



THE RIGHT TO CONSCIENTIOUS OBJECTION AND TURKEY

IHGD: Right to Conscientious Objection

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Since the early 1990ies until today the conscientious objectors (CO) have been subjected to a number of human rights violations because they refused to do military service. Military service for 15 months is compulsory for men aged 19-40 in Turkey. The right to conscientious objection is not legally recognized, and there is no alternative civilian service for conscientious objectors. International human rights standards recognize the right to conscientious objection. However, Turkey has not accepted the right to conscientious objection that international human rights mechanisms have accepted as a basic human right. This has opened the door widely for human rights abuses against COs. The Human Rights Agenda Association (HRAA) accepts the right to conscientious objection as a human right has prepared this paper as a reaction to the oppression of COs with the aim to make a general evaluation and information on conscientious objection.

Conscientious Objection

Conscientious objection is an attitude against war, expressed by an individual. In short terms it is the refusal to do military service because of moral preference, religious belief or political views. There are different reasons that make people become a CO. The reasons show a difference in character. Someone may refuse to conduct military service because of the holy construct of their belief, while others may do so because of a political approach that is an approach on society. Conscientious objection is a moral moment where these different reasons meet¹.

"The concept of conscription - compulsory military service by all able-bodied males on behalf of the state - dates back to mediaeval obligations to monarchs and overlords... The international recognition of the right to conscientious objection in 1967 is, by contrast, a relatively recent phenomenon... Conscientious objection, however, has historical roots going back much further, and linked with the major religious movements which have left their mark on the history of Europe.

Countries with a Protestant tradition, with the exception of Switzerland, were the first to make provision for conscientious objectors. Exemptions from service were granted in Holland as early as 1549 and 1580. In 1757 a British law allowed exemption from compulsory militia service, and in the early 19th century Napoleon granted exemption to Protestant Anabaptists.

The Catholic countries of Europe - apart from Ireland, where conscription has never been adopted - took half a century longer than their Protestant counterparts to recognize the right to object. France and Luxembourg recognized it in 1963, Belgium in 1964, Italy in 1972, and Spain in 1976, after the death of Franco (confirmed in the new constitution of 1978). Portugal included the right in its new 1976 constitution, following the "carnation revolution". The religiously "mixed" country of West Germany had the issue decided for it by the occupying Allies, who insisted, at British instigation, upon recognition of conscientious objection being incorporated into the post-war re-introduction of conscription in 1955.

The difference between countries with Protestant and Catholic traditions may be explained by the political consequences of different theological perceptions of the role of the faithful, and therefore of the individual citizen. Under Protestantism, Christians see themselves as having a direct relationship with God, to whom they are individually and personally

The New Conscientious Objection : From sacred to secular resistance / edited by Charles C. Moskos, John Whiteclay Chambers II. New York : Oxford University Press, 1993. The English version of the text, however, is based on a text by Sam Bieseman to be found at <http://www.ebco-beoc.org/page/1uside/archive/co-history.htm>.



responsible, under conscience, for their actions. In Catholicism, the Church seeks to be the mediator with God, and to take corporate responsibility, by papal decree, for moral issues.

Protestants, moreover, include a number of different churches, each with its own characteristics derived from the conscientious belief in a particular view of doctrine and organization. These include, especially, the historic 'peace' churches - the Anabaptists, the Mennonites, the Nazarenes, the Dukhobors, and the Quakers. Religious freedom and the freedom of conscience are the foundations, which guarantee the equilibrium of these societies.

Conscientious objection arising from non-religious - humanist, socialist, anarchist - motives developed in Europe from the early 20th century, particularly in the aftermath of World War I. It found concrete expression in the establishment in 1921, at Bilthoven, Netherlands, of the War Resisters' International (WRI), with its founding Declaration, "War is a crime against humanity. We are therefore determined not to support any kind of war and to work for the abolition of all causes of war". The WRI (named in conscious imitation of the Socialist and Communist Internationals) soon began to collaborate with another international organization, this time with Protestant motivation and ecumenist aims, the International Fellowship of Reconciliation (IFOR), founded in 1919, also at Bilthoven.

