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internacional de resistentes a la guerra
internacio de militrezistantoj



Mehmet
loves
Barış

Documentation:
Conscientious objection in
Turkey



Editorial

On 8 April, early in the morning, Turkish police arrested Mehmet Tarhan, a known gay activist and conscientious objector. This is the third arrest of a conscientious objector since the release of Osman Murat Ülke from prison, and again it is not clear whether Mehmet Tarhan has been arrested "by mistake", or if this marks a change of policy.

This documentation is a collection of documents related to conscientious objection in Turkey, and has been put together by War Resisters' International in a hurry. It documents the case of Mehmet Tarhan, who is presently in prison, and the earlier cases of Mehmet Bal (arrested in October 2002) and Halil Savda (arrested on charges of desertion in November 2004). In addition, this documentation includes information on the legal framework governing military service and conscientious objection in Turkey, and looks back at the history of the Turkish antimilitarist movement.

Last but not least we include documents of international institutions which dealt with the issue of conscientious objection in Turkey.

It is presently not known if Mehmet Tarhan will share the fate of Osman Murat Ülke, who went through a vicious cycle of arrest, sentencing, and re-arrest. After 2 1/2 years in prison he was released, but is presently in a legal limbo, factually being a deserter but practically not being searched for. Mehmet Tarhan refused to be discharged on grounds of his homosexuality - which might seem as an easy way out, but Mehmet Tarhan refused to accept it, as he sees it as discrimination based on sexual orientation (and rightly so). The second arrest of Mehmet Tarhan after the trial on 9 June marks the beginning of a vicious cycle of trial, prison, release, and arrest - nobody knows for how long.

Mehmet Tarhan is only one of some fifty declared conscientious objectors in Turkey. What is happening to Mehmet Tarhan could happen to anyone of them: arrest early in the morning, transfer to the military recruitment office, and subsequently to the military unit, and then trials - who knows for how long. Not only does Turkey not recognise the right to conscientious objection, it also violates international law in trying conscientious objectors repeatedly for the same offence - a vicious cycle with an unknown end. However, only very few conscientious objectors get arrested in practice - most live quite openly - with the daily threat of being arrested at any time.

For these reasons it is important that Mehmet Tarhan and other conscientious objectors in Turkey receive our support and solidarity. It is important that the Turkish authorities have to realise that they can no longer avoid facing the issue of conscientious objection.

Otherwise, there will be more cases such as Mehmet Tarhan, Halil Savda, Mehmet Bal, and Osman Murat Ülke.

Special thanks go to Ugur Yorulmaz for providing most of the pictures used in this documentation, and keeping us updated on new developments.

Andreas Speck, 22 June 2005

Mehmet loves Barış Documentation: Conscientious objection in Turkey

This documentation has been compiled by War Resisters' International. It can be downloaded from the WRI website (www.wri-irg.org), and can be freely distributed. Special thanks go to Ugur Yorulmaz, to the Quaker Council for European Affairs (QCEA), and to all others who provided the documents for this documentation.

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TURKEY:

Conscientious objector Mehmet Tarhan arrested

TK14724-080405 08/04/05 19:03

Turkish conscientious objector Mehmet Tarhan (TK14724) has been arrested today at 5am in the morning in a hotel in Başmane, a district of Izmir, where he went to work at a book fair. He was taken to a police station and held there until the military recruitment office opened. He was then brought to the recruitment office, and asked to sign papers to be sent to a military unit. Mehmet Tarhan replied: "You brought me here by force. I am a conscientious objector and won't sign anything." He was subsequently asked to write a statement that he is a conscientious objector. He replied: "I will not write or sign anything. You brought me here by force and you should solve the problem you created yourself." As a result, the former protocol was extended with a supplementary protocol, stating that he refused to sign both of them. In addition, the recruitment officers called for their superiors. Three higher officers appeared on the scene. While Mehmet Tarhan was until then allowed to sit in the garden and to smoke, he was now "attached" to a recruit, who was told that his service would be nullified if Mehmet Tarhan would escape. The recruitment office also called the police, and requested a squad to guard Mehmet Tarhan. Three police were assigned to that task. Later gendarmes (military police) were summoned to take over Mehmet Tarhan and to bring him to a military training unit in Tokat, to which he was hurriedly reassigned (he had originally been assigned to a military unit in Samsun). Mehmet Tarhan refused to cooperate, and was handcuffed and pushed into a car. It is not clear where he will be brought. Mehmet Tarhan declared that he is now on hunger strike.

War Resisters' International is concerned about the treatment of Mehmet Tarhan, and fears for his health and safety. He is at risk of physical abuse by the military police.

War Resisters' International calls for letters of protest to the Turkish authorities, and Turkish embassies abroad. Protest emails should be sent to the General Staff, email gnkur@tsk.mil.tr. A protest email can be sent at <http://wri-irg.org/co/alerts/20050408a.html>.

War Resisters' International calls for the immediate release of Mehmet Tarhan.

Andreas Speck
War Resisters' International

TURKEY:

Conscientious objector Mehmet Tarhan to be tried on 28 April

TK14724-150405 15/04/05 19:02

Turkish conscientious objector Mehmet Tarhan will be tried in the military court of Sivas on 28 April 2005, 9:00am. As reported in an earlier co-alert on 8 April (see <http://wri-irg.org/news/ht-docs/20050408a.html>), Mehmet Tarhan had been arrested on 8 April 2005 early in the morning. He was then brought to a military unit in Tokat, accompanied by military police. Because Mehmet Tarhan is refusing to co-operate in any way, he was then transferred to the military prison in Sivas. Mehmet Tarhan is a gay and anarchist activist. He declared his conscientious objection on 27 October 2001, and continued anti-war activities in public ever since, without going into hiding. Mehmet Tarhan is now being charged with Article 88 Turkish Military Penal Code (TACK), "Insubordination in front of the unit". This charge carries a penalty between 3 months and 5 years imprisonment.

More information and pictures of Mehmet Barhan can be found at <http://www.savaskarsitlari.org/mehmettarhan/>. Most of the information is in Turkish though.

War Resisters' International calls for a continued campaign of protest letters and email to the Turkish authorities, and Turkish embassies abroad. A protest email to the General Staff headquarters can be sent at <http://wri-irg.org/co/alerts/20050408a.html>. Vigils and demonstrations in front of Turkish consulates and embassies can also be effective. A list of Turkish embassies abroad can be found at <http://www.mfa.gov.tr/MFA/Ministry/TurkishRepresentations/searchRepresentatives.htm>.

War Resisters' International calls for the immediate release of Mehmet Tarhan.

Andreas Speck
War Resisters' International

TURKEY:

Conscientious objector Mehmet Tarhan transferred to hospital by force - forcefully undressed and forced to wear uniform

TK14724-200405 20/04/05 17:24

Turkish gay conscientious objector Mehmet Tarhan was today transferred to the Sivas Military Hospital by force, where he was undressed and forced to wear a military uniform. He has also been attacked by other prisoners, who had been told that "a terrorist" would be sent to the hospital. Mehmet Tarhan was transferred to the military hospital following an order of the General Attorney dated 19 April 2005. The hospital is asked to produce a report on his homosexuality, which the Turkish military - in contradiction to international standards - views as an illness, which would allow the military to discharge Mehmet Tarhan from military service. In his declaration of conscientious objection in 2001, Mehmet Tarhan rejected this option: "I perceive the unfit (or 'rotten') report given as a 'right' based on my homosexuality as an expression of the rottenness of the militarist system itself." Mehmet Tarhan's lawyers pointed out after a meeting with the attorney that any medical examination of Mehmet Tarhan against his will is a form of torture, and demanded that these unlawful practices be stopped immediately. It is expected that Mehmet Tarhan will be examined on Tuesday, 26 April, two days before his trial.

