

# Conscientious objection claims under Article 9 of the European Convention on Human Rights: what is the European Court of Human Rights' approach?

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# Outline

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## □ Introduction

- ECHR Article 9

- The notion of 'conscientious objection' under Article 9

## □ Analysis of the ECtHR's approach to conscientious objection claims in the following areas:

- Military Service

- Tax Payments

- Healthcare Context

## □ Conclusion

- Is the healthcare context a 'special case'?

# Article 9

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- ❑ 9.1: Everyone has the right to freedom of thought, **conscience** and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, **to manifest his religion or belief**, in worship, teaching, practice and observance.
- ❑ 9.2: **Freedom to manifest** one's religion or beliefs shall be subject only to such **limitations** as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others

# 'Conscientious Objection'

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- ❑ No specific reference to a right to 'conscientious objection' in military or civilian sphere in ECHR Article 9
- ❑ Debates in the literature relating to 'conscientious objection' under ECHR Article 9
- ❑ *Travaux Preparatoires*

# Conscientious Objection: MILITARY SERVICE

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## □ Precedent set

➤ *Grandrath v Federal Republic of Germany* 1966

## □ Turning point

➤ *Bayatyan v Armenia* 2011



# Conscientious Objection: PAYMENT OF TAXES

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## ❑ GENERAL TAX PAYMENTS

➤ *C v United Kingdom* 1983

## ❑ SOCIAL SECURITY CONTRIBUTIONS

➤ *Bouessel du Bourg v France* 1993

## ❑ CHURCH TAX PAYMENTS

➤ *Klein and Others v Germany* 2017



# Conscientious Objection: HEALTHCARE CONTEXT

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## ❑ PROVISION OF CONTRACEPTIVES

➤ *Pichon & Sajous v France* 2001

## ❑ CONDUCTING A MEDICAL EXAMINATION

➤ *Blumberg v Germany* 2008

## ❑ PROVIDING PSYCHO-SEXUAL THERAPY FOR SAME-SEX COUPLES

➤ *Eweida and Others v United Kingdom* 2013



# Conclusion

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- ❑ The ECtHR takes a variety of approaches to conscientious objection claims in the context of military service, the payment of taxes and the field of healthcare.
- ❑ So far, the ECtHR does not treat conscientious objection claims in the context of healthcare as ‘special cases’ under Article 9.





Thank you for listening.  
Any questions?

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