military service on request.⁸⁷

In addition, in its report *Country Focus: Turkey*, EASO states that it is possible to obtain exemption from military service by declaring that you are homosexual. This exemption is not based on a legal provision, but on the fact that 'openly gay men are not believed to be welcome in the army'.⁸⁸ The *LGBTI Equal Rights Association for Western Balkans and Turkey* refers in this context to Article 17 of the Annex to the *Turkish Army Forces Health Capability Regulations* number 19291 of 24 January 1986. This states that homosexuality is a psychological disorder. On the basis of this, according to this NGO, homosexual and transgender people are not admitted to the army.⁸⁹ According to Al-Monitor, the regulations were amended in 2013 so that homosexuality is no longer defined as a psychosexual disorder but as a sexual identity.⁹⁰ The *LGBTI Equal Rights Association for Western Balkans and Turkey* states that despite the amendment of Article 17 of the Act, this article is in practice still applied in the spirit of the wording of 24 January 1986.⁹¹ In February 2018, Turkey's constitutional court ruled by majority vote that members of the Turkish armed forces may be dismissed from the army for 'unnatural intimacy'.⁹²

Until November 2015, homosexual men who requested exemption from military service had to provide evidence with photos and undergo an anal examination. Since then, it has been sufficient for the person concerned to declare that he is homosexual. The statement by the person concerned about his orientation is

⁸⁴ Law on Military Service Art. 10 and following; United Kingdom. *Country Policy and Information Note. Turkey: Military service*. September 2018. p. 13. Information taken from a country information report on Turkey by the Australian Department of Foreign Affairs and Trade (DFAT) from September 2016; Permanent Mission of the republic of Turkey to the OSCE. *Questionnaire on the code of conduct on politico- military aspects of security*. p. 14. Immigration and Refugee Board of Canada. *Turkey: Military service, both compulsory and voluntary, including requirements, length, alternatives and exemptions; consequences of draft evasion and conscientious objection (2011-May 2014)* 4 June 2014. 2.1. exceptions to military service.

⁸⁵ State of Emergency Decree 696, 20 November 2017 (Law on Military Service, Article 10).

⁸⁶ Confidential source. 24 April 2019; United Kingdom. *Country Policy and Information Note. Turkey: Military service*. p. 14. September 2018. The UK refers to a December 2016 Council of Europe report referring to *Statutory Decree number 678* of 23 November 2016. '... the exemption from mandatory military service of the children and brothers of those "who had lost their lives trying to prevent the coup attempt by the Fethullahist Terrorist Organisation (FETÖ) and subsequent actions" '.

⁸⁷ United Kingdom. *Country Policy and Information Note. Turkey: Military service*. September 2018. p. 13; Permanent Mission of the republic of Turkey to the OSCE. *Questionnaire on the code of conduct on politico- military aspects of security*. p. 14.

⁸⁸ EASO, *Country Focus: Turkey*. p. 37. EASO adds: "In 2013, the army introduced a new category to the pre-draft exams, the 'sexual identity and behavioral disorders', which replaced the long-criticised definitions of 'unnatural' or 'mental illness'. [...] In November 2015 the army amended the medical examination pre-draft rules, and the former humiliating practices were abolished, namely naked physical exams or rendering explicit photographs. According to the BBC, a 'don't ask don't tell' policy exists in the Turkish Army and it is possible to serve if the sexual identity is kept a secret". https://coi.easo.europa.eu/administration/easo/PLib/EASOCOI_Turkey_Nov2016.pdf ; United Kingdom. *Country Policy and Information Note. Turkey: Military service*. September 2018. p. 16.

⁸⁹ LGBTI Equal Rights Association for Western Balkans and Turkey. Consulted 21 March 2019.

⁹⁰ Al-Monitor. *Guys seeking military exemption in Turkey no longer need to provide visual proof of their homosexuality*. 17 November 2015. The amendment also refers to men whose sexual manners and behaviour cause or are expected to cause adaptation and functionality problems in a military setting.

