



IFOR INTERNATIONAL FELLOWSHIP
OF RECONCILIATION

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COMMUNICATION

In accordance with Rule 9.2. of the Rules of the Committee of Ministers regarding the supervision of the execution of judgments and of terms of friendly settlements

Ülke Group of Cases against Turkey

1. Introduction

The Conscientious Objection Watch, War Resisters' International, The European Bureau for Conscientious Objection, Connection e.V and International Fellowship of Reconciliation jointly submit a Rule 9.2 Submission on the implementation of the judgments under the Ülke Group of cases. More information on these organizations may be found in ANNEX attached.

2. Case Description

The Ülke group of cases pertain to violations of Article 3, the prohibition of torture, inhuman and degrading treatment; Article 9, the right to freedom of thought, conscience and religion and Article 6 the right to fair trial enshrined in the European Convention on Human Rights, stemming from the applicants' repetitive convictions and prosecutions for having refused, on account of their religious beliefs or convictions as pacifists and conscientious objectors, to carry out compulsory military service. There are a total of seven cases in the Ülke group under the enhanced supervision of the Committee of Ministers (CM). The judgment on the first case, *Ülke v. Turkey*, became final on 24 April 2006.

3. The key findings of the ECtHR in the Ülke group of cases

The ECtHR has four key findings in the Ülke group of cases:

1. The lack of a sufficient legal framework for those who refuse to wear uniform and/or perform military service on grounds of conscience or religion and the ensuing interminable series of prosecutions and convictions are disproportionate to the aim of ensuring the performance of military service. The series of prosecutions and convictions aimed at repression of intellectual

personality, breaking of the resistance and will and the compulsion to lead a clandestine life, amount almost to “civil death” is incompatible with the punishment regime of a democratic society. (Ülke) In the aggregate, the acts concerned constitute inhuman or degrading treatment within the meaning of Article 3. (Ülke, Savda, Feti Demirtaş, Buldu and others, Enver Aydemir, and Tarhan)

2. Lack of an effective and accessible procedure in Turkey which would have enabled conscientious objectors to have established whether they were entitled to conscientious objector status was a violation of Article 9 of the Convention. (Erçep, Savda, Feti Demirtaş, Buldu and others, and Tarhan)

3. The system of compulsory military service in Turkey imposes on the citizens an obligation which may have serious consequences for conscientious objectors: it does not allow any exemption on grounds of conscience and gives rise to the imposition of heavy criminal penalties. Thus, the interference in question originates not only from the multiple convictions of the applicant, but also from the absence of an alternative service. (Erçep, Feti Demirtaş, Tarhan)

4. The trial and conviction of civilian conscientious objectors by military courts constitutes a violation of Article 6 § 1 of the Convention. (Erçep, Savda, Buldu and Others, and Feti Demirtaş)

4. Proceedings before the CM

4.1. Evaluation of the Action Plan in General

The Government submitted its latest Action Plan to the Committee of Ministers on 30 March 2023

The Action Plan covers ‘the current situation of the applicants’ and ‘legislative amendments’ and ‘strategy papers, projects and raising awareness activities’ in which all the information provided is exactly the same with the action plans submitted to the CM on 31 March 2020 and 05 August 2021. The only paragraph that differs from the previous Action Plan is the one titled ‘B.2. Human Rights Action Plan’, which does not include any measures to recognize the right to conscientious objection or improving the situation of conscientious objectors in Turkey.

The Government didn’t provide any information regarding the actual situation of the applicants.

Since the government did not submit any new arguments other than III.C ‘Statistics on Conscientious Objectors’ in its Action Plan, we regret that we have to reiterate the points that we have already made in our previous submissions.

4.2.1. Legislative Measures

No legislative measure was taken to recognize the right to conscientious objection to military service or to establish alternative civilian service.

Abolishment of military courts - In its 2020, 2021 and 2023 Action Plans the Authorities informed the CM that military courts were abolished with the adoption of Law No 6771 in 2017. Hence, issues related to desertion from enlistment/enrolment, desertion and persistent disobedience are investigated and tried by the civil prosecution offices and civil courts.