War Resisters' International calls for the immediate release of Mehmet Tarhan, and an immediate end to any medical examination against his will. War Resisters' International calls for Mehmet Tarhan to be treated as a conscientious objector. Any discharge for reasons of his homosexuality is a discrimination based on sexual orientation, and a violation of international human rights standards. War Resisters' International urgently calls for protest faxes to the Military Hospital in Sivas: +90-346-2253915

(Please write Hastanenin dikkatine (to the attention of the hospital) in big letters on the top)

Andreas Speck
War Resisters' International

TURKEY:

Trial against Mehmet Tarhan adjourned. New CO arrested

TK14724-14728-280405

The trial against conscientious objector Mehmet Tarhan (TK14724), who has been arrested on 8 April 2005 (see TK14724-080405 - <http://wri-irg.org/news/htdocs/20050408a.html>) has been adjourned to 26 May today. At the end of the trial, Sahin Ozbay (TK14728), who had declared his conscientious objection on 4 October 2004, was arrested. It is expected that he will be brought to the recruitment office and then transferred to "his" military unit, and will follow the fate of Mehmet Tarhan. The trial against Mehmet Tarhan has been adjourned to 26 May, so that the court can hear witness statements from 10 soldiers, who witnessed Mehmet Tarhan's "insubordination in front of his unit", according to Article 88 of the Turkish Military Penal Code (TACK). This charge carries a penalty between 3 months and 5 years imprisonment. The trial was attended by a group of Turkish supporters and conscientious objectors, and two international observers, who formed an international delegation organised by War Resisters' International. Tina Kemler from Germany and Eldad Zion from Israel reported on the arrest of Sahin Ozbay and the adjournment of the trial, and are presently discussing further action with the Turkish supporters.

War Resisters' International calls for the immediate release of conscientious objectors Mehmet Tarhan and Sahin Ozbay (1).

War Resisters' International calls for a continued campaign of protest letters and email to the Turkish authorities, and Turkish embassies abroad. A protest email to the General Staff headquarters can be sent at <http://wri-irg.org/co/alerts/20050408a.html>. Vigils and demonstrations in front of Turkish consulates and embassies can also be effective. A list of Turkish embassies abroad can be found at <http://www.mfa.gov.tr/MFA/Ministry/TurkishRepresentations/searchRepresentatives.htm>.

Andreas Speck

War Resisters' International

Notes:

(1) Sahin Ozbay was released in the afternoon of the same day.

TURKEY:

FEAR OF TORTURE / Conscientious objector Mehmet Tarhan abused by other prisoners

TK14724-240505

War Resisters' International fears for the safety of imprisoned Turkish conscientious objector Mehmet Tarhan, presently awaiting trial in the Military Prison of Sivas. As reported in an earlier co-alert on 8 April (see <http://wri-irg.org/news/htdocs/20050408a.html>), Mehmet Tarhan had been arrested on 8 April 2005 early in the morning. He was then brought to a military unit in Tokat, accompanied by military police. Because Mehmet Tarhan is refusing to co-operate in any way, he was then transferred to the military prison in Sivas. Mehmet Tarhan is a gay and anarchist activist. He declared his conscientious objection on 27 October 2001, and continued anti-war activities in public ever since, without going into hiding. Mehmet Tarhan is now being charged with Article 88 Turkish Military Penal Code (TACK), "Insubordination in front of the unit". This charge carries a penalty between 3 months and 5 years imprisonment. A first trial on

28 April 2005 was adjourned to 26 May, to call several soldiers from his unit as witnesses.

Meanwhile, Mehmet Tarhan is imprisoned in the Military Prison of Sivas, where he is facing death threats and abuse. Suna Coskun, Mehmet Tarhan's lawyer, reported on the abuse her client faces today. On arrival at the Military Prison in Sivas, staff sergeant Mustafa Selvi threatened Mehmet Tarhan with transfer to "Common Cell No 2", where the "wildest" prisoners are imprisoned. Later Mehmet Tarhan was ordered to enter "Common Cell No 1" on his own. The cell was dark, and the inmates (which Mehmet Tarhan could not see) ordered him to sit down on a chair next to the door. They started to ask questions. They wanted to know whether he was a terrorist or traitor, in which case they would kill him. Then the inmates started to beat Mehmet Tarhan, and insulted him because of his long hair. Prisoner Ertan Mertoglu showed his weapon to Mehmet Tarhan and threatened to kill him. This attack was ended by other prisoners. Mehmet Tarhan was then transferred to the dormitory, where a few moments later the same prisoners attacked him again. The beat him everywhere and pulled on his hair. The attack turned into an act of lynching. After 20 minutes, other prisoners again stopped the attack. After the attack in Common Cell No 2, the light bulbs in the cell were tightened again, so that the normal light in the cells was made to work again. This indicates that the attack had been prepared. Later, the prisoners who beat Mehmet Tarhan came to him and told him that staff sergeant Mustafa Selvi had told them that he was a terrorist, and "you know how you have to deal with him". They said that this was the reason they beat him. Mehmet Tarhan was then transferred to a single cell, but during each time Mehmet Tarhan left the cell, the prisoners Ertan Mertoglu, Hakki Dincel, Ersoy Özbulduk, and Ercan Kizilboga threatened him. They told him: "We could have killed you on the first day if we wanted. But we still can do it." Mehmet Tarhan was fearing of his life, and therefore did not tell anyone. But then the prisoners demanded first money, and later clothes, and telephone cards. On 29 April, the prisoners Hakki Dincel, Ersoy Özbulduk, and Ertan Mertoglu demanded 500YTL (about 290EUROS) and added he would know what to expect, if he would not pay. Mehmet Tarhan answered that he is unable to pay such an amount. One week later he submitted to the threats and handed over 300YTL to Ercan Kizilboga and Ertan Mertoglu. Then, his extortioners demanded clothes. On 9 May 2005 they demanded three black suits. To guarantee that he would deliver, they forced him to call his sister and listened during the phone conversation. On 11 May 2005, Emine Tarhan brought two black suits, shoes, ties, and shirts to the prison, which were handed over to Ertan Mertoglu by the prison authorities. Mehmet Tarhan's upper lip and the right side of his lower lip cracked as a result of these attacks. He is suffering ecchymosis at the chin, the neck, and other parts of his body. As a result of being beaten on his chest he suffered from breathing problems until 30 April. In the following days, he continuously lost hair. Because of being beaten on his knee, legs, and feet he suffered from ecchymosis there, and for a long time had difficulties standing up.

Mehmet Tarhan informed the prison authorities about the abuse on his first day. As the report above shows, the prison authorities did do nothing to stop the abuse, and actively encouraged other prisoners to abuse Mehmet Tarhan. After her visit on 19 May, Mehmet Tarhan's lawyer Suna Coskun alerted the prison authorities, and demanded an examination of Mehmet Tarhan, and a new lock for Mehmet Tarhan's cell. On 20 May, the prison authorities recorded the abuse, and promised to ensure his safety. However, War Resisters' International and Mehmet Tarhan's friends and lawyers still fear for his safety.

War Resisters' International urgently calls for letters of protest to the Turkish authorities, and Turkish embassies, demanding from the Turkish government to ensure the safety of Mehmet Tarhan. Letters should be addressed to the Turkish President, Ahmet Necdet Sezer, email cumhurbaşkanligi@tccb.gov.tr. A protest email can be sent at <http://wri-irg.org/co/alerts/20050524a.html>.

War Resisters' International appeals to international organisations to pressure Turkey to ensure the safety of Mehmet Tarhan.