⁹¹ Website LGBTI Equal Rights Association for Western Balkans and Turkey. Consulted 21 March 2019.

⁹² Ahvalnews. *Turkish court upholds ruling to dismiss gays from the army*. 26 February 2018. Consulted 21 March 2019; LGBTI news Turkey. *Constitutional court deputy chair's final remarks on the verdict of a gay soldier: "it is neither the state's business nor anyone else's"*. 26 April 2018. United Kingdom. *Country Policy and Information Note. Turkey: Military service*. September 2018. p. 15

recorded in the medical report and forms the basis for the decision to declare the person unfit for and therefore exempt from military service.⁹³

In January 2018, several sources reported a temporary exception to military service for male judges and prosecutors up to the age of 35. This temporary exception was made in order to fill more quickly the many vacancies in the judiciary that resulted from the mass dismissals of alleged members of the Gülen network in the aftermath of the coup attempt. In the period following the coup attempt around 4,500 judges and prosecutors were dismissed. At the time of writing, it is not clear whether and to what extent this exception is still being applied.⁹⁴

Buyout options

Turkey has a buyout system for military service. The last-but-one law on the buyout system for military service⁹⁵ was ratified on 27 July 2018.⁹⁶ The scheme gave Turkish nationals born before 1 January 1994 and holding a university degree the option of paying a fee for exemption from military service of TL 15,000 or EUR 2,453 (at the exchange rate at the beginning of early March 2019). After making the payment, they merely have 21 days of military training.⁹⁷ Turks subject to conscription could apply up to 3 November 2018 in order to qualify for this buyout scheme. In early September 2018, the Turkish news agency Anadolu reported that 450,000 men had already registered for this scheme with a reduced service requirement.⁹⁸

On 25 June 2019, the Turkish parliament approved the government's proposal to amend the law on military service. This law was published in the Official Gazette on 26 June 2019. Military service was reduced from twelve months to six months for soldiers and NCOs. Reserve officers remain in service for twelve months. All Turkish men liable for conscription residing in Turkey must attend basic military training of one month. After this month a conscript can obtain an exemption for the remaining military service by paying TL 31,000 (USD 5,380).

After six months of military service, a conscript may, if considered suitable, continue for six months in paid military service for a salary of TL 2,000 (USD 347) per month. Soldiers who perform six months of paid military service in the south-east or east, for example in Gaziantep, Şırnak or Hakkani, receive an additional amount of TL 1,000 per month. The above amounts in TL are adjustable every six months in line with inflation. Those subject to conscription living abroad do not have to attend a one-month military training course after exercising a buyout option. However, they must take an online course of the Turkish Ministry of National Defence before paying for an exemption from military service.⁹⁹

As far as is known, all deferral, exemption and buyout rules are applied in practice.¹⁰⁰

⁹³ Al-Monitor. *Gays seeking military exemption in Turkey no longer need to provide visual proof of their homosexuality*. 17 November 2015; Pink news. *Turkey relaxes rules for anal exams for gay men in military service*. 20 November 2015 <https://www.pinknews.co.uk/2015/11/20/turkey-relaxes-rules-for-anal-exams-for-gay-men-in-military-service/>; United Kingdom. *Country Policy and Information Note. Turkey: Military service*. September 2018. p. 15; confidential source. 28 June 2019.

⁹⁴ United Kingdom. *Country Policy and Information Note. Turkey: Military service*. p. 14. September 2018. The Home Office refers to reports in the Hürriyet Daily News and the Habertürk newspaper from January 2018. Confidential source. p. 3. 07-03-2019; Hürriyet Daily News. *Turkish judges, prosecutors exempt from military service until age of 35 in bid to fill vacancies after dismissals*. 11 January 2018. <http://www.hurriyetdailynews.com/turkish-judges-prosecutors-exempt-from-military-service-until-age-of-35-in-bid-to-fill-vacancies-after-dismissals-125585>

⁹⁵ <http://www.resmigazete.gov.tr/eskiler/2018/08/20180803-20.htm>.