To return to international pronouncements: the Human Rights Commission of the UN first formally recognized the right to conscientious objection on 10 March 1987, and appealed to states to implement it. In a later resolution of 22 April 1998 the Commission welcomed "the fact that some states accept claims of conscientious objection as valid without inquiry". This was in line with a European Parliament resolution of 7 February 1983, which acknowledged "no court or commission can penetrate the conscience of an individual, and that a declaration setting out the individual's motives must therefore suffice in the vast majority of cases to secure the status of conscientious objector". West Germany acted upon such a principle for a short period, but the only state in Europe now putting it into effect is Sweden, where there is a free choice for all young men between military service and civilian service.

The question of attempting to test the validity of a particular conscientious objection serves to highlight the fact that legal provision for objection by no means prevents hardships and injustice. Although Britain can claim some credit for refusing to bring in conscription without simultaneous provision for conscientious objection, almost a third of objectors in the First World War - 6000 out of 16000 - ended up in prison because of the way the system was administered. Injustices in other countries have included the running of tribunals by the military, with an obvious in-built bias, putting 'alternative service' schemes under the control of the military, and setting the period of alternative service up to twice as long as military service. At the other extreme, conscientious objectors in Germany (including the annexed Austria) were executed during the Second World War, and as late as 1949 two objectors were executed in Greece.

The Council of Europe Parliamentary Assembly returned to the issue of objection to military service in Resolution 1518 of 23 May 2001, recommending that the right of conscientious objection be formally incorporated into the European Convention on Human Rights. A particular factor influencing the Council was that five member states, Albania, Armenia Azerbaijan, Macedonia and Turkey had no provision at all for conscientious objection, and two others, Cyprus and Russia, had no effective provision."

Conscientious objection in Turkey

1990: With the help of the daily *Günes* and the weekly *Sokak*, Vedat Zencir and Tayfun Gönül announced their conscientious objection. This was the first public declaration in Turkey.

1992: After the 7th International Conscientious Objectors Meeting in France it was decided to hold the next meeting in Turkey. This was to be the first meeting outside Turkey, in a country where militarism had entered family life.



1992: In December the Association of War Resisters (SKD) was founded in İzmir.

1993: On 16 January six persons declared their conscientious objection in the office of the association and continued the campaign "no to military service" that had started in 1990.

1993: Between 10 and 17 July ICOM was held in Ören (Milas) with participation of 90 people from 40 countries.

1993: In the Turkish Republic of Northern Cyprus Salih Askerođul declared that he would not conduct military service. An international campaign was launched for him. This was followed by a ban of the SKD.

1993: In autumn an Association of War Resisters (SKD) was founded in İstanbul.

1993: On 8 December the channel HBB interviewed Aytek Özel, chair of the SKD and a CO in the program Anten. The producer Erhan Akyıldız and the reporter Ali Tefvik Berber were arrested on order of the Chief of Staff and tried at a military court. Thus, civilians were first tried at a military court.² Arrest warrants were issued for Aytek Özel and the CO. During their trial Erhan Akyıldız and Ali Tefvik Berber were released. They received the minimum sentence of two months' imprisonment. On 8 February 1994 Aytek Özel surrendered to the military court in Ankara and was sentenced to one year, 15 days' imprisonment. Because of the double standard of the press this case did not get public attention. The important element of this case was the fact that after the state security court had ruled not to be competent, the way was opened for civilians to be tried at military courts.

1994: The banned SKD in İzmir was refounded with a slight change in name: Izmir War Resisters Association (ISKD)

1994: On 20 March DEP (Democracy Party) deputy Zübeyir Aydar introduced a draft law on "conscientious objection".

1994: On 10 April 25 deputies of the SHP (Social Democrat Populist Party) launched a draft law to avoid that civilians could be tried at military courts.

1994: On 17 May İstanbul SKD and the German Peace Organization in Frankfurt held simultaneous press conferences. During these conferences two persons in Turkey and 11 Turkish citizens in Frankfurt declared their conscientious objection. Gökhan Demirkıran, Arif Hikmet İyidođan, Mehmet Sefa Fersal and Osman Murat Ülke were arrested on charges under Article 155 Turkish Penal Code (TPC, alienating people from military service). The four defendants were tried at the military court of the General Staff. On 29 August 1995 the Court passed its verdict. Gökhan Demirkıran was sentenced to four months' imprisonment, Arif Hikmet İyidođan was sentenced to six months and Mehmet Sefa Fersal was sentenced to two months' imprisonment. Osman Murat Ülke was acquitted. Gökhan Demirkıran, Sefa Fersal and Osman Murat Ülke had been in prison for three weeks and Arif Hikmet İyidođan for a total of 13 weeks.