Andreas Speck

War Resisters' International

TURKEY:

13 arrests at trial of conscientious objector Mehmet Tarhan / trial adjourned to 9 June

TK14724-14738-14739-14740-260505 26/05/05 12:13

13 antimilitarists and conscientious objectors were arrested in Sivas following the trial of conscientious objector Mehmet Tarhan. The trial began early in the morning, and Mehmet Tarhan clearly showed signs of physical abuse - he had bruises all over his body, and could not walk well because of the ongoing abuse (see <http://wri-irg.org/news/htdocs/20050524a.html>). Mehmet Tarhan's lawyer asked for Mehmet Tarhan to be acquitted, but the judge adjourned the trial to 9 June. Presently, War Resisters' International is again considering an international delegation for the trial. After the trial, the police arrested three conscientious objectors: Erdem Yalcinkaya (TK14738) declared his conscientious objection together with Mehmet Tarhan on 27 October 2001, Mustafa Seyhoglu (TK14739) declared his conscientious objection on 24 January 2003, and Ersan Ugur Gor (TK14740) declared his conscientious objection on 15 May 2004, during the militarism festival in Istanbul. They are presently held at the police station in Sivas, and it is feared that they will be brought to the recruitment office, and from there to their military units, and to military prison. Other activists tried to block the police, to prevent the police from pushing the arrested conscientious objectors into the police van. The police violently broke up the nonviolent blockade, and arrested ten antimilitarists under charges of "assaulting the police". These 10 antimilitarists are presently also held at Sivas Police station.

War Resisters' International is very concerned about the recent developments in Turkey. War Resisters' International calls for urgent protest faxes and emails to: General Staff of the Turkish Military: Fax +90-312-4250813 Presidency of the Turkish Republic: Fax +90-312-4271330, email cumhurbaskanligi@tccb.gov.tr Sivas Military Prison: Fax +90-346-2253915 A protest email to the Turkish President Ahmet Nezet Secer can be sent at <http://wri-irg.org/co/alerts/20050526a.html>.

War Resisters' International calls for the immediate release of all arrested conscientious objectors and antimilitarists.

Andreas Speck
War Resisters' International

TURKEY:

All arrested activists released / 4th CO briefly arrested

TK14724-14738-14739-14740-270505 27/05/05 12:19

During the night all activists who remained in police custody were released. The three conscientious objectors Ersan Ugur Gor, Erdem Yalcinkaya, and Mustafa Sehoglu were brought to the recruitment office, which was opened especially to deal with them. At the recruitment office their ID cards were taken, and they were told to come back in the morning, when they would be given back their ID cards. They were then released. During the night, a fourth conscientious objector, Hasan Cimen, who was sleeping in a car in front of a friends house, was briefly arrested by police. He too was brought to the recruitment office in the middle of the night, and was released with the order to report to the recruitment office in the morning. His ID card was also taken

June 10th 2005

To Whom It May Concern,

I am writing in deepest support and solidarity of Mehmet Tarhan, who has been held



in custody since April 8th in the military prison of Sivas. It has been brought to my attention, as well as to the attention of countless people around the world, that Mr. Tarhan has been detained in deplorable and inexcusable manner and action. Specifically I am referring to the vicious acts of brutality carried out by other prisoners but ultimately brought on with the encouragement and allowance of prison guards who incited the violence by telling prisoners he was "a terrorist".

As Mehmet Tarhan's trial is underway the entire process will be scrutinized by people around the world. If justice were truly to be served Mr. Tarhan would not even be facing trial, but as it is those who have carried out and encouraged violence against him must be held accountable. Anything less would be outrageous and irresponsible.

As a conscientious objector and a gay man who served a 6-month prison sentence in military prison for publicly refusing to participate whatsoever in the war, I have an especially strong connection with what Mehmet is going through. Although my situation was not justified or ideal I certainly was not put through what he has been put through, and he has not even been convicted. Unless his trial results in immediate release from prison, complete recognition of his conscientious objector status, and total discharge from military duty, thousands will rally against the injustice that has been served.

When I was serving my prison sentence I received thousands of letters of support from around the world including letters from Turkey. If Mehmet is unjustly sent to prison after his trial, he too will receive worldwide support and his safety will be of the utmost concern. To him and to those who surround him I offer this quote by Martin Luther King Jr;

"Cowardice asks the question - is it safe?
Expediency asks the question - is it politic? Vanity asks the question - is it popular?
But conscience asks the question - is it right?
And there comes a time when one must take a position that is neither safe, nor politic, nor popular but one must take it because it is right."

Mehmet Tarhan has already taken the position that is right, now it is up to you to decide whether or not to do so as well.

In Peace,
Stephen Funk

off him. Hasan Cimen declared his conscientious objection on 15 May 2000.

Mehmet Tarhan (TK14724) has been returned to the military prison after the trial, and began a hunger strike in protest against the abuse and mistreatment.

War Resisters' International is extremely concerned about these new developments.

War Resisters' International calls for urgent protest faxes and emails to: General Staff of the Turkish Military: Fax +90-312-4250813 Presidency of the Turkish Republic: Fax +90-312-4271330, email cumhurbaskanligi@tccb.gov.tr

Sivas Military Prison: Fax +90-346-2253915 A protest email to the Turkish President Ahmet Nezdet Secer can be sent at <http://wri-irg.org/co/alerts/20050526a.html>.

War Resisters' International calls for the immediate release of all arrested conscientious objectors and antimilitarists.

Andreas Speck
War Resisters' International

TURKEY: Conscientious objector Mehmet Tarhan released from prison - but not from the military

TK14724-100605 10/06/05 12:12

The trial session today of conscientious objector Mehmet Tarhan (TK14724) in Sivas in Turkey ended with a small surprise: the military judge ordered Mehmet Tarhan, who had been arrested in Izmir on 8 April, to be released. Mehmet Tarhan, who is charged with Article 88 TACK (insubordination in front of the unit) had to be released, so the judge, because he already spent two months in prison, which is about the time he would have to serve in prison if finally sentenced. The trial itself was adjourned, but the date of the next trial session is not yet known.

Mehmet Tarhan, who showed visible signs of physical weakness after suffering from abuse and threats by fellow prisoners and two weeks of hunger strike (which he started after the last trial session on 26 May, in protest against the authorities inaction following the reporting of the abuse), was transferred to the recruitment office, which decided to transfer him back to the military unit by military police. It is expected that he will be brought to Tokat today.

This means, the cycle of military order, refusal, prison and trial will start again immediately - a cycle, which is in violation of international legal standards. In the case of Turkish conscientious objector Osman Murat Ülke the United Nations Working Group on Arbitrary Detention decided in 1999 (Opinion 36/1999) that any detention of a conscientious objector after an initial detention following a first act of refusal is "arbitrary, being contrary to article 10 of the Universal Declaration of Human Rights".

Given the history of abuse and illtreatment of Mehmet Tarhan during his time in the military prison in Sivas, War Resisters' International is extremely concerned that this illtreatment will resume on Mehmet Tarhan's return to the prison in Sivas in the next days.

War Resisters' International calls for urgent protest faxes and emails to: General Staff of the Turkish Military: Fax +90-312-4250813 Presidency of the Turkish Republic: Fax +90-312-4271330, email cumhurbaskanligi@tccb.gov.tr Sivas Military Prison: Fax +90-346-2253915 A protest email to the Turkish President Ahmet Nezdet Secer can be sent at <http://wri-irg.org/co/alerts/20050526a.html>.

War Resisters' International calls for the immediate release of Mehmet Tarhan and all other imprisoned conscientious objectors.

Andreas Speck
War Resisters' International

TURKEY: Update on conscientious objector Mehmet Tarhan

TK14724-160605 16/06/05 12:32

Turkish conscientious objector Mehmet Tarhan (see previous alerts at <http://wri-irg.org/co/turkcampaign-en.htm>) has been returned to the military prison in Sivas following his "release" from military prison on 9 June. To summarise the events: At the trial session on 9 June, the military judge ordered Mehmet Tarhan, who had been arrested in Izmir on 8 April, to be released. Mehmet Tarhan, who is charged with Article 88 TACK (insubordination in front of the unit) had to be released, so the judge, because he already spent two months in prison, which is about the time he would have to serve in prison if finally sentenced. The trial itself was adjourned, but the date of the next trial session is not yet known. Mehmet Tarhan, who showed visible signs of physical weakness after suffering from abuse and threats by fellow prisoners and two weeks of hunger strike (which he started at the previous trial session on 25 May, in protest against the authorities' inaction following the reporting of the abuse), was transferred to the recruitment office. A decision to transfer him back to the military unit in Tokat was made by ASAL, the Central Office for Recruitment in Ankara, and Mehmet Tarhan was sent to Tokat on 10 June. He spent the weekend at the military unit, and was transferred back to Sivas on 13 June, where he spent one night at the military hospital, and was then sent back to the military prison in Sivas. This is not only a violation of the human right to conscientious objection, but also a violation of Article 14 paragraph 7 of the International Covenant on Civil and Political Rights (ICCPR): "No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure." In 1999, the United Nations Working Group on Arbitrary Detention already ruled against Turkey in the case of conscientious objector Osman Murat Ülke that every detention following an initial detention is arbitrary, and called on the Government "to take necessary steps to remedy the situation so as to bring it into line with the principles set forth in the Universal Declaration of Human Rights." (Opinion 36/1999) That the Turkish authorities, 6 years later, again ignore these basic principles of human rights highlights their ignorance of human rights.