⁹⁶ Hürriyet Daily News. *Turkey's parliament ratifies paid military service law*. 26 July 2018.

⁹⁷ <http://www.hurriyetdailynews.com/turkeys-parliament-ratifies-paid-military-service-law-135012>

⁹⁸ Confidential source. p. 4. 7 March 2019; United Kingdom. *Country Policy and Information Note. Turkey: Military service*. September 2018. p. 16.

⁹⁹ Ahvalnews. *Nearly half a million Turkish apply for paid military service*. 3 September 2018; Ahvalnews. *Hundreds of Turkish men line up in Ankara to apply for military service exemption*. 31 October 2018

¹⁰⁰ Hürriyet Daily News. *New military service law approved*. 25 June 2019; Jane's defense weekly. *Turkey reduces length of conscription*. 28 June 2019; Confidential source. 3 July 2019.

¹⁰⁰ Confidential source. p. 4. 7 March 2019.

Conscientious objection and alternative service

Turkey is the only Council of Europe country that does not recognise conscripts' right to conscientious objection. There is no possibility under Turkish law for exemption from military service due to conscientious objections, including objections for religious reasons.¹⁰¹ Refusal or evasion of military service (regardless of whether it is based on conscientious objection or not) is a crime in Turkey and is punished (see 5.1).¹⁰² The European Court of Human Rights has stated on several occasions that the legal system in Turkey is inadequate in situations where people do not wish to perform military service for conscientious reasons. Turkey has no alternative to military service.¹⁰³

According to a confidential source, only one court case is known in which a Turkish judge acknowledged conscientious objections and thereby placed international law, in accordance with the constitution, above national law. The case concerned the conscientious objections of a Jehovah's witness due to his religious beliefs. In subsequent cases, however, conscientious objections by Jehovah's witnesses have not been recognised. A military court also ruled that Sunni Muslims have no grounds for claiming conscientious objection in order to obtain exemption from military service, based on advice from the Directorate for Religious Affairs that Islam does not contain the concept of conscientious objection.¹⁰⁴ The *European Association of Jehovah's Christian Witnesses* (EAJCW) reported to the Organisation for Security and Cooperation in Europe (OSCE) that in August 2017 there were 68 Jehovah's Witnesses in Turkey who were facing prosecution because of their conscientious objections to military service. These religiously motivated conscientious objectors continued to receive call-ups for military service, and were repeatedly fined and threatened with detention. The EAJCW also said in its report that some local courts of appeal withdrew administrative fines previously imposed on conscientious objectors, referring to petitions from conscientious objectors and decisions made by international courts. Since 1 December 2016, appeal courts have overturned five fines imposed on four individuals.¹⁰⁵

The *European Bureau for Conscientious Objection* (EBCO) stated in its annual reports for 2017 and 2018 that conscientious objectors are no longer detained for their refusal to do military service. In the first instance, they are fined. However, as long as those concerned refuse military service, new fines can be imposed and the law continues to offer courts the option of imposing a prison sentence. According to EBCO, conscientious objectors continued to object to the penalties imposed and sent petitions to the European Court of Human Rights (ECHR) in an effort to have ECHR case law enforced over national law. According to EBCO, local courts did not accept this for the time being.¹⁰⁶

¹⁰¹ Permanent Mission of the republic of Turkey to the OSCE. *Questionnaire on the code of conduct on politico-military aspects of security*. p. 13. <https://www.osce.org/forum-for-security-cooperation/333126?download=true>; United Kingdom. *Country Policy and Information Note. Turkey: Military service*. September 2018. p. 17. Information taken from a country information report on Turkey by the Australian Department of Foreign Affairs and Trade (DFAT) from 5 September 2016; European Commission. Commission staff working document. *Turkey 2018 report*. SWD (2018) 17 April 2018. p. 34.