Option of military service by payment - The Government also informed that under Article 5/2 of the Law No 7179 on Military Service which entered into force in 2019 the duration of compulsory military service is now six months. The system of “military service by payment” became permanent. Under Article 9 of the said Law, persons who wish to benefit from this opportunity pay a sum of 104.084,16 Turkish Liras (Approximately, 5124 Euros) for the first six months’ period of 2023. Persons who opt for this must however complete one-month basic military training which includes wearing a uniform and training in combat.

Individual application to the Constitutional Court - The Government, in its Action Plan, informed the CM about the legislative measures taken to introduce an individual application mechanism before the Constitutional Court with respect to human rights violations. Therefore, an individual in the applicants' situation could pursue the remedy of lodging an individual application.

4.2.2. Executive Measures

Judicial Reform Strategy - The Government informed the CM of the Judicial Reform Strategy that was adopted in May 2019 stating that “*the implementation of [the] Strategy paper will improve the legal professions' quality and contribute [to the] prevention of human rights violations*”. The main objectives of the Strategy include strengthening the rule of law, protecting rights and freedoms more effectively, strengthening the independence of the judiciary and improving impartiality.

The Role of the Justice Academy -The Government informed the CM that the Justice Academy would offer training on human rights and jurisprudence of the ECtHR which would then help courts deliver judgments in line with ECtHR jurisprudence. There is no information as to whether the curriculum includes information on the Ülke group of cases.

Human Rights Action Plan - In its August 2021 and March 2023 Action Plans the Government informed the CM that a Human Rights Action Plan was announced in March 2021. The Plan solely contains general provisions for strengthening human rights and Government's “aim” to develop “*solutions for areas of violations ...*”. The plan does not provide any specific provisions addressing the right to conscientious objection to military service.

5. Comments on Government response

5.1. Individual Measures

5.1.1. Just Satisfaction

We have been informed by the applicants and their representatives that the compensation has been paid to the applicants fully and in time.

5.1.2. Individual Situation of the Applicants

Compliance with the judgments of the Court implies the adoption of individual measures to put an end to the violations found and to erase, as far as possible, *their consequences* for applicants, as well as the adoption of general measures in order to prevent new, similar violations.

As it is demonstrated below measures have not been taken to correct the underlying violation for each individual applicant and the information pertaining to the applicants below as provided by the authorities is incomplete and may be misleading. The vulnerability of applicants who remain “*active evaders from enrollment/enlistment or deserters in the system*” continues despite the ECtHR judgments. In addition to the grave situation relating to apprehension orders, monetary fines, repeated prosecution, trial and sentencing cycle restrictions remain on a diverse range of civil, political, economic and social rights (see 5.2.2.).

Osman Murat Ülke - his still being under the obligation to perform military service makes him a deserter and thus an individual who violates the law. He has limited right to move, his right to vote is restricted.

He remains under the risk of criminal procedures. On 17.01.2023 he was subjected to a GBT search by the police when he was in a park in Izmir, and was charged with not completing his military service. An official record was issued. This record was issued on a tablet and he was not given a copy. Therefore, as is not available, it is not known what his legal status in relation to military service is recorded. Pursuant to this record, a notification was sent to Ülke stating that he has to apply to the nearest military branch within 2 months in order to complete his incomplete military service, otherwise he will be subject to administrative fines and criminal prosecution.¹ He objected to these proceedings and is waiting for the outcome.

¹ The notification of Seydişehir Conscription Office, no;50044262-903.11-356675

His situation of being under the thread of administration and criminal proceedings is still continuing.

Mehmet Tarhan - The Government informed the CM with the 30 March 2023 Action Plan that;

- Tarhan was discharged from the obligation to serve the military
- The criminal proceedings against the applicant are still pending as his statement could not be taken by the relevant court.

The pending criminal proceedings pose a clear and constant threat to Tarhan's daily life and have led him to decide to live in another country.

5.2. General Measures

5.2.1. Legislative Measures

No legislative measures have been taken to address violations of human rights stemming from the non-recognition of the right to conscientious objection to military service. Furthermore, there is no indication that a law is being prepared. Practice shows the contrary, however.

A freedom of information request was sent to the Ministry of National Defence requesting information on how many persons applied to the Ministry seeking exemption as conscientious objectors between 2016-2020. The Ministry's response stated that "there is no legal possibility to fulfill your request".