Mehmet Tarhan is still on hunger strike, demanding his safety in prison and a treatment equal to other prisoners - for example, he receives letters late or sometimes not at all. He is now in the third week of his hunger strike.

War Resisters' International calls for letters of support to Mehmet Tarhan. Mehmet Tarhan
5. Piyade Egitim Tugayi
Askeri Cezaevi
Temeltepe - Sivas
Turkey

War Resisters' International calls for urgent protest faxes and emails to:

- General Staff of the Turkish Military: Fax +90-312-4250813
- Presidency of the Turkish Republic: Fax +90-312-4271330, email cumhurbaskanligi@tccb.gov.tr

A protest email to the Turkish President Ahmet Nezdet Secer can be sent at <http://wri-irg.org/co/alerts/20050616a.html>.

- Sivas Military Prison

5. Piyade Egitim Tugayi
Askeri Cezaevi
Temeltepe - Sivas
Turkey
Fax +90-346-2253915

- Central Office for Recruitment Ankara
MSB ASKERALMA DAİRESİ BASKANLIGI
06100 BAKANLIK LAR/ANKARA
Fax +90-312-4193674

email msbasal@asal.msb.gov.tr

A protest email can be sent at <http://wri-irg.org/co/alerts/20050616a.html>.

irg.org/co/alerts/20050616b.htm .

War Resisters' International calls for the immediate release of Mehmet Tarhan and all other imprisoned conscientious objectors.

Andreas Speck, War Resisters' International

TURKEY:

Update on Conscientious Objector Mehmet Tarhan / hunger strike ended

TK14724-220605

Turkish Conscientious objector Mehmet Tarhan, imprisoned at the military prison in Sivas, ended his hunger strike in the morning of 21 June 2005. He began the hunger strike on 25 May 2005, in protest against maltreatment in the prison and the inaction of the prison authorities to protect him. After 28 days of hunger strike, the prison authorities accepted his demands.

Mehmet Tarhan said in a press statement, made with the help of his lawyer Suna Coskun, that he had chosen to end his hunger strike after the prison management had chosen to accept his conditions. After his release from prison on 9 June, Mehmet Tarhan was returned to the military unit in Tokat, and then back to the military prison in Sivas (see the last update from 16 June: <http://wri-irg.org/news/htdocs/20050616a.html>).

The prison authorities accepted Mehmet Tarhan's demands for equal treatment. As he is in a cell of his own (to protect him from abuse by other prisoners), he is given a TV, is able to make his own tea, has access to books and should receive his mail regularly. Yesterday, the prison authorities accepted his demand for an examination by civilian physicians, and yesterday morning to physicians from the Medical Association of Sivas examined Mehmet Tarhan in prison, and declared him of good health. The necessary treatment after the end of 28 days of hunger strike has begun.

In a separate development, the lawyers have been informed that the first hearing in the case of his second refusal to obey orders (after his "release" from military prison on 9 June) will be on 12 July at the Military Court of Sivas.

This is not only a violation of the human right to conscientious objection, but also a violation of Article 14 paragraph 7 of the International Covenant on Civil and Political Rights (ICCPR): "No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure." In 1999, the United Nations Working Group on Arbitrary Detention already ruled against Turkey in the case of conscientious objector Osman Murat Ülke that every detention following an initial detention is arbitrary, and called on the Government "to take necessary steps to remedy the situation so as to bring it into line with the principles set forth in the Universal Declaration of Human Rights." (Opinion 36/1999) That the Turkish authorities, 6 years later, again ignore these basic principles of human rights highlights their ignorance of human rights.

War Resisters' International calls for letters of support to Mehmet Tarhan.

Mehmet Tarhan
5. Piyade Egitim Tugayi
Askeri Cezaevi
Temeltepe - Sivas
Turkey

War Resisters' International calls for urgent protest faxes and emails to:

- General Staff of the Turkish Military: Fax +90-312-4250813
- Presidency of the Turkish Republic: Fax +90-312-4271330, email cumhurbaskanligi@tccb.gov.tr

A protest email to the Turkish President Ahmet Nezdet Secer can be sent at <http://wri-irg.org/co/alerts/20050616a.html> .

* Sivas Military Prison, 5. Piyade Egitim Tugayi, Askeri Cezaevi,

Temeltepe - Sivas, Turkey, Fax +90-346-2253915

* Central Office for Recruitment Ankara, MSB ASKERALMA DAIRESI BASKANLIGI, 06100 BAKANLIK LAR/ANKARA, Fax +90-312-4193674, email msbasal@asal.msb.gov.tr

A protest email can be sent at <http://wri-irg.org/co/alerts/20050616b.htm> .

War Resisters' International calls for the immediate release of Mehmet Tarhan and all other imprisoned conscientious objectors.

Andreas Speck
War Resisters' International

Statement on the trial of conscientious objector Mehmet Tarhan

Andreas Speck, War Resisters' International, Istanbul, 11 June 2005

I came to Turkey as part of an international delegation to observe the trial against conscientious objector Mehmet Tarhan in Sivas, on 9 June 2005. This was the second delegation organised by War Resisters' International, an international network with 80 affiliated organisations in 40 countries, since the arrest of Mehmet Tarhan on 8 April 2005, and the start of his trial for "insubordination in front of his unit" on 28 April 2005.

1. Mehmet Tarhan exercises his right to conscientious objection, as derived from Article 18 of the International Covenant on Civil and Political Rights (ICCPR), to which Turkey is a party. The fact that Turkey did not introduce any national legislation to implement this right does not nullify Mehmet Tarhan's human right to conscientious objection -- it merely highlights the Turkish governments attitude towards human rights.

2. While in prison, Mehmet Tarhan was subjected to illtreatment and abuse from other prisoners, orchestrated by or at least tolerated by the prison authorities. The failure of the authorities to act on this immediately is of grave concern, and is a neglect of the authorities' responsibility towards persons in custody. On 26 May, Mehmet Tarhan began a hunger strike against the authorities failure to fulfil their responsibility to protect Mehmet Tarhan from abuse and illtreatment.

3. Although the court ordered Mehmet Tarhan's release from military prison on 9 June, the military authorities responded to this only by transferring him again to his military unit in Tokat, where the cycle of military order, refusal, and imprisonment will begin again. Within a few days, Mehmet Tarhan will be back in the military prison in Sivas, and a second trial will be opened. This is not only a violation of the human right to conscientious objection, but also a violation of Article 14 paragraph 7 of the ICCPR: "No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure." In 1999, the United Nations Working Group on Arbitrary Detention already ruled against Turkey in the case of conscientious objector Osman Murat Ülke that every detention following an initial detention is arbitrary, and called on the Government "to take necessary steps to remedy the situation so as to bring it into line with the principles set forth in the Universal Declaration of Human Rights." (Opinion 36/1999) That the Turkish authorities, 6 years later, again ignore these basic principles of human rights highlights their ignorance of human rights.

4. War Resisters' International will continue to work with Mehmet Tarhan's Turkish supporters, and with other European and international organisations, to highlight the situation of Mehmet Tarhan, and to fight for his release from prison and from the military. We will especially raise these issues with the relevant bodies of the European Union, to highlight Turkey policy of "doublespeak" on human rights, and to make sure that the treatment of conscientious objectors is an issue in the talks about Turkey's EU membership.