¹⁰² Civil Rights Defenders. *A state in emergency. When exceptions become the new norm*. March 2018. p. 10.

¹⁰³ European Bureau for Conscientious Objection (EBCO). *Annual report conscientious objection in Europe*. January 2018. p. 2 *Fact sheet Conscientious Objection*. October 2017. The European Court of Human Rights (ECHR) has made several rulings on Turkish conscientious objectors, including Ülke (2006) in connection with pacifist convictions and Ercep (2011) in connection with faith as a Jehovah's Witness.

¹⁰⁴ Confidential source. pp. 7 and 8. 7 March 2019. The source refers to *Malatya Military Court verdict re. Muhammed Serdar Delice*, 2012/40, 24 February 2012, and: <http://hudoc.echr.coe.int/eng/?i=001-144352>;

<http://www.hurriyetdailynews.com/echr-fines-turkey-for-jehovahs-witnesses-forced-to-do-military-service-67330>; United Kingdom. *Country Policy and Information Note. Turkey: Military service*. September 2018. p. 17. Information taken from a country information report on Turkey by the Australian Department of Foreign Affairs and Trade (DFAT) from 5 September 2016.

¹⁰⁵ Statement of the European association of jehova's christian witnesses. Turkey: religious freedom concerns. OSCE Human dimension implementation meeting. Warsaw, 11-12 September 2017. HDIM.NGO/0127/2017. 13 September 2017. <https://www.osce.org/odihr/341001?download=true>

¹⁰⁶ European Bureau for Conscientious Objection. *Annual report conscientious objection in Europe 2018*. May 2019, p. 14; European Bureau for Conscientious Objection. *Annual report conscientious objection in Europe 2017*. 10 December 2017. pp. 32 and 33; Confidential source. 24 April 2019. This is a grey area. The Law on Military

EBCO stated in its 2017 annual report that the prosecutor in Bilecik in the province of the same name had reopened the case against Osman Murat Ülke, a conscientious objector because of pacifist convictions, and ordered him to report to the police in Izmir to make a statement. Ülke was first convicted two decades earlier for his refusal to serve. In 2006, the European Court of Human Rights ruled in his favour and called on Turkey to respect the right to conscientious objection to military service.¹⁰⁷ The international NGO War Resisters' International (WRI) stated in an October 2018 report that an investigation against environmental activist and conscientious objector Sergen Socu had been opened by the Turkish authorities. WRI also reported that investigations of those who advocate for conscientious objectors, such as Mervin Arkun, the co-chair of the Conscientious Objection Association, are constantly being reopened. Both persons have been accused of terrorist propaganda.¹⁰⁸

Those who defend the interests of conscientious objectors run the risk of being prosecuted on the basis of Article 318 of the Criminal Code.¹⁰⁹

Service Act decriminalises evasion of military service, but according to the Turkish Code of Military Criminal Law (Article 63) it carries a penalty.

¹⁰⁷ European Bureau for Conscientious Objection. *Annual report conscientious objection in Europe 2017*. 10 December 2017. pp. 2 and 34. The judgment referred to was given by the European Court of Human Rights in the case Ülke versus Turkey on 24 January 2006.

¹⁰⁸ War Resisters' International. *Silent / invisible Resistance to Turkish Military*. 10 October 2018.

¹⁰⁹ European Bureau for Conscientious Objection. *Annual report conscientious objection in Europe 2018*. May 2019, p. 15. In June 2018, the Turkish authorities launched an investigation into Merve Arkun, co-chair of the VR-DER, the Turkish Conscientious Objection Association; Immigration and Refugee Board of Canada. *Turkey: Military service, both compulsory and voluntary, including requirements, length, alternatives and exemptions; consequences of draft evasion and conscientious objection (2011-May 2014)* 4 June 2014. 5.1. conscientious objection; Kedistan. Turkey. *Being a conscientious objector under the state of emergency*. 8 August 2017. <http://www.kedistan.net/2017/10/08/turkey-being-a-conscientious-objector/>. Interview with author and journalist Ercan Jan Aktas, a conscription evader living in France; European Bureau for Conscientious Objection. *Annual report conscientious objection in Europe 2017*. 10 December 2017. pp. 32, 33 and 35; Confidential source. 31 May 2019. Article 318 states the following: (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.