1994: Izmir SKD participated in the ICOM meeting in Colombia.

1995: Izmir SKD participated in the ICOM meeting in Greece.

1995: Immediately after the verdict of 29 August Osman Murat Ülke was taken to Cankaya Draft Office. After the formalities Mr Ülke was told to join his unit. He returned to Izmir and declared his conscientious objection by burning the papers on 1 September.

1996: In January an antimilitarist initiative was founded. In 1998 the prefix İstanbul was added to form the İstanbul Antimilitarist İnitiation (IAMI).

1996: On 7 October, more than one year after Osman Murat Ülke had burned his papers he was arrested on orders of the military prosecutor at the General Staff. He was put in Mamak Military Prison (Ankara). He did not abide by the military rules, since he was "no soldier". On

Commentaire : Doğru değil. Genelkurmay, 155 davalarını yetkisini doğrudan İdare Mahkemesi'nden aldı. Üstelik Aytek'in davasından önce, Aralık 93'te.

² With the exception of political prisoners that were tried under martial law (between 1980 and 1983).



day 24 of his hunger strike his demands were met. After that he would not be forced to act like a soldier by for instance wearing military clothing or lining up. Later he was released and sent to a unit in Bilecik. (Meanwhile the court case against him concluded on 29 January 1997. Ülke was sentenced to 6 months' imprisonment under Article 155 TPC).

1996: Towards the end of 1996 solidarity committees with Osman Murat Ülke were founded in Antalya, İstanbul, İzmir and Ankara.

1996: On 1 December the committee in İstanbul held an action in Mis Sokak forming a "broken rifle" with their bodies and the following day only female supporters held a picnic outside Eskisehir Military Prison, where Ülke was being held.

1997: On 6 March Osman Murat Ülke was sentenced to 6 months' imprisonment for refusal to obey orders, since he had refused to wear military clothes and respond to other orders when he was sent to his unit in Bilecik. The trial was held at a military court in Eskisehir. After the hearing of 29 December 1996 the Court ordered his release and Ülke did not return to the unit. When Ülke attended the hearing on 29 January 1997 he was arrested and taken to the unit in Bilecik. When he refused to wear military clothes and respond to other orders another court case was initiated. This time four different charges were brought against him: evading draft, desertion, refusal to obey orders and cheating in order not to do military service. In summary up to 15 years' imprisonment were demanded for him. After the hearing of 29 May 1997 Ülke was released.

1997: Until 9 October Osman Murat Ülke stayed free, since he did not return to the unit after 29 May 1997. He went to a court session by his own will and was arrested on 9 October and on 23 October he was sentenced to 10 months' imprisonment for evading draft, desertion and refusal to obey orders. The Court had dropped the charge of cheating in order not to do military service.

1997: On 1 December, the day of solidarity with prisoners for peace, Vedat Zencir declared his conscientious objection in front of Izmir State Security Court for the second time after 7 years. Afterwards he filed an official complaint against himself.

1997: On 10 December the Human Rights Association awarded Osman Murat Ülke the Human Rights Prize.

1998: On 22 January another trial was launched against Osman Murat Ülke, because between 29 May and 9 October 1997 he had not gone to the unit in Bilecik and committed the "crime" of desertion. In just one hearing Ülke was sentenced to 10 months' imprisonment. He was released since he had served the term. He was taken to the draft office in Eskisehir and from here he was transferred to the unit in Bilecik. When he refused to follow military discipline he was again taken to Eskisehir Military Prison.

1998: Military institutions announced that it was no crime "to defend the right to conscientious objection, but it was a crime to invite others to be conscientious objectors".

1998: In April six persons of the Initiative "Freedom of Thought" signed the press release of Osman Murat Ülke and filed an official complaint against themselves.

1998: During the hearings of 19 March, 2 April, 4 May, 15 May and 11 June Ülke repeated that he was a conscientious objector and refused any cooperation with institutions that aimed at, established or continued relations of domination. Once again he faced the vicious circle of being sent to the unit, refuse order, being aing arrest and put in prison.

1998: On 15 May some 400 spectators watched the festival on World Day of Conscientious Objection in İstanbul.

1998: On 6 and 7 October a panel and press conference was held on behalf of the second anniversary of Osman Murat Ülke's first imprisonment. After the press conference the artists Suavi and Şanar Yurdatapan and one person from İAMİ were charged under Article 155 TPC.