5. In the present situation, only the immediate release of Mehmet Tarhan from prison and from the military can be seen as in line with Turkey's commitment to international human rights standards. War Resisters' International therefore demands the immediate and unconditional release of Mehmet Tarhan.

Mehmet Tarhan: Public declaration of conscientious objection

On 27 October 2001, two antimilitarists from Ankara, Mehmet Tarhan and Erdem Yalçınkaya, declared their conscientious objection (to compulsory military service) at a press conference held at the Human Rights Association (IHD). The libertarian gay&lesbian group "Kaos GL", the "Initiative against War and Domination" from Istanbul and the IHD also declared their support for conscientious objection at the same venue.

A few hours later a group of (approximately 25) anarchists walked through the city center of Ankara, holding banners and chanting slogans. The unauthorized demonstration continued with the pronouncement of the groups' anti-war manifesto and ended without any detention or police intervention.

CO declaration of Mehmet Tarhan

The bombs that were thrown on the Afghan people just yesterday and will be thrown on the Iraqi people tomorrow are deceptively associated with the planes that crashed into the Twin Towers on September 11 and killed thousands, and with the armament of Iraq. Thereby the whole world is expected to join in these attacks. I curse every kind of violence and believe that joining or condoning violence will only result in new violent incidents and will make everybody complicit responsible for the subsequent traumas. I think that wars caused by power mongering states are first and foremost a violation of the right to live. The violation of the right to live 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.

I long for a humanity, which has left power scheming behind, has abandoned borders, is nonviolent, and lives in harmony with nature. The practical absence of such an existence does not necessitate dropping my struggle to promote it.

I don't believe in the necessity of the institution called the state and I don't feel loyalty to any state.

The state that claims me as its citizen wants to recruit me for its own sake, to turn me into a death machine, and to make me complicit in the crime against humanity that I have just discussed.. I won't let this happen and will preserve my beliefs. The report that classifies me as 'unfit' (or 'rotten') because I am gay and affords me the 'right' to exemption from military service is nothing more than a sign of the rottenness of the state itself.

As an individual I am determined not to serve any kind of military or other apparatus of any state. I would perceive it as an insult to myself and to humanity to offer an 'excuse' for not serving in the military and refuse therefore any state permission for adjournment or exemption.

In short, I totally refuse to serve in the military. And I appeal to everybody: Refuse military service; don't go through any bureaucratic process regarding draft and military service, refuse control mechanism of the state such as MERNIS1 and tax IDs, act in solidarity through nonviolent means.

- The way to stop war is to deprive it from its human resources.

- Any kind of violence is a crime against humanity.

Mehmet Tarhan



Mehmet Loves Peace/ Barış* !.. Freedom for Conscientious/Total Objector Mehmet Tarhan..!

April 17, 2005

Mehmet Tahrhan, a gay and a conscientious/total objector in Turkey, was taken into custody by police on April 8, 2005, in Izmir where he went to work in a book fair. He was handed over to the recruiting office and then to a gendarmarie outpost. Because he continues his disobedience, he is now being kept in a cell in a military prison.

Mehmet Tahrhan is a gay and an anarchist, who declared his conscientious objection on October 27, 2001 in the Ankara Human Rights Association. "War is a crime against humanity. I am therefore determined not to support any kind of war and to strive for the removal of all causes of war." Since then, without hiding himself or his address, he has continued his civil disobedience against war and militarism. We are extremely concerned that Mehmet Tahrhan, who has previously declared that he would never serve the war-machine, including the compulsory military service, was taken into custody and has since been kept in a cell during such a tense period when racist and ultra-nationalist discourses are on the rise in Turkey.

Military Service in Turkey

There is compulsory military service in Turkey.

There is no right for conscientious objection. Because the objectors refuse to perform compulsory military service, their civil resistance is responded to with arrest and imprisonment. The Turkish Armed Forces see homosexuality as a disorder, removing gay officers from their officers and preparing reports on gay soldiers. Homosexuals who are labeled by a report entitled "Psycho-Sexual Disorder: Homosexuality" are subject to spiritual and material discrimination and their rights in social and professional life are violated. Among all NATO countries, only Turkey's army sees homosexuality as a disorder. In Turkey, anarchists and Jehovah's Witnesses refuse to be recruited.

Militarist Culture in Turkey

There has always been sexism and homophobia in Turkey, a country with an all-pervading culture of masculinity and soldiery. Militarist organizations have always looked down on homosexuals, especially when it's about military service, labeled them with filing systems, making their life unbearable. Military organization is defined as a state of grace, which a homosexual can never reach.

The fact that military institutions, as the fortresses of masculinity and militarism, exclude women and homosexual men, does not mean they cannot fight, or manage to be soldiers. The exclusion of women and homosexual men is a result of the ideology of masculinity. This ideology, and the military, one of the strongest institutions backing it, degrades the homosexual individual, attacks his soul and personality because they see homosexuals as nothing but "faggots". Curse and despise.

Military psychiatry in Turkey provides a scientific basis for such an ideological approach to militarism. Military psychiatry in Turkey still refers to DSM II of the American Psychiatric Association. Thus, contrary to contemporary psychiatric literature, according to the military psychiatrist, homosexuality is a psycho-sexual pathology. Those who have this "pathology" will not be permitted to join the army, even when they wish to. If one is discovered to be a homosexual after his recruitment, the same approach applies. This time, the law of "unnatural sexual relations" is applicable.

Under this law, not only a soldier who has homosexual relations is discharged from the Turkish armed forces, but also the definition of this relationship is charged as being "unnatural"!

Nevertheless, the actual circumstances do not always conform to written rules. Those joining the army by hiding their homosexuality and those who are not gay but engage in same-sex intercourse in the army, are facts of life.

There are three approaches to these facts. To overlook, to neglect for the sake of protecting the honor of the unit, to exile



Mehmet Tarhan in handcuffs after his arrest

these people to separate places, and label and discharge those defining themselves as homosexual. Of these approaches, which is to be taken depends on the situation, the location and the officers involved.

Freedom for Mehmet Tahrhan!

Gay and conscientious objector Mehmet Tahrhan has made clear in his public declaration that he would not by-pass the "con-scription problem" through means of a "disabled" report that military psychiatrists would offer him because of his homosexuality. Conscientious objection should be a human right ! Stop custodies against conscientious objectors and free the objectors who are being held in military prison cells!

PRESS STATEMENT BY KAOS GL

* "Mehmet Loves Peace/Barış!"= A spontaneous slogan that came out from a "no war" meeting in Turkey. Anti-militarist heterosexuals use it with gay&lesbians. Peace/Barış both means "peace" and also a male name. Mehmet is a common male name and also an anonymous "soldier" name used in civilian and military arenas!

Source: <http://www.kaosgl.com/news/fullnews.php?id=43>

Mehmet Tarhan: Timeline of events

October 27, 2001

Mehmet Tarhan, declared his conscientious/total objection in the Ankara branch of IHD (Human Rights Association).

February 16, 2005

An investigation was opened on Mehmet and two of our other friends who read press releases at the "Conscientious Objectors/Total Objectors Rice Day" held on September 5, 2004 in front of Ankara Sıhhiye Military Base. Mehmet refused to supply a deposition.

April 8, 2005

The night he went from İstanbul to Izmir to work at the book fair in that city, he was arrested by the police on the grounds that he was a "roll call deserter" and was handed over to a military service processing office. Here, he declared that he is a conscientious/total objector, he refused to give any statement or sign any documents.

April 9, 2005

He was transferred to Tokat in the custody of soldiers. He was sent off from the bus station by a group of twenty anarchists and antimilitarists, who chanted "the greatest objector is our objector" [as opposed to "the greatest soldier is our soldier," a slogan used when people are sent off to military service in Turkey] and "Mehmet loves peace," amidst the confusion of onlookers.

April 10, 2005

He was handed over to the military unit in Tokat. He refused wearing a uniform, getting his hair cut and shaving his beard and moustache. He did not sign documents regarding military service.