5 Evasion of military service (asker kaçakçılığı)

The Law on Military Service distinguishes between three types of evasion of military service: evasion of registration/screening (*yoklama kaçakçılığı*), failure to report for actual service (*bakaya*), and desertion (*fırar*).¹¹⁰

5.1 Penalties

Evasion of registration/screening and failure to report for service are regarded as evasion of conscription and are punishable by law. In practice, the Turkish authorities often impose a lighter penalty than the most severe one, which is imprisonment.¹¹¹ Various sources, including the *European Bureau for Conscientious Objection (EBCO)*, state that conscientious objectors are not currently detained in Turkey because of their refusal to do military service. A fine is imposed instead. While there is continued refusal of military service, the person concerned runs the risk of being fined again, and in legal terms there is still the possibility of being sent to prison.¹¹²

The Turkish Code of Military Criminal Law (Article 63) sets out the system of penalties for evasion of military service.¹¹³

If someone subject to conscription has still not registered and/or been screened by the date on which those called up in the same year are required to report for duty, an offence is considered to have been committed. The article provides for the following penalties:

¹¹⁰ Overview of fines based on the Law on Military Service, Art 89. Fines are increased in line with inflation; for example, the original fine for evasion of military service in which the person came forward within 0-4 months was originally 250 Turkish Lira.

¹¹¹ This is in line with the amendment to the Law on Military Service Act, Art. 89 from 2012. Following this change, conscription evasion was downgraded from a matter falling under criminal law to a minor offence.

¹¹² European Bureau for Conscientious Objection (EBCO). *Annual report conscientious objection in Europe*. January 2018. pp. 2 and 33; United Kingdom. *Country Policy and Information Note. Turkey: Military service*. September 2018. pp. 17 and 18; USSD IRF report 2017. 29 May 2018. This report refers to the situation of Jehovah's Witnesses, who are frequently called up for military service, repeatedly fined and threatened with imprisonment; confidential source, 28 June 2019.

¹¹³ <http://www.mevzuat.gov.tr/MevzuatMetin/1.3.1632.pdf>; *Turkey: Law of 1930 on Absentee Conscripts, Draft Evaders, Persons Unregistered [For Military Service], and Deserters*, 22 May 1930. <https://www.refworld.org/docid/3ae6b4d01c.html>; On 5 June 2019, 296 Turkish lira was equivalent to 45.50 euros. https://www.wisselkoers.nl/turkse_lira

For those who come forward voluntarily

- Within seven days: a maximum of one month in prison;
- After seven days, but within three months: between three months and one year in prison;
- After three months: between four months and two years in prison.

For those who are arrested

- Within seven days: a maximum of three months in prison;
- After seven days, but within three months: between four and eighteen months in prison;
- After three months: between six months and three years in prison.¹¹⁴

Articles 50 and 51 of the Turkish Code of Military Criminal Law state that the court may convert prison sentences of less than one year into a fine. In addition, prison sentences of less than two years may be conditionally suspended by a court. The table shows the fines that the court may impose, depending on the period that has elapsed since the person was supposed to report for military service and whether he did so on his own initiative or after being arrested.¹¹⁵

Period	After coming forward	After arrest
0-4 months	TL 296	TL 1,187
4 months-1 year	TL 593	TL 2,376
1-2 years	TL 890	TL 3,564
2-3 years	TL 2,079	TL 5,943
3-4 years	TL 3,268	TL 8,320
4-5 years	TL 4,456	TL 10,696
5-6 years	TL 5,645	TL 13,073
6-7 years	TL 6,833	TL 15,450
7-8 years	TL 8,022	TL 17,829
8-9 years	TL 9,211	TL 20,206
9-10 years	TL 10,399	TL 22,583
10-11 years	TL 11,588	TL 24,960
11-12 years	TL 12,776	TL 27,337
12-13 years	TL 13,965	TL 29,715
13-14 years	TL 15,154	TL 32,092
14-15 years	TL 16,342	TL 34,469

In the event of desertion (*firar*), the following rules apply. These rules are the same for all military personnel, both conscripts and professional soldiers.