In 2020, the General Directorate of Conscription of the Ministry of National Defence sent a letter to the Rize Administrative Court in connection to the Yazıcı case (Letter in ANNEX 2). The letter outlines the manner in which applications for conscientious objection will be processed. Petitions made to the military service branch will not be sent to the General Directorate on Conscription, instead the military service branches will draft a negative letter in accordance with reference to applicable legislation. The conscientious objector's application and the military service branch's letter will be sent to the military service branch where the person "liable [for military service]" is registered. Military Service Branches are asked to send information on conscientious objection applications in March, June, September and December to the Ministry of National Defence. The same document states that the Ministry of Defence should not be informed on repetitive applications by the same conscientious objectors.

In March 2023, an MP submitted a written parliamentary question referring to a situation of a conscientious objector, Diyar Doğan, to the Presidency of the Turkish Parliament. Nevertheless the parliamentary question was not processed on the grounds that "the text of the parliamentary question would not include the personal opinions of the MP or third parties".²

Adoption of the Law on Conscription

Option of completing military service by payment - The Law on Conscription was adopted in June 2019. While the Authorities refer to the possibility of fulfilling the obligation to perform military service by payment, this cannot be considered a general measure that will prevent similar violations from happening.

Firstly, the payment option does not constitute an alternative service, therefore the finding of the Court that the interference Article 9 originated from the lack of alternative service is not addressed.

Secondly, approximately 5.124 EUR must be paid to benefit from this option and this is an amount about 13 times the net minimum wage (8.500 TL, approximately 399 Eur), therefore not easily affordable.

² <https://t24.com.tr/haber/meclis-baskani-vicdani-retci-sorusunu-kisisel-gorus-diyerek-isleme-almadi,1098228>

Thirdly, everyone who opts for military service by payment must still perform basic military training for one month which also requires wearing of the uniform, training on the weapon and this is not possible for individuals who object to military service categorically.

Therefore, the finding of the Court that the system of compulsory military service in force in Turkey imposes on the citizens an obligation which may have serious consequences for conscientious objectors, in that it does not allow any exemption on grounds of conscience, is still valid.

Security checks, issue of official records and administrative monetary fines

Evaders and deserters are tracked in accordance with the rules laid down in Article 26(1) of the Law on Conscription. Accordingly, evaders and deserters are reported to the Ministry of Interior in order to ensure their apprehension to perform their military service obligation. When draft evaders (yoklama kaçağı) and evaders (bakaya) are apprehended, mostly during general security checks (GBT), they are issued an “official record” (tutanak) and released. These records are the legal basis of issuing administrative fines.

Administrative fines are regulated under Article 24/1,2,3 of the Law on Conscription. Those who surrender pay a certain amount of liras per day, starting from the day they became evaders or deserters. Those who are caught pay double per day, and the amounts should be reconsidered at the beginning of every calendar year in accordance with the Misdemeanor Law. Administrative monetary 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 monetary fine are faced with a risk of being apprehended repeatedly after every 15 days and to have an official report issued.

According to the data obtained as a result of the applications made to Conscientious Objection Watch, 43 people in 2021 and 38 people in 2022 stated that their freedom of movement was restricted due to their military obligation. Most of the applicants stated that they were subjected to multiple rights violations at the same time.³

Inan Mayıs Aru, reported that he was issued approximately 30 official records. He was issued a total of approximately 12,000 TL administrative monetary fine based on two official records issued on 1 April 2015 and 28 August 2018 respectively. As a consequence of these official records he was prosecuted in six different criminal cases and sentenced 10 months imprisonment and 500 TL fine. His appeal to the sentence was also rejected.⁴

While some persons contest the monetary administrative fines, most individuals are not able to appeal because they are not familiar with the legal process. In 2022, out of 148 conscientious objectors that contacted the Conscientious Objection Watch, 19 said they did not know how to contest the monetary administrative fines, 27 said they did not contest and only 5 said they contested.⁵

Criminal investigation based on Military Criminal Law No. 1632 of 22 May 1930 - Under Article Article 63/1, once the administrative monetary fine becomes final, those without an admissible excuse, are sentenced to prison ranging from two months to six months if they surrender within four months, and four months to one year if they are apprehended. They are sentenced to four months to two years if they surrender after one year and if they are apprehended the sentence is six months to three years.

