

CONSCIENTIOUS OBJECTION IN TURKEY

Merve Arkun, Conscientious Objection Watch



Conscientious
Objection
Watch

THE EXPLANATION OF THE PROBLEM

Turkey is the only member country in the Council of Europe, that has not recognised conscientious objection right to military service.

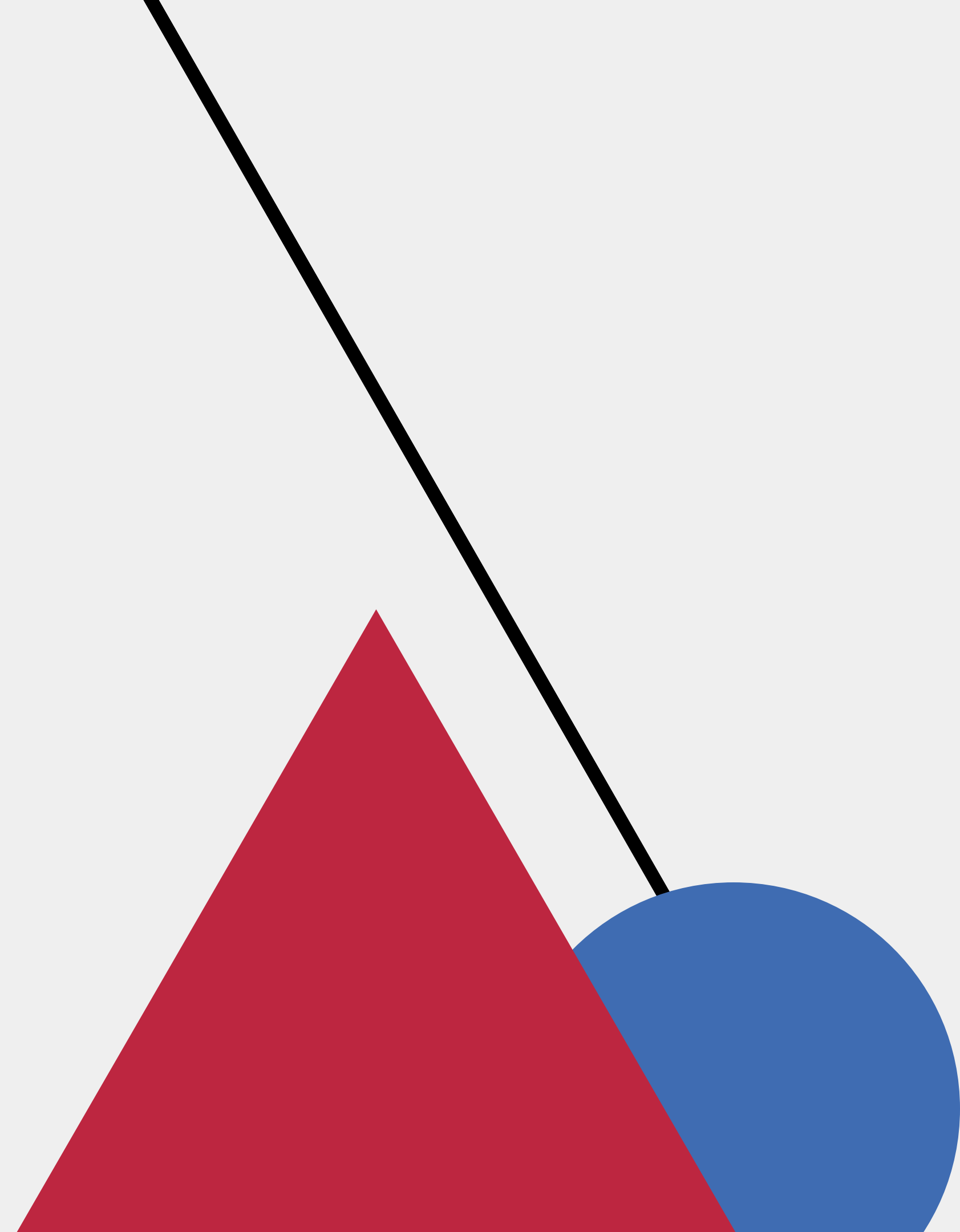
In Turkey, military service is compulsory for every man between the ages of 20-41. The right to conscientious objection to military service is not recognized, there is no mechanism to which conscientious objectors can apply, nor is there alternative civilian service.