1999: In March Osman Murat Ülke was released with the order to join his unit, but he went home.

1999: On 15 May a press conference was held at the Istanbul branch of the HRA on behalf of World Day of CO. Following the press statement the executives of the HRA and three people of IAMI were charged with having staged an illegal demonstration and distributed leaflets. The court found itself not responsible and the court case turned into charges under Article 155 TPC for the three members of IAMI.

2001: On 27 October Mehmet Tarhan declared his conscientious objection for the first time in Ankara. At a press conference he said: "I condemn every kind of violence and believe that joining or condoning violence will only result in new violence and everyone will be responsible for the consequences. I think that wars caused by power-mongering states are first and foremost a violation of the right to life. The violation of the right to life is a crime against humanity and no international convention or law can justify this crime, regardless of any rationale. I therefore declare that I won't be an agent of such crime under any circumstances. I will not serve any military apparatus."

2002-2003: On 24 October 2002 Mehmet Bal declared to be a conscientious objector, while being already a soldier. He was transferred to the military prison in Adana. On 27 November, Mehmet Bal was released, and got order to present himself to the recruitment office. There he got order to report to "his" unit within two days - which he didn't do. He was charged under Article 155 TPC, but acquitted on 22 January 2003. The following day he was arrested again, but released from military prison a few days later. In a military hospital in Mersin doctors gave him three months holidays to recover, because of "a social personality disorder". He was ordered to report to the medical academy of the Turkish military in Ankara at the end of this three months period. He did not go to Ankara. Currently there are six court cases against him on desertion, offending the period of leave and disobeying orders.

2004: Mehmet Tarhan repeated his conscientious objection on 27 October 2004. On 8 April 2005 he was detained in Izmir and, refusing to take military orders, he was taken to a unit in Tokat. Between 11 April and 10 June 2005 he was held in Sivas Military Prison. During this time fellow prisoners abused him. Only after his lawyer was informed and intervened the abuses stopped. Mehmet Tarhan was released on 9 March 2006.

2004: On 25 November 2004 Halil Savda was taken to a unit in Tekirdağ-Beşiktepe. He declared that he would not take military orders as a result of his conscientious held beliefs. He received a disciplinary punishment of 7 days and was charged at Corlu Military Court with refusal to obey to orders. On 28 December 2004 Halil Savda was released on the condition that he returns to the unit. Halil Savda went home. On 4 January 2005 Halil Savda was sentenced to 106 days' imprisonment. On 13 August 2006 the Military Court of Cassation quashed the verdict pointing at shortcomings in the taking of evidence. On 7 December 2006 Corlu Military Court started to hear the case again. Halil Savda participated and was arrested. Despite the fact that his time in prison was longer than the sentence he received he was not released, There have been allegation of torture and degrading treatment in prison.

2007: On 28 July 2006 the Military Court of Cassation confirmed a sentence of 6 months' imprisonment against Halil Savda. While another sentence of 15.5 months' imprisonment was pending at the Military Court of Cassation Halil Savda was released from prison on 9 March 2006, since he had already served 1.5 months of this sentence.³ He was again imprisoned on 7 December 2006, while several trial against him continued. He was released on 28 July 2007 on condition that he joins the military unit.

While War Resisters International (WRI) lists 54 COs in Turkey the website of the War Resisters in Turkey (www.savaskarsitlari.org) presents 65 as of 1 July 2007. Among them are 13 women. Seven COs have suffered trials and imprisonment, while four of them also were forcefully drafted and imprisoned for longer periods. Osman Murat Ülke has been

³ For detailed information on the cases see <http://www.wri-irg.org/news/2005/turkey05-en.htm>



convicted and imprisoned repeatedly for the same offence. The UN Working Group on Arbitrary Detention, in its Opinion 36/1999 on the case of Osman Murat Ülke, found that his repeated objection to military service was "one and the same action entailing the same consequences and, therefore, the offence is the same and not a new one"⁴.

The January 2006 judgment of the European Court of Human Rights has been considered four times by the Council of Europe's Committee of Ministers, which in February 2007 "deplored the fact that the Turkish authorities had as yet taken no individual measure to put an end to the violation found by the Court, the applicant still being subject to an arrest warrant with a view to the execution of his sentence". According to Osman Murat Ülke's lawyers, the fact that the office of the military prosecutor in Eskişehir was able to issue the latest order may be the result of the authorities' failure to publish and distribute the judgment of the European Court of Human Rights to relevant authorities including the army General Staff, as requested by the Committee of Ministers⁵.