Soldiers who stay away from their unit for more than six days without permission, or those who stay away for more than six days after a period of leave (including on medical grounds) without a valid reason, can be penalised with a prison sentence of at least one year and at most three years.

For those who steal weapons, ammunition, means of transport, animals or military material while deserting, reoffenders and those who desert when their unit has been mobilised, the period within which they can report without being punished is halved to three days.

A different penalty applies to deserters who have fled abroad. Soldiers who cross the borders of their homeland without permission and do not report back to their unit within three days can be punished with a prison sentence of three to five years.

If someone has taken weapons, ammunition, means of transport, animals or military material during his desertion and flight abroad, reoffends or deserts when his unit has been mobilised, a prison sentence of between five and ten years is imposed.

¹¹⁴ Confidential source. p. 5; Üçpınar, Hülya. *The Criminality of Conscientious Objection in Turkey and Its Consequences*. Chapter from: "Conscientious Objection: Resisting Militarized Society", Zed Books, 2009. pp. 324-325. http://www.europarl.europa.eu/meetdocs/2009_2014/documents/droi/dv/201/201010/20101025_3-2criminality_en.pdf

¹¹⁵ Confidential source. 21 January 2019.

If an officer or a professional soldier, i.e. a soldier with a permanent employment contract, has committed the above offences, the maximum penalty will be given.¹¹⁶

The charges brought by the Turkish authorities against soldiers who have deserted and can be linked with the attempted coup will in principle be more serious than just desertion, for example membership of a terrorist organisation or involvement in an attempt to overthrow the government (see 5.2).¹¹⁷

It should be noted that Article 89 of the Law on Military Service was amended in 2014. Following this amendment, the penalty for conscription evasion was reduced to a fine. There are no known recent examples of criminal prosecution of a conscription evader.¹¹⁸

5.2 Detection, trial and enforcement in criminal proceedings

The Turkish authorities generally have access to the personal data (or at least the name and address) of those subject to conscription. The details of those who evade military service (*yoklama kaçakçılığı* and *bakaya*) can therefore be recorded in the national police information system.¹¹⁹ Once the information is in the system, there is a greater chance of it being discovered – if a person is stopped by the police or arrested, applies for a passport, makes a hotel booking or tries to cross the border – that he has evaded military service or deserted.¹²⁰ If a person is stopped during a check by the police or gendarmerie during which it is found that he is subject to conscription, he will be handed a statement which he must sign indicating that he has fifteen days to report to the military registration office.¹²¹

Personal data (name and address) are also transmitted via the provincial government to the police and/or gendarmerie who then attempt to track down persons who are evading military service. At the same time, the army sends an official letter to the person's address, informing him that he is now considered to be a conscription evader, and calling on him to report to the military registration office. After the payment of any fine, the person still has to perform military service.¹²² This letter may also be sent to the employer if the person is in a legal employment relationship registered in the social security system.¹²³ It should be noted that Article 89 of the Law on Military Service was amended in 2014. Following this amendment, the penalty for conscription evasion was reduced to a fine. There are no known recent examples of criminal prosecution of a conscription evader.¹²⁴

Cases are known of in which the police or gendarmerie have escorted a person who has evaded military service to the military registration office after arresting him. There are no known cases in which after being arrested a conscription evader was immediately drafted and transferred to barracks.¹²⁵

¹¹⁶ Confidential source. p. 6; Code of Military Criminal Law, Articles 63 – 66; Üçpınar, Hülya. *The Criminality of Conscientious Objection in Turkey and Its Consequences*. Chapter from: "Conscientious Objection: Resisting Militarized Society", Zed Books, 2009. p. 324-325.