INTRODUCTION

LEGAL STATUS OF CONSCIENTIOUS OBJECTORS IN TURKEY

Objectors are criminalised as draft evaders or evaders in Turkey. CO's are facing with administrative monetary fines, criminal cases and repetitive judgements.


Once a conscientious objector to military service evades the draft or deserts the military public authorities identify them as evaders or deserters. This status becomes part of the information linked to their national identity number and information.





THE LAW ON CONSCRIPTION AND THE MILITARY CRIMINAL LAW

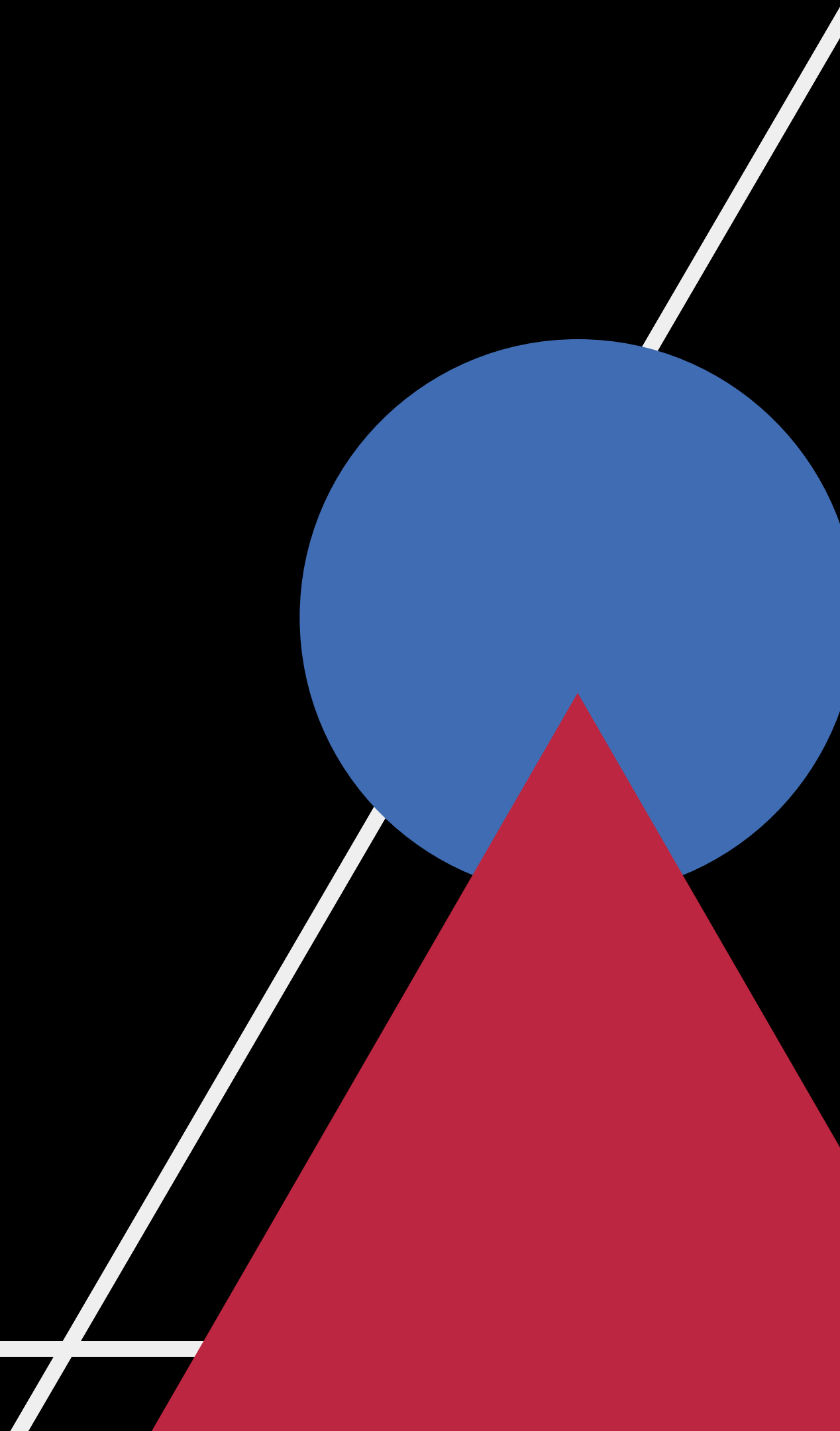
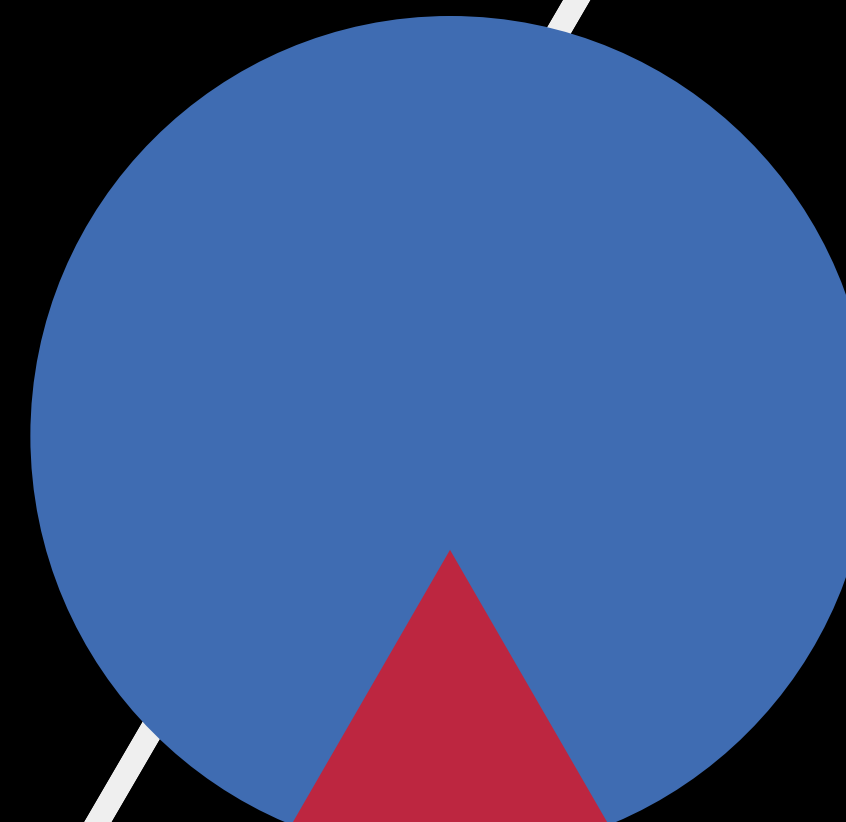
The Law on Conscription and the Military Criminal Law, constitute the basis of the compulsory nature of military service, evader, draft evader and deserter status and the ensuing administrative and criminal punitive measures applied to conscientious objectors. These laws do not include any provision on or reference to conscientious objection to military service or alternative civilian service.