On 14 June 2007 the military prosecutor in Eskişehir issued an order against Osman Murat Ülke demanding that he had to serve another 17.5 months in prison. The demand of his lawyer Hülya Ücünar to stop the execution of the order was refused by Eskişehir Military Court on 27 July 2007. In this verdict the Court pointed at the decision of the Military Court of Cassation of 29 May 2007 on the case of Jehovah's Witnesses member Caglar Buldu.⁶ This means that Osman Murat Ülke can be arrested at any time.

The Kocaeli branch of the human rights organisation Mazlum-Der issued a statement on 27 July 2007 on CO Enver Aydemir, born in Agri province in 1978. Being of Kurdish origin and a believing Muslim he had declared to refuse military service in a petition to a local police station and had been detained shortly afterwards. He was forcefully taken to a unit in Bilecik on 25 July 2007. Although he refused to wear uniform he had forcefully been dressed in military clothing and been ill-treated. His mother and wife had not been allowed to see him, since they had been wearing headscarves. His family was concerned for his safety at the unit in Bilecik. Later it was discovered that Enver Aydemir was put in Eskişehir Military Prison on 31 July 2007.

Recently, The Kocaeli branch of the human rights organisation Mazlum-Der issued a statement on 27 July 2007 on CO Enver Aydemir about the situation of Enver Aydemir, who was forcefully transferred to the the 2nd Gendarmerie Training Brigade in Bilecik on 24.07.2007. His father Ahmet Aydemir visited him in the Eskişehir Military Prison and informed Mazlum-Der Kocaeli Branch about Enver's situation. Here is what he told his father:

I was handed transfer papers at the recruiting office, despite my explanation that I would not become a soldier of the Turkish army, based on my religious beliefs. I abstained from receiving those papers. I repeated my will not to be a soldier and wrote a petition to the local police station. I was transferred to the 2nd Gendarmerie Training Brigade on 24.07.2007, accompanied by gendarmes. I explained myself to the personnel in charge: "I was brought here against my will. I definitely won't wear a uniform and won't be a soldier of the Turkish Republic, which is governed by laicism." I further said: "I'm a civilian, forced into a uniform. Therefore it is not rightful to judge me at a military court." The day after, a sergeant ordered me to wear a uniform. I objected and replied: "I was brought here against my will. I won't wear the military uniform of the Turkish Republic, which is governed by laicism." Gendarmerie Lieutenant Erol Dogan shouted at me with filthy curses, which I replied by saying: "I could return your despicable curses by a tenfold, but my character and beliefs don't allow me to." Lieutenant Erol Dogan then ordered ten soldiers to put me forcefully in a military uniform and to shave me. I saw that physical resistance would make no sense and

⁴ URGENT ACTION / Turkey: Possible prisoner of conscience: Osman Murat Ülke, Amnesty International, 26.07.2007, PUBLIC AI Index: EUR 44/015/2007, 19 July 2007, UA 186/07 Possible prisoner of conscience

⁵ Ibid

⁶ The details in Turkish are: *T.C. Askeri Yargıtay, İlam*, Evrak No: 2007/1286, Karar No: 2007/1280, 29.05.2007

let them dress and shave me. I also was subjected to physical torture twice." They took my Quran, when I entered the military prison. My response was to announce that I won't obey to any prison rule, so they had to return my Quran to me. They told me, that I'm allowed to pray, but not with the community. I am married and have two children. I choose to resist until the end, as the first person who takes a stance based on religious ground."

Human Rights and Conscientious Objection

Conscientious objection is no crime. It is a basic human right stemming from the freedom to expression, conscience and religion. In addition, since it includes the refusal to use violence and to kill conscientious objection is the protection and guarantee of the right to life. Among the international documents on conscientious objection⁷ the resolution of the UN Commission on Human of 8 March 1989 (1989/59) took the lead. As a follow-up resolution 1993/84 confirmed the statement of the earlier resolution that had recognized the right of everyone to have conscientious objections to military service as a legitimate exercise of the right of freedom of thought, conscience and religion. The resolution drew attention to the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion as laid down in article 18 of the Universal Declaration of Human Rights as well as article 18 of the International Covenant on Civil and Political Rights.⁸

In a separate report of the UN High Commission on Human Rights of 14 March 2002 the same principles were stressed again and States were asked to take appropriate measures allowing for conscientious objection.⁹