¹¹⁷ Confidential source. 24 April 2019. Hürriyet Daily News. *Greece frees eight Turkish soldiers accused of coup links*. 5 June 2018. <http://www.hurriyetdailynews.com/greece-frees-eight-turkish-soldiers-accused-of-coup-links-132808>.

¹¹⁸ Law on Military Service (Law 1111) Article 89: *Değişik ikinci fıkra: 11/2/2014, 6519/6 md.* The translation reads: *Amended second sub-article, dated 11/2/2014. Article 6519/6 is the number of the article that amends the original article.*

¹¹⁹ Confidential source. p. 7. 7 March 2019; Genel Bilgi Toplama Sistemi.

¹²⁰ Confidential source. p. 7. 7 March 2019; United Kingdom. *Country Policy and Information Note. Turkey: Military service*. September 2018. pp. 9 and 23.

¹²¹ Confidential source. 28 June 2019.

¹²² Confidential source. p. 7. 7 March 2019.

¹²³ Confidential source. 28 June 2019.

¹²⁴ Law on Military Service (Law 1111) Article 89: *Değişik ikinci fıkra: 11/2/2014, 6519/6 md.* The translation reads: *Amended second sub-article, dated 11/2/2014. Article 6519/6 is the number of the article that amends the original article.*

¹²⁵ Confidential source. p. 7; Confidential source. 28 June 2019.

As far as is known, the punishments for Kurdish Turks who evade military service or desert are the same as those mentioned in 5.1, although it should be noted that evasion of military service has in principle been punishable with a fine since 2014.

There are no known cases of conscription evasion or desertion being penalised more severely because of race, religion, nationality, membership of a certain social group or political conviction.¹²⁶ However, there are known cases of discrimination against conscripts on active service, for example because of their ethnic background (see 3.1) or sexual preferences (see 4.2).¹²⁷

As outlined above, standard procedure in the event of conscription evasion or desertion includes the following actions: registration of the evader's or deserter's personal data in the police database, a letter to the person concerned telling him to report to the military registration office, and in principle at least one check at the home address known to the authorities of the person in question. There is no information available about the authorities' thinking on whether or not to continue actively pursuing the policy of investigation and prosecution. However, it can be deduced from the high number of conscription evaders and deserters (precise and/or official figures are not available¹²⁸) that the police and gendarmerie probably lack the capacity to constantly and actively search for every individual deserter and conscription evader. In addition, in the aftermath of the coup attempt, the security services needed to be deployed on many other fronts, for example, in investigating, identifying and prosecuting those who had been involved.¹²⁹

Prosecution for the attempted coup

Soldiers, including deserters, who were accused of being involved in the unsuccessful coup of 2016 were severely punished in some cases. Among other charges, they were prosecuted for membership of a terrorist organisation and attempting to undermine and overthrow the legal order. In the aftermath of the failed coup, a large number of often mass prosecutions were brought against individuals, including soldiers, who were accused of having been involved. The military personnel included senior military commanders and members of special units, but also soldiers of lower ranks from military bases and units involved in the confrontations across Turkey during the attempted coup. The public prosecutors demanded the most severe penalties against some of the senior military personnel, namely aggravated life sentences.¹³⁰ The courts imposed severe penalties on some of the soldiers accused of involvement in the coup attempt. A few of the court rulings are outlined below by way of illustration.

The *Stockholm Center for Press Freedom* reported in February 2018 that the 17th High Criminal Court in Ankara had sentenced 64 soldiers to life imprisonment, including four aggravated life sentences. A hundred other suspects were acquitted. Of the 164 suspects, 156 were military cadets and eight were senior officers. They were accused of attempting a coup and attempting to overthrow the legal order.¹³¹ The BBC reported on 22 May 2018, on the basis of government information, that a court in Izmir had given 104 former soldiers aggravated life sentences. Another 21

¹²⁶ Confidential source. p. 7. 7 March 2019; United Kingdom. *Country Policy and Information Note. Turkey: Military service*. September 2018. p. 10.