On the same day, the press releases in İstanbul and İzmir (at the site of the book fair) announced that Mehmet Tarhan Solidarity Initiative was formed, that Mehmet is not alone, that his resistance is supported and that a long term campaign has begun.

The War Resisters International (WRI) announced via a press release that they are following up on this process and called for a support campaign.

April 11, 2005

Mehmet was arrested in Tokat on the charges of "insisting to disobey orders" and was transferred to Sivas Military Prison. When he was first brought to prison, he was beaten by a group of prisoners who were provoked by prison authorities.

April 14, 2005

Kaos GL (an LGBT advocacy organization) announced a written declaration and made a call to everyone to support Mehmet Tarhan.

April 16, 2005

A 40-50 strong group marched from Taksim to Galatasaray with the "Don't go to military" banner and made a press release, demanding the immediate release of Mehmet Tarhan and stressing that conscientious/total objection is a right. After the press release, the group sent solidarity letters to Mehmet from the Galatasaray post office.

April 18, 2005

The date of the trial was announced. Solidarity initiatives, declared that they were going to be in Sivas on April 28, and called everyone to action on the same day.

April 21, 2005

Mehmet was forcefully taken to the Military Hospital although he had declared many times that despite being gay he would not accept the "unfit"[the word is "rotten" in Turkish] report that the military offers as a so-called "right" and stated that this report reflects the "rotteness" of the militaristic system itself. Mehmet Tarhan Solidarity Initiative condemned the forced hospital stay with a press release and called for the immediate ceasure of this torture.

April 25, 2005

At the press release organized in Izmir, a call was made to attend the trial on April 28 and a letter of support was mailed to Mehmet.

During the march that began at Beşiktaş ferry station and ended at Moda, flyers were distributed both in Beşiktaş and Kadıköy, a call for Mehmet's immediate release was made and people were invited to attend Mehmet's trial. In addition to slogans, the march was also accompanied by a large portrait of Mehmet and a banner that read "Mehmet was bored, we are taking him for a walk."

The Association of Conscientious Objectors who rallied in front of the Turkish Consulate in Athens, called for the immediate release of Mehmet and the recognition of the right to conscientious objection.

April 28, 2005

Mehmet was tried with the charges of "insisting to disobey orders in order to escape military service." While the group consisting of 30 people from solidarity initiatives and international supporters, were there to attend the trial, some of the supporters were not allowed in the court room. As Mehmet repeated that he is a conscientious objector and that it is against law for him to be sued in a military court, his lawyers asserted that he is a civilian and a conscientious objector, that a civilian cannot be tried with disobeying orders and that conscientious objection is recognized as a right in international conventions.

The trial was adjourned to May 26 in order to listen to the testimony of 7 soldiers, and the imprisonment of Mehmet was continued. After the trial, a conscientious objector was taken in custody on the grounds of being a "roll call deserter" and was released the same day.

April 30, 2005

A press release was organized in İstanbul with the attendance of Mehmet's lawyer and international supporters. The press release evaluated the latest developments in Mehmet's case and the trial result.

May 1, 2005

In the May 1st rallies organized in İstanbul, Ankara, Izmir, Antalya and Malatya, banners about Mehmet were carried, flyers were distributed and slogans were chanted.

May 15, 2005

Mehmet Tarhan was one of main topics of the II. Traditional Militourism Festival held in Izmir. His resistance was supported with the slogans chanted and statements made at each stop. Before the new declarations of objection, Mehmet's support message from prison was read out. A giant letter was prepared and mailed to Mehmet.

Feminists from Ankara, made a written declaration calling all out to support Mehmet Tarhan.

May 24, 2005

Mehmet experienced intense repression and violence from

the moment he sat foot in prison. The previously unknown scale of the repression Mehmet was going through was announced via the press release organized by his lawyers in Ankara.

□ □ □

May 25, 2005

Mehmet's hair and beard were forcefully shaved with the prosecutor's order. Mehmet went on hunger strike to protest the violence he was subjected to in prison.

A press release was organized in Istanbul to protest the violence Mehmet was subjected to. After the press release, a banner that read "Free Mehmet Tarhan" was set on air with balloons. And it was announced again that the supporters would be in Sivas for the second trial.

May 26, 2005

The second trial was held. Again 30 people from the solidarity initiatives attended the trial. Because of the violence he was subjected to, Mehmet had difficulty walking, sitting and talking. For the testimonies of the soldiers to be completed, the trial was adjourned to June 9, 2005 and it was decided that Mehmet's imprisonment continue.

After the trial, the police tried to take three conscientious/total objectors in custody on the grounds that they were "deserters." The police attacked the group who put on a nonviolent resistance against their friends' arrest. After the scuffle, the police arrested 7 more people who went to the police station to see about their friends' condition. The group was first sent to the prosecutor and then to the court room with arrest warrants. The 7 people were released to be tried without arrest while the three objectors were taken to the military service processing office. The IDs of the objectors were confiscated and they were asked to show next day with photographs. Another objector was taken in custody that night and taken to the military processing office. He too was asked to show next morning at the office. The group left for Ankara in the early hours of the morning.

15 members of the European Parliament began a signature campaign demanding the release of Mehmet Tarhan, and the recognition of his right to conscientious objection granted by international conventions.

May 27, 2005

Mehmet was not sent to the forensic lab that he needs to be sent in order to document the torture he suffered, instead he was given a mock medical examination at the military hospital.

The Istanbul branch of Human Rights Association organized a press release in Galatasaray, demanding an end to the repression Mehmet Tarhan suffers and the recognition of this right to conscientious objection. After the press release, letters were sent to the Head of Chiefs of Staff and Sivas Military Prison.

DEH (Revolutionary Gay Movement) published a statement announcing their support of Mehmet's resistance and asserted that he is not alone.

May 28, 2005

100 people strong group that gathered in Taksim Square, marched to Harbiye Military Base accompanied by banners, slogans and music. During the march, they distributed flyers that call for Mehmet's immediate release and an end to the torture he is suffering. After the press release in front of the military base, the group marched back to Taksim on the same track.

The Kurdish-Turkish War Resisters Initiative (KTSKİ) and the German Peace Organization- United Conscientious Objectors (DFK-VK) organized a rally in Frankfurt in support of conscientious objector Mehmet Tarhan currently held in Sivas Military Prison.

In the rally calling for the closure of the Incirlik air base in Adana, Turkey, a group of antimilitarists carried banners that called for the immediate release of Mehmet Tarhan and distributed flyers that included the last developments and called for public awareness.

May 30, 2005

According to the latest information from the prison, Mehmet's exercise time was reduced to 5 minutes.

Ankara Mehmet Tarhan Solidarity Initiative, organized a press release in Ankara with 60 participants, relaying information regarding Mehmet and calling for his immediate release.

The Solidarity Initiative gathered in front of the Taksim subway station, and amidst music and slogans, distributed fried sweet dough to passers-by, saying "we're distributing the bites that wouldn't go through Mehmet's throat," in order to stress Mehmet's hunger strike. After distributing the fried dough, two members of the initiative had their heads shaved, to send to the locks of hair to the prosecutor who forcefully cut Mehmet's hair.

Lambda-Istanbul Gay Initiative, made a written statement calling all to support Mehmet Tarhan.

ÖDP [Freedom and Solidarity Party] made a press release, demanding for the legal adjustments to be made in Turkey towards the recognition of the right to conscientious objection, for Mehmet's security to be guaranteed and his immediate release..

World Tribunal on Iraq (WTI) suggested to dedicate a seat to Mehmet Tarhan on the 'Jury of Conscience' for the final Istanbul session of the tribunal on June 23-27.

June 6, 2005

The military prison in Sivas limits the visiting time of Mehmet Tarhan's lawyers to 20 minutes per day. On the protest of the lawyers, the military authorities give as reason that they cannot provide meeting facilities, and long meetings between Mehmet Tarhan and his lawyers would prevent other prisoners from using the facilities...