Almost all criminal cases result in convictions. In few of the cases in the first-degree courts, where violations of the Law on Notifications, or procedural issues were raised, conscientious objectors to military service were acquitted.

³ <https://vicdaniret.org/the-multiplier-effect-of-the-violation-of-the-right-to-conscientious-objection-report-released/>

⁴ 11th Criminal Chamber of Bursa Regional Court of Appeals-, 2023/18 E, 2023/693 K.

⁵ https://drive.google.com/file/d/1mM_04THHwuw_e3kYgRkEWwT51JZUbnIm/view

Inan Mayıs Aru, as stated above, was sentenced to 10 months imprisonment and 500 TL fine. His appeal to the sentence was also rejected.⁶

In the case of Alparslan Kaya the court ruled 4 months 5 days imprisonment however the pronouncement of the verdict was suspended.⁷

The appeal against the judicial fine of 6,000 liras imposed on conscientious objector U.G. because of being a deserter, was rejected by the 5th Criminal Chamber of Erzurum Regional Court of Appeal.⁸ In another case, the appeal against the 10 month prison sentence given to U.G. was also rejected and the decision was finalized.⁹

Similar to the other cases, the procedural irregularities related to the notifications, unconstitutionality and the right to conscientious objection were not discussed in the judgements.

Denial of public rights and execution of sentence made heavier by criminal courts - Criminal Courts, when ruling on the application of Criminal Law provisions in favor of the accused and on whether public rights (such as guardianship) should be restricted, consider whether the person “regrets” the action and whether he will commit the same crime.

Due to the nature of conscientious objection, the actions of conscientious objectors are not single acts but are continuous, therefore the provisions are not applied in favor of conscientious objectors. In addition to being constantly exposed to stop & check, being repeatedly fined and prosecuted, conscientious objectors’ sentences are not converted to monetary fines and they can be banned from benefiting from certain public rights. The ban from public rights may include prohibition on becoming a legal guardian or taking a role in the management of a foundation or association, even not being able to carry out a profession that is subject to registration in a professional organization, such as a lawyer.

Individual application to Constitutional Court - As the Authorities stated, with the introduction of the individual application mechanism, conscientious objectors, too, have had this possibility since 23 September 2012. This possibility, however, cannot be considered a general measure to prevent similar violations for two reasons. First, there is a need for legislative changes that recognize the right to conscientious objection, establish an independent mechanism to receive and process applications.

Secondly, between 2012 and April 2021, at least 45 individual applications have been made by conscientious objectors to the Constitutional Court according to the report of the Association for Conscientious Objection.¹⁰ Although in 2016, it was reported in the media that the Constitutional Court referred an individual application involving conscientious objection to the Plenary, the Constitutional Court is yet to deliver a judgment dealing directly with the right to conscientious objection at the time of writing of this Submission.

The Constitutional Court however delivered some decisions of inadmissibility, *inter alia*, in the application of Uğur Yorulmaz, a conscientious objector, and the case is now pending with the ECtHR. Mr. Yorulmaz’ employer was informed by the Authorities on 30 November 2016 by the Ministry of Defence on the Mr.Yorulmaz’ status as an evader and unless it was ensured that he submitted to the Recruitment Branch a document to this within 15 days, the employer would be subject to investigation for unlawfully employing an evader. Thus, the employer ended the applicant’s contract. In its inadmissibility decision the Constitutional Court, did not address the right to conscientious objection and referred solely to the right to fair trial and found the application manifestly ill founded.

⁶ 11th Criminal Chamber of Bursa Regional Court of Appeals, 2023/18 E, 2023/693 K.

⁷ İstanbul 17th High Criminal Court, 2023/360 D.ış

⁸ 5th Criminal Chamber of Erzurum Regional Court of Appeals, 2020/1129 E, 2023/823 K.

⁹ 14th Criminal Chamber of İstanbul Regional Court of Appeals,2022/1893 E., 2023/882 K.

¹⁰

In the beginning of 2023, the conscientious objectors or their lawyers delivered a decision that the Constitutional Court merged all the applications under one case, although the specifics of the cases are different.