The Council of Europe has accepted the right to conscientious objection as a human right.¹⁰ It is generally seen as part of Article 9 of the European Convention of Human Rights on freedom of religion and conscience. The European Court of Human Rights has dealt with cases of COs under Article 3 on the ban of torture and ill-treatment as in the case of *Osman Murat Ülke v. Turkey*¹¹; arbitrary detention as in the cases of *De Jong, Baljet, ve van den Brink v. Netherlands* and *Tsirlis ve Louloupas v. Greece* under Article of the Convention¹²; or Article 14 on the ban of discrimination as in the case of *Thlimmenos v. Greece*¹³. Besides the Court declared several applications from Bulgaria forwarded by Jehova's Witnesses admissible.¹⁴ A friendly settlement was reached in the *Stefanov v. Bulgaria* case that included a declaration of Bulgaria to introduce an alternative to military service.¹⁵

The Parliamentary Assembly and the Committee of Ministers in the Council of Europe have issued powerful statements asking the member States to grant the right to conscientious

⁷ For a detailed list see <http://www.ebco-beoc.org/page/documents/documents.htm>

⁸ For the full text see <http://www.ebco-beoc.org/page/1uside/document/doc5unhchr.htm>

⁹ Civil and Political Rights, Including The Question Of: Conscientious Objection To Military Service, Report of the High Commissioner submitted pursuant to Commission resolution 2000/34, The Commission on Human Rights, Fifty-eighth session, E/CN.4/2002/WP.2, 14 March 2002, para. 34, [http://www.unhcr.ch/huridocda/huridoca.nsf/AllSymbols/4608238E8449FB7EC1256BC00050A262/\\$File/G0211428.doc?OpenElement](http://www.unhcr.ch/huridocda/huridoca.nsf/AllSymbols/4608238E8449FB7EC1256BC00050A262/$File/G0211428.doc?OpenElement)

¹⁰ For a full list of documents see <http://www.ebco-beoc.org/page/1uside/document/doc3coe.htm>

¹¹ *ECHR Decision, Ülke v. Turkey*, Application Number: 39437/98, 24.01.2006.

¹² *De Jong, Baljet, and van den Brink v. The Netherlands*, Application No. 00008805/79, 00008806/79 and 00009242/81, judgement of the European Court of Human Rights of 22 May 1984 and *Tsirlis and Louloupas v. Greece*, case No. 54/1996/673/859-860, judgement of the European Court of Human Rights of 29 May 1997.

¹³ *Thlimmenos v. Greece*, Application No. 34369/97, judgement of the European Court of Human Rights of 6 April 2000 (Grand Chamber).

¹⁴ *I.S. v. Bulgaria*, Application No. 32438/96, admissibility decision of the European Court of Human Rights of 6 April 2000; *Dian Dimitrov, Krassimir Savov and Atanas Vishanov v. Bulgaria*, Applications No. 37358/97, 37988/97 and 39565/98, admissibility decision of the European Court of Human Rights of 10 April 2000.

¹⁵ *Stefanov v. Bulgaria*, Application No. 32438/96, judgement of the European Court of Human Rights (friendly settlement) of 3 May 2001.



objection. The Parliamentary Assembly passed resolution 337 and 478 in 1967.¹⁶ In 1987 the Committee of Ministers recommended that the governments of member states bring their national law and practice into line with principles and rules such "Anyone liable to conscription for military service who, for compelling reasons of conscience, refuses to be involved in the use of arms, shall have the right to be released from the obligation to perform such service.. liable to perform alternative service;... Alternative service shall not be of a punitive nature. Its duration shall, in comparison to that of military service, remain within reasonable limits."

Various organs of the Council of Europe have adopted similar positions. All applications that the European Social Rights Committee received from Greece were answered in saying that the treatment during alternative service was of a punitive character and amounted to enforced labour.¹⁷

Article 10. 2 of the Charter of Fundamental Right the European Union accepted the right to conscientious objection as a basic right by saying "The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.adopted." The European Parliament has passed a number of resolutions on the subject including the resolutions of 16 February 1983 and of 13 October 1989.¹⁸ The 1989 resolution called *inter alia*: "for the right to be granted to all conscripts at any time to refuse military service, whether armed or unarmed, on grounds of conscience, with full respect for the principles of freedom and equal treatment for all members of society; in order to be recognized as a conscientious objector, a declaration setting out the individual's motives should suffice in order to obtain the status of conscientious objector; the length of alternative service should be allowed to exceed the duration of ordinary service only by half as much again to compensate for periods of reserve training by those performing military service.. and called on the Commission and the Member States to press for the right to alternative civilian service to be incorporated in the European convention for the Protection of Human Rights and Fundamental Freedoms, as a human right."