June 9, 2005

Third session in Mehmet Tarhan's trial for "insubordination in front of his unit". The judge orders Mehmet Tarhan to be released. Mehmet Tarhan is released from prison and transferred to the recruitment office in Sivas. The recruitment office receives an order from the Central Office for Recruitment in Ankara to transfer Mehmet Tarhan back to his unit in Tokat.

June 10, 2005

Mehmet Tarhan is transferred to the military unit in Tokat.

June 13, 2005

Mehmet Tarhan is transferred back to the military prison in Sivas. He spends one night at the military hospital in Sivas, before being transferred to the prison.

June 21, 2005

Mehmet Tarhan ends his hunger strike after 28 days.

Open letter of members of the European Parliament

25 May 2005

To the Turkish President, AHMET NECDET SEZER,
the Prime Minister RECEP TAYYIP ERDOGAN,
the Minister of Foreign Affairs and Deputy Prime Minister AB-
DULLAH GÜL,
the Minister of Justice CEMİL ÇIÇEK,
the Minister of National Defense VECDİ GÖNÜL,
the Minister of the Interior ABDULKADİR AKSU

We, the undersigning Members of the European Parliament, hereby express our deepest concern on the case of Mehmet Tarhan who is denied his right to conscientious objection, deriving from the International Covenant on Civil and Political Rights.

Mehmet Tarhan declared his conscientious objection on 27 October 2001 and continued anti-war activities in public ever since, without going into hiding. Therefore he is charged with „Insubordination in front of the unit“. According to Article 88 Turkish Military Penal Code (TACK), he is facing a penalty between 3 months and 5 years imprisonment.

He was arrested on 8 April and until now is imprisoned in the Military Prison of Sivas where he is facing death threats, severe abuse and blackmail attempts by other prisoners, those encouraged and supported by prison guards. Prison authorities did not react on Mehmet Tarhan's complaints. Only when his lawyer Suna Coskun demanded an examination, they would record the abuse. But still Mehmet Tarhan is target of threats and assaults.

Further on he was transferred forcibly to a military hospital where he was by violence undressed and forced to wear a uniform.

Due to the repeated and grave mistreatment, Mehmet Tarhan suffers from several health problems.

The first trial on 28 April 2005 was attended by an international delegation. The trial was adjourned to 26 May, to call several soldiers from his unit as witnesses.

We, the undersigning Members of the European Parliament, call for the immediate release of Mehmet Tarhan and for the exemption of Mehmet Tarhan from military service. As long as he is imprisoned, we fear for his health, and call on you to ensure that he won't be mistreated.

The arrest of Mehmet Tarhan, the abuse in the military prison and the charge against him are violations of the human right to conscientious objection, the human right on freedom of movement and the human right on freedom from cruel and inhuman treatment according to the Universal Declaration of Human Rights.

We also demand for the constitutional recognition of the right to conscientious objection. Conscientious objection is a human right, deriving from Article 18 of the International Covenant on Civil and Political Rights to which Turkey is a signatory.

Therefore we urge you to exert your influence and to take appropriate action towards the release of Mehmet Tarhan as well as of all imprisoned conscientious objectors and towards the recognition of the right to conscientious objection.

Signatures:

Adamos Adamou (MEP), Vittorio Agnoletto (MEP), Paulo Casaca (MEP), Richard Falbr (MEP), Helmuth Markov (MEP), Erik Meijer (MEP), Luisa Morgantini (MEP), Roberto Musacchio (MEP), Dimitris Papadimoulis (MEP), Tobias Pflueger (MEP), Miguel Portas (MEP), Miloslav Ransdorf (MEP), Heide Ruehle (MEP), Eva-Britt Svensson (MEP), Kyriacos Triantaphyllides (MEP), Sahra Wagenknecht (MEP), Gabi Zimmer (MEP)

<http://tobiaspflueger.twoday.net/stories/718884/>

DR. CAROLINE LUCAS

Green Party Member of the European Parliament
for the South East of England

Commissioner Olli Rehn
Commissioner for Enlargement
European Commission
Rue de la Loi, 200
Bruxelles 1049

9th June 2005

Dear Commissioner,

Re: Turkish conscientious objector

I am writing to bring to your attention the case of Mr. Mehmet Tarhan, a gay man and conscientious objector, who has been detained since 8 April in the military prison of Sivas, Turkey.

Mehmet Tarhan declared his conscientious objection on 27 October 2001 and has continued anti-war activities in public ever since, without going into hiding. Therefore, he is charged with "Insubordination in front of the unit". According to Article 88 Turkish Military Penal Code (TACK), he is facing a penalty between 3 months and 5 years imprisonment.

In prison, he has received death threats, severe abuse and blackmail attempts by other prisoners, often encouraged by prison guards. Prison authorities did not respond to Mehmet Tarhan's complaints: only when his lawyer Suna Coskun demanded an examination did they even record allegations of abuse. Due to this repeated and grave mistreatment, Mehmet Tarhan now suffers from several health problems.

The arrest of Mehmet Tarhan, his abuse in the military prison and the charges against him are violations of his human rights to conscientious objection, freedom of movement and freedom from cruel and inhuman treatment, as guaranteed by the Universal Declaration of Human Rights.

Today, on the day his trial is being held, I would like to remind you that adhering to international human rights instruments remains a condition of Turkey's accession to the EU, and that the case of Mehmet Tarhan demonstrates that Turkey is yet to reach an acceptable level of compliance with international standards.

I trust you will raise this case with the relevant Turkish authorities and seek their guarantee that, in future, all conscientious objectors will be afforded their human rights as guaranteed in international law.

I look forward to your response.

Yours sincerely,

Dr. Caroline Lucas
Green Party MEP for South East England

List of declared conscientious objectors

Date	Name	Place of Declaration	Date	Name	Place of Declaration
1 1990	Tayfun Gönül	İZMİR	28 2004, 15 May	Mahmut Elkiş	İSTANBUL
2 1990	Vedat Zencir	İZMİR	29 2004, 15 May	Cemal Karakuş	İSTANBUL
3 1993, 16 January	Aykut Temizer	İZMİR	30 2004, 15 May	Ersan Uğur Gör	İSTANBUL
4 1993, 16 January	Erkan Çalpur	İZMİR	31 2004, 15 May	Özhan Yıldız	İSTANBUL
5 1993, 16 January	Menderes Meletli	İZMİR	32 2004, 15 May	Yaşar Öner	İSTANBUL
6 1993, 16 January	Atilla Akar	İZMİR	33 2004, 15 May	Savaş Görgün	living abroad
7 1993, 16 January	Yusuf (Doğan)	İZMİR	34 2004, 15 May	Mustafa Nur Sezer	living abroad
8 1993, 16 January	Ahmet Nazım Hür	İZMİR	35 2004, 15 May	İnci Ağlagül	İSTANBUL
9 1993	Salih Askeroğlu	Cyprus	36 2004, 15 May	Ebru Topal	İSTANBUL
10 1993, March	Yavuz Atan	İSTANBUL	37 2004, 15 May	Yöntem Yurtseven	İSTANBUL
11 1994, 17 May	Gökhan Demirkıran	İSTANBUL	38 2004, 15 May	Nazan Askeran	İSTANBUL
12 1994, 17 May	Mehmet Sefa Fersal	İSTANBUL	39 2004, 15 May	Hürriyet Şener	İSTANBUL
13 1994, 17 May	Arif Hikmet İyidoğan	İSTANBUL	40 2004, 15 May	Zeynep Aslan	İSTANBUL
14 1995, 1 September	Osman Murat Ülke	İZMİR	41 2004, 27 June	Doğan Güzel	İSTANBUL
15 2000, 15 May	Uğur Yorulmaz	İSTANBUL	42 2004, 27 June	Sinan Dündar	İSTANBUL
16 2000, 15 May	Timuçin Kızılay	İSTANBUL	43 2004, 5 September	Ömer Sezer	ANKARA
17 2000, 15 May	Hasan Çimen	İSTANBUL	44 2004, 5 September	İmdat Şanlı	ANKARA
18 2001, 27 October	Mehmet Tarhan	İSTANBUL	45 2004, 5 September	İsmail Sabancı	ANKARA
19 2001, 27 October	Erdem Yalçinkaya	İSTANBUL	46 2004, 5 September	Salih Arıkan	ANKARA
20 2003, 22 January	Mehmet Bal	MERSİN	47 2004, 5 September	Hasan Akyürek	ANKARA
21 2003, 24 January	Erkan Ersöz	İSTANBUL	48 2004, 5 September	Levent Duranyan	ANKARA
22 2003, 24 January	Sertaç Girgin	İSTANBUL	49 2004, 23 September	Ceylan Özerengin	İSTANBUL
23 2003, 24 January	Emir Üner	İSTANBUL	50 2004, 04 October	Şahin Özbay	İSTANBUL
24 2003, 24 January	Mustafa Şeyhoğlu	İSTANBUL	51 2004, 28 October	Necdet Özaktın	İSTANBUL
25 2003, 15 May	Sami Serkan Kazak	İSTANBUL	52 2004, 26 November	Halil Savda	İSTANBUL
26 2003, 15 May	Ahmet Cem Öztürk	İSTANBUL	53 2004	Necati Balbay	İSTANBUL
27 2003, 20 November	Tuğkan Tuğ	İZMİR	54 2004, 18 December	Veli Akdağ	İZMİR