5.2.2. Restriction of other human rights

The state of “almost civil death” that the ECtHR has referred to in *Ülke v. Turkey* in 2006 remains a reality for conscientious objectors given the continued restrictions on a wide range of human rights in addition to the unending cycle of prosecution, trials and fines and the Government response does not address these issues.

The Conscientious Objection Watch received 73 responses to the survey on the restrictions experienced by conscientious objectors between January - December 2022.¹¹ 59 out of 73, who filled out the form in 2022, responded to the question "What violations/restrictions of rights have you been subjected to due to your military obligation?" According to the responses;

38 stated that their freedom of movement was restricted.

38 stated that they could not work with insurance.

34 stated that they could not work in public institutions.

17 stated that they were dismissed from their jobs.

11 stated that their right to education was violated.

10 stated that they could not vote.

6 stated that their bank accounts were confiscated.

Participation in public affairs and the right to vote

Under Article 67(1) of the Constitution, citizens have the right to vote, to be elected, to engage in political activities independently or in a political party, and to take part in a referendum. However, 67(5) stipulates that “privates and corporals at arms, cadets, ... shall not vote”.

It is interesting that even Osman Murat Ülke, who applied to the ECtHR in order to seek remedy to the human rights violations he experienced as a consequence of being a conscientious objector in Turkey, after having won his case in 2006 continues to be subject to restrictions, including on the right to vote. Even though the Turkish authorities are under an obligation to eliminate any consequences of the violation on Ülke, his status in Turkey remains “soldier” and “deserter”. Therefore, in accordance with Article 67 of the Constitution, he cannot vote. Before the 31 March 2019 general elections, he received his voter card. However, on the day of the election when he went to vote, he was told that there was a note indicating that he could not vote, and the electoral officers did not allow him to vote. He doesn’t know if he will be allowed to vote during the general elections that will be held in May 2023.

¹¹ The figures here are compiled from the quarterly bulletins published by Conscientious Objection Watch.

As stated above, every citizen has the right to be elected under Article 67 of the Constitution, however, in order to be eligible to be elected as a member of parliament, under Article 76 of the Constitution, one must be exempt or deferred from military service or must have fulfilled their military service. Since conscientious objectors' status remains as persons who have not fulfilled their military service, they are not eligible to stand for elections.

Freedom of movement

Article 23 of the Constitution protects everyone's freedom of movement.

There is no explicit restriction on the freedom of movement of persons who are performing their military service. However, a direct consequence of the combination of widespread practice of stop & search and identity checks and Article 26 of the Law on Conscription on the tracking of draft evaders and evaders, is that conscientious objectors are subject to stop & search, apprehension and official record is issued against them. Avoiding this process prevents conscientious objectors from moving freely.

Under Article 26(1) of the Law on Conscription, draft evaders, evaders and deserters are reported to the Ministry of Interior to ensure their apprehension to perform their military service. Once they are apprehended, they are either brought to the nearest Conscription Branch and/ or released, given an official record, and asked to submit to the nearest Conscription Branch within 15 days under Article 36(2).

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 General Information Gathering (Genel Bilgi Toplama, GBT) is an identity checking technology that police officers use to access up to date information on persons, including their status related to military service, criminal or suspect records. This is used during identity or passport controls. Furthermore, identity checks at hotels and general searches in bus rides lead to restrictions for conscientious objectors. In residential areas, the police force, and outside of residential areas, the gendarmerie is authorized to stop cars and carry out checks. Such checks are also carried out as a result of information that is mandatory to be provided by hotels and similar accommodations on the guests who check in. As soon as they are identified as evaders or deserters, either on the road or at the hotel, they are apprehended, and they are either brought to a police station and/or to military branches or an official record is issued. At times, because a police officer or a gendarme does not have the official record slip with them this process may take hours. This process could potentially happen in the life of a conscientious objector as many times as he may encounter the police or gendarmerie.