¹²⁷ EASO, *Country of Origin Information Report*, p. 37.

¹²⁸ United Kingdom. *Country Policy and Information Note. Turkey: Military service*. September 2018. p. 24; Hürriyet Daily News. Turkish government submits paid military exemption bill. 17 July 2018. "Over 400,000 people who have deserted their military service and over 2.5 million youth who have deferred their military service in Turkey have been awaiting the regulation".

¹²⁹ Confidential source. p. 7. 7 March 2019; Confidential source. 31 May 2019.

¹³⁰ New York Times. *Turkey's mass trials deepen wounds left by attempted coup*. 21 February 2019; Daily Sabah. *74 sentenced to life in FETÖ coup attempt trial*. 31 May 2019. According to this pro-government newspaper, 289 legal cases have been initiated since the coup attempt, and 36 had not yet been completed at the end of May 2019.

¹³¹ Stockholm Center for Press Freedom. *100 acquitted, 64 given life sentences in military academy coup trial in Turkey*. 7 February 2018. <https://stockholmcf.org/100-acquitted-64-given-life-sentences-in-military-academy-coup-trial-in-turkey/>; Hürriyet Daily news. *100 acquitted, 64 get life sentences in Ankara over Turkey's coup attempt*. 7 February 2018. <http://www.hurriyetdailynews.com/100-acquitted-64-get-life-sentences-in-ankara-over-turkeys-coup-attempt-126976>

former soldiers detained for alleged involvement in an attempt to assassinate the president were sentenced to 20 years in prison. Thirty-one former soldiers were given prison sentences of seven to eleven years for membership of a terrorist organisation.¹³² On 8 April 2019, according to the pro-government newspaper the *Daily Sabah*, a court in Ankara gave aggravated life sentences to 26 former military officers and life sentences to three others for involvement in the attempted coup of 15 July 2016. Another 42 individuals received lighter prison sentences for crimes ranging from attempted murder to membership of a terrorist organisation. Five of those accused were released and banned from leaving the country.¹³³ On 30 May 2019, the same newspaper reported that the 17th High Criminal Court in Ankara had sentenced 74 former military helicopter pilots and their commanders to life imprisonment. Fifty-six of the soldiers charged were given aggravated life sentences and 18 others were given life sentences. Fifty-four other soldiers, mostly officer cadets, received prison sentences of between six and eighteen years. Thirty-one other persons who had been charged were acquitted. Two fugitive defendants will be tried separately.¹³⁴

¹³² BBC. *Turkey coup trial: Court to jail 104 ex-military for life*. 22 May 2018.

¹³³ *Daily Sabah*. *26 sentenced to life over FETÖ's 2016 coup attempt*. 9 April 2019.

¹³⁴ *Daily Sabah*. *74 sentenced to life in FETÖ coup attempt trial*. 31 May 2019.

6 Appendixes

6.1 Reports and publications

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Civil Rights Defenders. *A state in emergency. When exceptions become the new norm*. March 2018.

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United Kingdom. Home office. *Country Policy and Information Note. Turkey: Military service*. September 2018.

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US Department of State. *Turkey 2018 human rights report*. 20 April 2018.

6.2 Newsletters

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Almonitor
Ahvalnews
ANFnews
BBC
Daily Sabah
Deutsche Welle
De Telegraaf.
Hürriyet Daily News
Press TV
The New York Times
Volkskrant

6.3 Websites

<https://airwars.org/conflict/turkish-military-in-iraq-and-syria/>
<http://www.judiciaryofturkey.gov.tr/Current-version-of--Constitution-of-the-Republic-of-Turkey--including-latest--amendments>
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