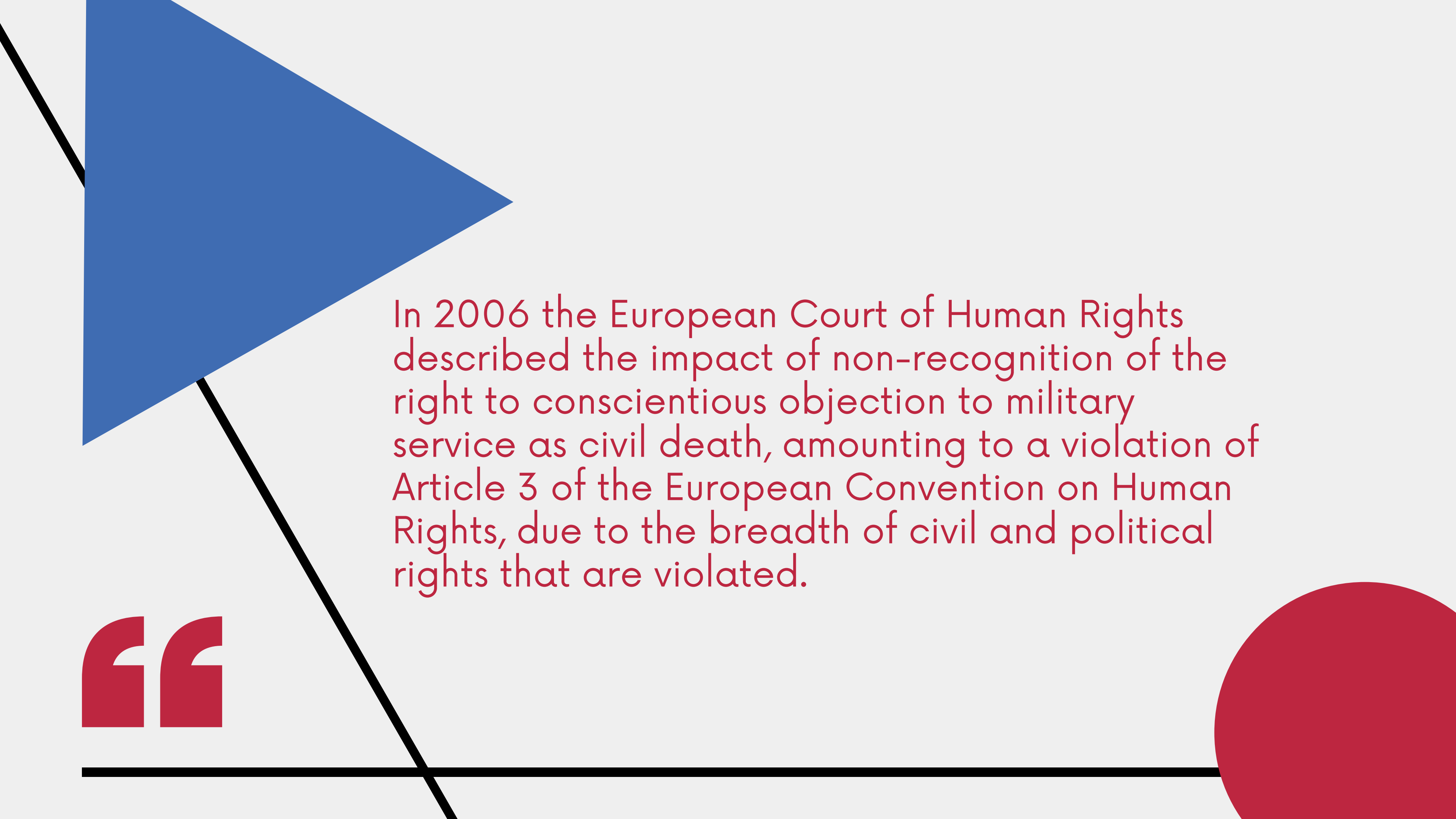


Draft evaders and evaders are reported to the Ministry of Interior in order to ensure their apprehension to perform their military service obligation. When draft evaders and evaders are apprehended, mostly during general security checks, they are issued an "official record" and released.

These records are the legal basis of issuing administrative fines. Administrative fines must be paid within a month. If this fine is not contested, it becomes final in 15 days. Conscientious objectors who reject the payment of the administrative fine are faced with a risk of being apprehended repeatedly after every 15 days and to have an official report issued.

SITUATION
THAT LEADS TO
"CIVIL DEATH"



A decorative graphic featuring a blue triangle on the left side, a red circle on the right side, and a thick black diagonal line crossing the page from the top left to the bottom right. The text is positioned in the center-right area, overlapping the black line.

In 2006 the European Court of Human Rights described the impact of non-recognition of the right to conscientious objection to military service as civil death, amounting to a violation of Article 3 of the European Convention on Human Rights, due to the breadth of civil and political rights that are violated.

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INDIVIDUAL
COMPLAINT TO THE
CONSTITUTIONAL
COURT



Between 2012 and April 2021, at least 45 individual applications have been made by conscientious objectors to the Constitutional Court.

In applications made to the Constitutional Court, decisions for stay of execution are also requested in order to prevent further violations of the applicants' rights. However, the Constitutional Court either does not examine these requests at all and does not even provide a response or rejects them on the grounds that "there is no serious danger to the life or security or moral integrity of the applicant".



RESTRICTIONS
ON KEY
HUMAN
RIGHTS



FREEDOM OF MOVEMENT

The freedom of movement of conscientious objectors is highly restricted due to a number of possible checks that would lead to their being identified as draft evaders, evaders or deserters. This, then, starts a process that leads to prosecution.

THE RIGHT TO EDUCATION

The compulsory character of conscription and the lack of legal arrangements for conscientious objection breaches the right to education.