Many conscientious objectors have reported to the Conscientious Objection Watch that they feel compelled to change their lifestyle in order to avoid stop & search practices. According to the data obtained as a result of the applications made to Conscientious Objection Watch, 43 people in 2021 and 38 people in 2022 stated that their freedom of movement was restricted due to their military obligation.¹²

Ersan Uğur Gör tells his experience in the report, recently prepared by the Conscientious Objection Watch, as *'When I go to other cities for work, the customers book hotels, but I explain my situation*

¹²

<https://vicdaniret.org/the-report-conscientious-objection-to-military-service-in-turkey-ulke-group-cases-against-turkey-is-released/>

*and stay without registering. I don't mind being issued a record, but I don't prefer to be dragged out of bed in the middle of the night. For this reason, I prefer not to stay in hotels as much as possible.*¹³

*Gökhan Soysal, lawyer, says in the same report; 'As a lawyer and also one of the lawyers of conscientious objectors and anti-war activists with whom I was in contact, I frequently travel to other cities. Since I had to stay overnight during these trips, I was issued records many times as a result of GBT checks...I even hesitated to attend hearings in other cities where there was a high probability of a verdict hearing, except in cases where my clients were under arrest. When I traveled out of the city for these hearings, I tried to stay at my friends', if any, or in the places of acquaintances of the clients. I had to stay in the apartments of people I did not know at all.'*¹⁴

Right to education

Under Article 41(1) of the Law on Conscription, the high-school or university registration of students who have not fulfilled their military service - taking into account their right to postponement for a certain period of time - will be frozen. Those whose registration has been frozen this way cannot benefit from any public-funded bursary or student accommodation.

Zana Aksu's case illustrates this situation. Aksu has been a conscientious objector since 2012. After successfully passing the 2019 university entrance exam he was offered a place at the Applied English and Translation Department at Siirt University School of Social Sciences. However, he was not allowed to register because he could not provide a document attesting that he did not have a certificate demonstrating that he no longer has military service obligation.

Opportunity to earn one's living

Article 48 and 49 of the Constitution protect everyone's right to work.

Under Article 41 (2) of 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. In addition, Article 48 (6) of the Law Civil Servants stipulates that in order to qualify as a civil servant one must not be under the obligation to fulfill military service. Article 75(1) of the Military Criminal Code stipulates that those who do not terminate the employment of a person who is considered evader or draft evader upon the receipt of an official notification from the Government will be sentenced to imprisonment from three months to one year. Where this is repeated, they will be sentenced from one to three years. This is applicable to any employment situation including private sector and public sector, including municipalities, banks and associations and professional organizations working for public benefit.

According to the data obtained as a result of the applications made to Conscientious Objection Watch, 56 people in 2021 and 47 people in 2022 stated that their right to work was violated due to their military obligation.¹⁵

Seyda Can Yılmaz is one of the objectors who experienced violations in this regard as he explains in his statement; *'Before July 2018, when I became liable for military service, I sent a petition to the Ministry of National Defense and the Turkish Grand National Assembly in late May 2018, declaring that I was a conscientious objector, that I would not do military service, and that I could do alternative civilian service. The state didn't react to my declaration of conscientious objection... In the summer of 2018, I was working as an insured employee when I became an evader. In November 2018, I voluntarily left my job. Since I knew that employing an evader was a crime and that the institution I worked for would eventually be warned, I preferred to work unregistered afterwards. I was using my*

¹³ ibid

¹⁴ ibid

¹⁵ ibid

*mother's account to receive my salary. In January 2022, at my father's insistence, he registered me as insured in his company. In August 2022, the workplace received a warning. It was stated that it was a crime to employ a draft evader. They were given 2 months to dismiss me. In September 2022, I was dismissed. During this period, I was actually continuing my other unregistered job. I was only in my father's company on paper. Of course, during the time I was registered, my father had to send my salary to the account in my name. At that time I had a finalized administrative fine, but my account was not blocked.'*¹⁶

Hüseyin Civan also has a similar story; *'Even with a bachelor's degree, I am in a position where I cannot work in state institutions. One of the first conditions required in the private sector is that I fulfill my military service obligation. This means working without insurance and informally... I have been trying to sustain my life and the life of my family in this way for a long time. Most of the jobs I worked are short-term. This turns into a constant job search. In other words, I am forced to work informally just because I am a conscientious objector.'*¹⁷

Prohibition of torture, inhuman and degrading treatment and right to respect for private life

The pervasive and consistent interference in several fundamental human rights, as illustrated above, paralyzes the lives of conscientious objectors and continues to constitute "civil death" thus amounting to a breach of Article 3 of the ECHR as well as violation of the Article 8, in particular the protection of physical and mental integrity of the person. The latter is evident in the interferences in the various human rights highlighted in this submission. Therefore Article 8 is applicable where interference does not amount to a violation of Article 3.