NGOs such as Amnesty International have repeatedly called for the release of conscientious objectors as prisoners of conscience.¹⁹

The Organization for Security and Co-operation in Europe declared conscientious objection a human right during its human dimension meeting in Copenhagen in 1990. The final document stated *inter alia*: "(18) The participating States

(18.1) - note that the United Nations Commission on Human Rights has recognized the right of everyone to have conscientious objections to military service;

(18.2) - note recent measures taken by a number of participating States to permit exemption from compulsory military service on the basis of conscientious objections;

(18.3) - note the activities of several non-governmental organizations on the question of conscientious objections to compulsory military service;

¹⁶ *Resolution 337 (1967), on the right of conscientious objection, Text adopted by the Assembly on 26th January 1967 (22nd Sitting)*, See also *Report, on the right to conscientious objection to military service* (Rapporteur: Mr Rodotà, Italy, Independent Left), 1403-28/1/93-1-E, Doc. 6752, 29 January 1993,

<http://assembly.coe.int/main.asp?Link=/documents/workingdocs/doc93/edoc6752.htm> *Recommendation 816 (1977), on the right of conscientious objection to military service, Text adopted by the Assembly on 7 October 1977 (10th Sitting)*, <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta77/EREC816.htm>

¹⁷ *No. 8/2000 Quaker Council for European Affairs (OCEA) v. Greece*, European Committee of Social Rights, Complaint No. 8/2000." Document number: E/CN.4/2002/WP.2, List of complaints and advancement of the procedure,

http://www.coe.int/t/e/human_rights/esc/4_collective_complaints/list_of_collective_complaints/default.asp#P280_30140

¹⁸ Both can be found at <http://www.ebco-beoc.org/page/1/inside/document/doc2eu.htm>

¹⁹ The *De Gucht Resolution, Resolution on respect for human rights in the European Community (annual report of the European Parliament)*, 11 Mart 1993 para 46-50.



(18.4) - agree to consider introducing, where this has not yet been done, various forms of alternative service, which are compatible with the reasons for conscientious objection, such forms of alternative service being in principle of a non-combatant or civilian nature, in the public interest and of a non-punitive nature;

(18.5) - will make available to the public information on this issue;

(18.6) - will keep under consideration, within the framework of the Conference on the Human Dimension, the relevant questions related to the exemption from compulsory military service, where it exists, of individuals on the basis of conscientious objections to armed service, and will exchange information on these questions."²⁰

Result

In recent years in Turkey there have been a small number of conscientious objectors who have publicly stated their refusal to carry out military service. However, they usually face criminal prosecution, leading to prison sentences of up to three years.²¹ Although the right to conscientious objection is an internationally acknowledged right there is no legal provision or practice that recognizes conscientious objection. COs are constantly at risk of being detained, arrested and/or tortured or ill-treated. One of the most important problems for situation of COs in Turkey is "**civil death**". This is a life time punishment. In case of *Ülke*, ECHR said that "*The clandestine life amounting almost to 'civil death' which the applicant had been compelled to adopt was incompatible with the punishment regime of a democratic society.*"²²

The Human Rights Agenda Association wants to openly express that it protests against all kinds of pressure and demoralization of COs and invites the State of the Turkish Republic to implement legal provisions that allow for conscientious objection in line with international documents.

Respectfully...

HUMAN RIGHTS AGENDA ASSOCIATION

²⁰ Conference for Security and Co-operation in Europe, Second Conference on the Human Dimension of the CSCE, Copenhagen (1990), Document of The Copenhagen Meeting of The Conference on The Human Dimension of The CSCE, <http://www1.umn.edu/humanrts/osce/basics/copenhagen1990.html> web sitesinde mevcuttur.

²¹ URGENT ACTION / Turkey: Possible prisoner of conscience: Osman Murat Ülke, Amnesty International, 26.07.2007, PUBLIC AI Index: EUR 44/015/2007, 19 July 2007, UA 186/07 Possible prisoner of conscience

²² ECHR Decision, *Ülke v. Turkey*, Application Number: 39437/98, 24.01.2006.