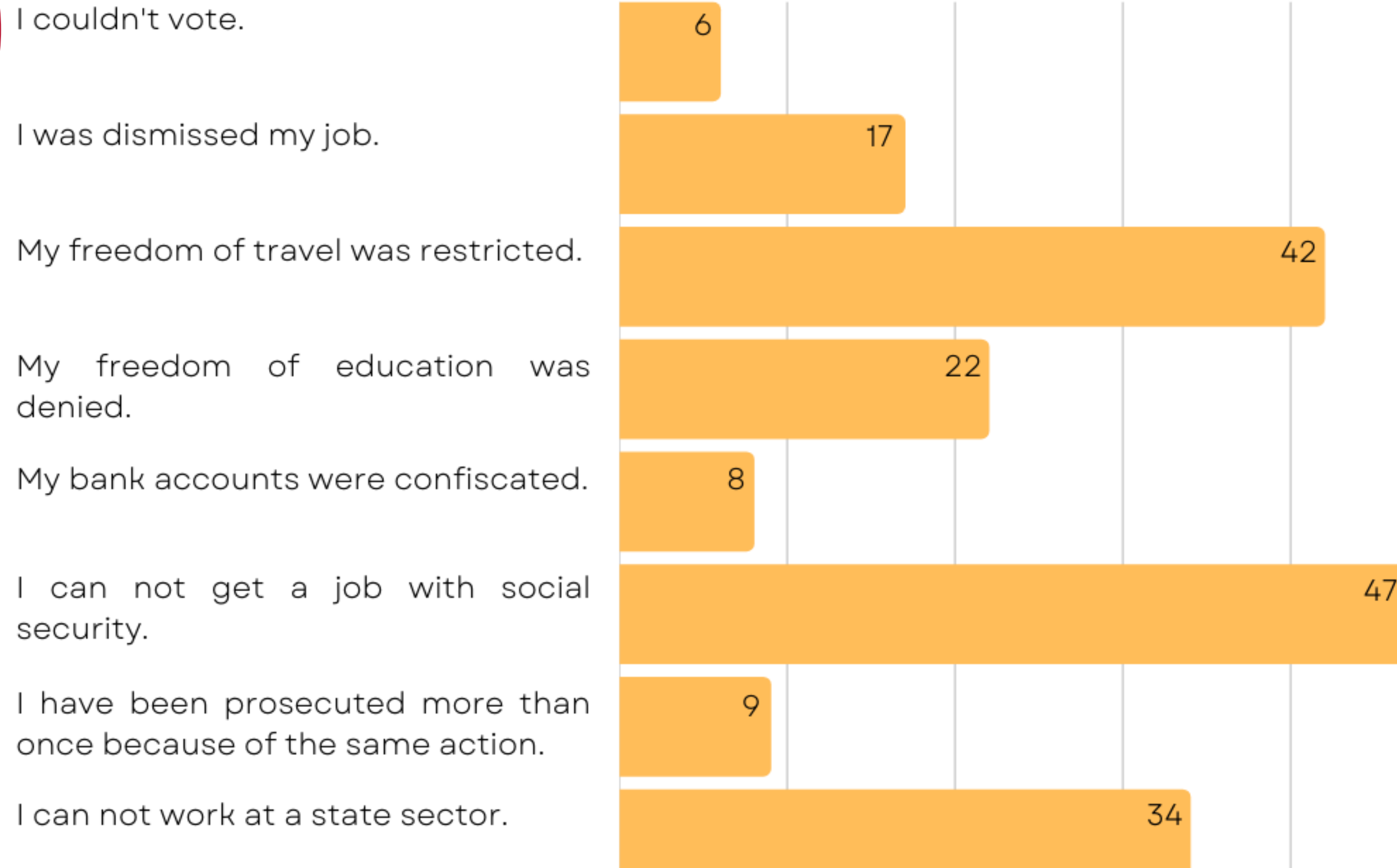
OPPORTUNITY TO EARN ONE'S LIVING

Under the Law on Conscription, evaders and draft evaders cannot be employed in civil service or private service and those who employ them will be prosecuted.

PROHIBITION OF TORTURE, INHUMAN AND DEGRADING TREATMENT AND RIGHT TO RESPECT FOR PRIVATE LIFE

The pervasive and consistent interference in several fundamental human rights, paralyzes the lives of conscientious objectors and constitute "civil death"

Between March 2021-March 2022: 61 responses on the types of restrictions experienced by applicants.