6. Conclusion and Recommendations

The non-implementation of the ECtHR judgments on the Ülke group of cases affects thousands of individuals resulting in systematic violations of Article 9 and other human rights protected in the ECHR.

Having regard to the arguments laid above, the Conscientious Objection Watch, War Resisters' International, The European Bureau for Conscientious Objection, and Connection e.V. kindly ask the Committee of Ministers to:

- adopt an interim resolution urging the authorities to implement the ECtHR judgments on the Ülke Group of Cases;
- underline that the human rights violations that have been found in the Ülke Group of Cases continue to occur in Turkey;
- keep the Ülke Group of Cases on the CM agenda until effective measures are taken by the Turkish authorities;
- ask the Turkish authorities to report on the effectiveness of the Constitutional Court individual application mechanism to protect conscientious objectors;
- ask the Turkish authorities to report on the effectiveness of the trainings provided for judges and prosecutors on international human rights obligations pertaining to the right to conscientious objection to military service on the compatibility of judicial proceedings with applicable international human rights standards and include affected groups and relevant civil society organizations in preparing and delivering the trainings;
- ask the Turkish authorities to provide statistical information on the number of conscientious objectors, and on the number of petitions submitted to the authorities for conscientious objection, on monetary fines and criminal investigations, and convictions delivered in connection to conscientious objectors;

¹⁶ ibid

¹⁷ ibid

- ask the Turkish authorities to provide information on how and to what extent the rights of conscientious objectors to education, security of persons, protection of property, right to vote and opportunities to earn a living are impacted due to evader/deserter status in law.
- request the Turkish authorities to take measures to ensure that the applicants and other conscientious objectors are free from the risk of further recruitment to the military service and prosecution and can fully exercise their political, civil, economic, social and cultural rights;
- request the Turkish authorities to repeal already existing convictions against conscientious objectors, to delete these convictions on the criminal record and grant compensation.

Furthermore, the undersigning NGOs kindly ask the Committee of Ministers to request the Turkish Government to take legislative measures *without delay*:

- To provide information about the current legal status of Mehmet Tarhan,
- To recognize the right to conscientious objection to military service in line with international human rights standards;
- To establish a system of independent and impartial decision-making bodies with the task of determining whether a conscientious objection to military service is genuinely held in a specific case, taking account of the requirement not to discriminate between conscientious objectors on the basis of the nature of their particular belief;
- To provide for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive nature;
- To review relevant legislation, including but not limited to Law on Conscription, Military Criminal Law, Law on Civil Servants, 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.

ANNEX

Conscientious Objection Watch monitors the current situation of conscientious objectors in Turkey, the human rights violations they are experiencing, and the judicial processes they are going through. The initiative advocates for the recognition of the right to conscientious objection in Turkey and reports the national and international developments regarding the right to conscientious objection.

War Resisters International (WRI) is a global pacifist and antimilitarist network with over 90 affiliated groups in 40 countries. WRI works with conscientious objectors to military service and those resisting militarisation in their own states, connecting and supporting war resisters around the world.

The European Bureau for Conscientious Objection (EBCO) is an umbrella organisation for national associations of conscientious objectors, with the aim of promoting collective campaigns for the release of the imprisoned conscientious objectors and lobbying the European governments and institutions for the full recognition of the right to conscientious objection to military service.

Connection e.V. is engaged in achieving recognition of the human rights of conscientious objectors, and acknowledgement of the persecution which conscientious objectors and deserters face as a reason for asylum.

International Fellowship of Reconciliation (IFOR) was founded in response to the horrors of war in Europe, the IFOR has taken a consistent stance against war and its preparation throughout its history. Perceiving the need for healing and reconciliation in the world, the founders of IFOR formulated a vision of the human community based upon the belief that love in action has the power to transform unjust political, social, and economic structures.