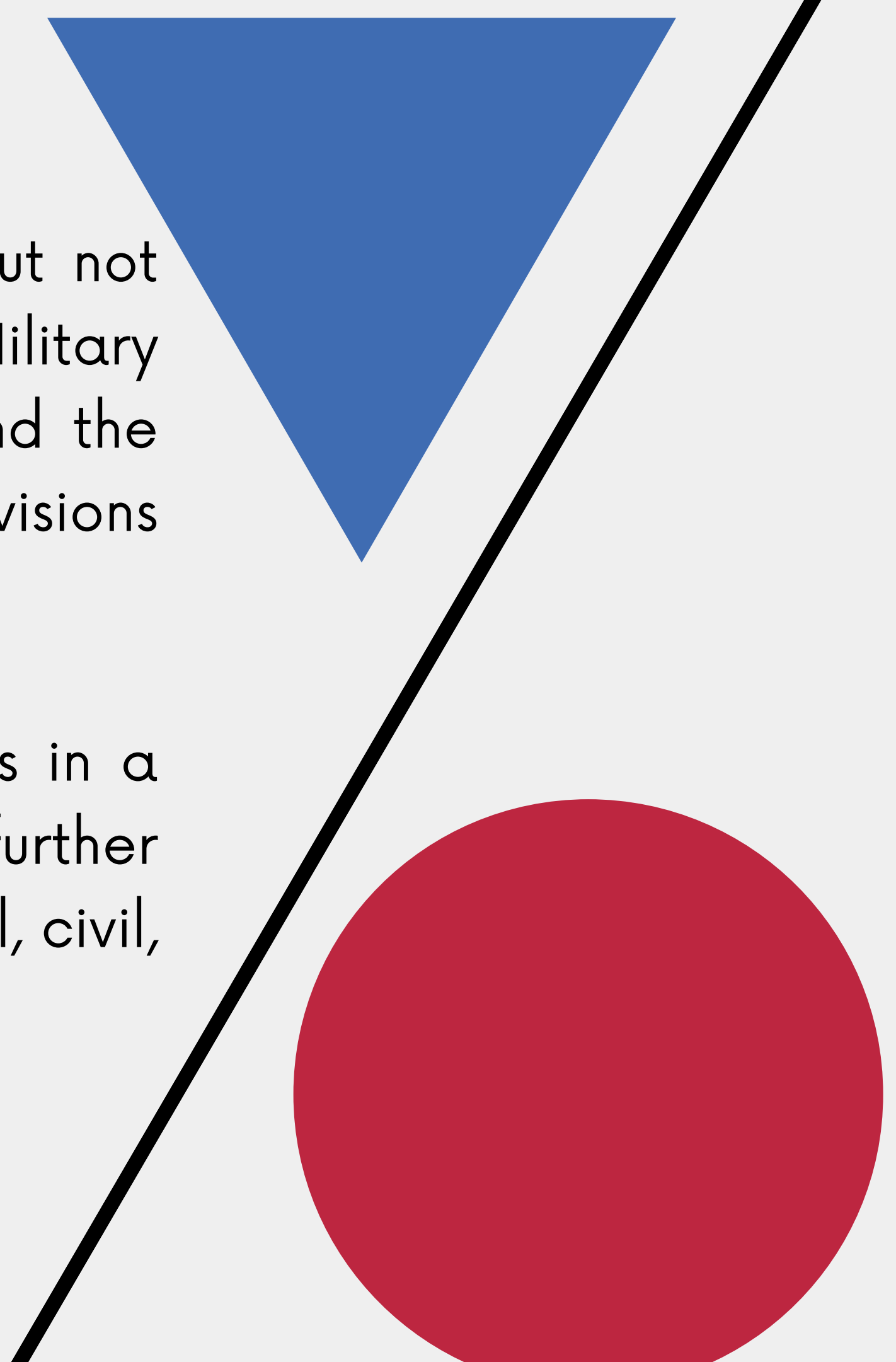
RECOMMENDATIONS
TO BRING
LEGISLATION AND
PRACTICE





TURKEY MUST TAKE LEGISLATIVE MEASURES

- to recognize the right to conscientious objection to military service in line with international human rights standards;
- to set up independent and impartial decision-making bodies tasked with determining whether a conscientious objection to military service is genuinely held in a specific case,



- to review relevant legislation, including but not limited to the Law on Conscription, the Military Criminal Law, the Law on Civil Servants, and the Criminal Code, to remove all restrictive provisions impacting conscientious objectors;

- to ensure that the applicants and persons in a similar position are free from the risk of further prosecution and can fully enjoy their political, civil, economic, social and cultural rights.

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