Conscientious objector subjected to ill-treatment and death threats from fellow inmates - Public Appeal

Amnesty International is concerned for the safety of conscientious objector Mehmet Tarhan who has been subjected to death threats and beatings by other prisoners since his imprisonment on 11 April and the delay in ensuring his safety by the prison authorities after the abuses were reported.

Mehmet Tarhan was detained in Izmir on 8 April 2005 and then imprisoned in the military prison in Sivas on 11 April where he has remained since then. He has been subjected to severe beatings and death threats by other prisoners since his imprisonment there. When Mehmet Tarhan informed prison authorities of the abuse no immediate action was taken to ensure his safety and the abuse reportedly continued. After his lawyer learned about the abuse, she raised her concerns for his safety with the prison administration and an investigation into the alleged abuse was opened and some action was then taken by the prison authorities to protect him.

On 27 October 2001, Mehmet Tarhan had publicly declared his conscientious objection to compulsory military service at a press conference in Ankara. He stated:

"I condemn every kind of violence 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." Since then he remained active in his anti-militarist activities. On 27 October 2004 he again publicly declared his conscientious objection.

A case was opened against Mehmet Tarhan and he is being charged with "insubordination", according to Article 88 of the Turkish Military Penal Code (TACK). This charge carries a penalty of between three months' and five years' imprisonment. The last hearing took place on 26 May and observers noted that there were signs of bruising on Mehmet Tarhan's body and that he was unable to walk properly. The next hearing has been adjourned until 9 June. Amnesty International considers Mehmet Tarhan to be a prisoner of conscience, prosecuted for his conscientiously-held beliefs, and calls for his immediate release. The organization also urges the Turkish authorities to introduce an alternative civilian service for conscientious objectors which is not discriminatory or punitive.

Background information:

In Turkey it is compulsory for all men between the ages of 19 and 40 to do military service for 15 months. (...) 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. They are usually subject to criminal prosecution.

Recommended action:

Please send politely worded letters to the Turkish authorities in English or your own language:

- o Calling for a thorough, independent and impartial investigation into the death threats and abuse Mehmet Tarhan has suffered and for the perpetrators of the abuses to be brought to justice;
- o Calling for an independent and impartial investigation into the reported failure of the prison authorities to immediately ensure Mehmet Tarhan's safety;
- o Urging the Turkish authorities to ensure that Mehmet Tarhan receives an independent medical assessment and treatment for injuries sustained while in prison;
- o Calling for the authorities to suspend all legal proceedings against Mehmet Tarhan;
- o Urging the Turkish authorities to release Mehmet Tarhan immediately and unconditionally;
- o Urging the Turkish government to establish an alternative civilian service, which is not of punitive length, for conscientious objectors.

AI Index: EUR 44/022/2005 8 June 2005

The case of conscientious objector Halil Savda

Halil Savda has a complex story. He spent several years in prison, sentenced on charges of "supporting an illegal organisation". He has been released on 28 December 2004, and is now living with his family, although he is supposed to be in the military.

TURKEY:

Conscientious objector Halil Savda arrested / fear or torture

TR14682-161204 16/12/04 17:18

War Resisters' International learned today that conscientious objector Halil Savda is presently held at the military unit in Corlu-Tekirdag for "insisting on disobedience". War Resisters' International fears for his wellbeing, and believes that he is in danger of illtreatment and torture. Halil Savda was born in Sirkak/Cizre in 1974, and graduated from primary school. In 1993, he was arrested and held for 1 month in Sirkak/Cizre, during which time he was tortured repeatedly. The State Security Court then charged him with "supporting an illegal organisation (the PKK - Kurdish Workers Party)". He was then sent to prison, and released in 1996. Upon release from prison, he was called up for military service. He first went to his military unit for basic training, but he did not report to "his" unit after his transfer at the end of basic training. In 1997, he was again arrested, and the State Security Court charged him with "membership in an illegal organisation (PKK)". The Adana State Security Court sentenced him to 15 years in prison. Following a change in the Turkish Penal Code, he was re-

leased from prison on 18 November 2004, and was sent handcuffed from prison to Antep Gendarmerie Station because of his desertion from military service. He was held for six days in a cell without a bed, only with a few blankets. The Army Officers did not allow him to see his family, and he was held in isolation for the six days. On 25 November, he was transferred to "his" military unit in Corlu-Tekirdag. There he declared that because of the torture he had to endure in 1993, he cannot serve as a soldier. In a letter to the Commander he declared himself a conscientious objector, and demands that Turkey finally recognises the right to conscientious objection. On 16 December, he was questioned at the Corlu Military Court. He was then formally arrested for "insisting on disobedience" and transferred from the military unit to Corlu Military Prison.

War Resisters' International believes that he is in acute danger of being mistreated or tortured. War Resisters' International therefore calls for protest phone calls to Corlu Military Prison (+90-282-6611781), pointing to the prohibition of torture and the right to conscientious objection. In addition War Resisters' International calls for protest emails to the General Staff, email gnkur@tsk.mil.tr. A protest email can be sent at <http://wri-irg.org/co/alerts/20041216c.html>.

War Resisters' International also calls for letters of support to Halil Savda.

Halil Savda
5. Kolordu
2. Askeri Cezaevi Bölüğü
Corlu/Tekirdag
Turkey

War Resisters' International calls for the immediate release of Halil Savda and all other imprisoned conscientious objectors.

Andreas Speck
War Resisters' International



Action in support of imprisoned conscientious objector Halil Savda on 18 December 2004

The case of conscientious objector Mehmet Bal

Mehmet Bal met Osman Murat Ülke in prison, and turned from someone who committed a murder into a conscientious objector. He was the first conscientious objector to be arrested after the release of Osman Murat Ülke, and was temporarily discharged for medical reasons. He too is presently in a legal limbo, and can be re-arrested at any time.

TURKEY: Conscientious objector arrested

TK12718-251002 25/10/02 17:32

Turkish conscientious objector Mehmet Bal presented himself to the army on Thursday, and was arrested immediately. Today he was transferred to the military prison in Adana. War Resisters' International is concerned about his safety, and therefore calls for protest faxes to the military prison in Adana. Adana 6. Kolordu Askeri Cezaevi

Adana, Turkey
Tel: +90-322-322 83 67
Fax: +90-322-322 81 36

Mehmet Bal is a unique case of a conscientious objector, and probably many will feel uncomfortable about this case. Osman Murat Ülke, Turkey's first conscientious objector who spent 2 1/2 years in prison from 1996-1999, met him in the Military Prison of Eskisehir. He wrote about him in a letter published in Peace News December 1999-February 2002 (in which he called him Ahmet). In this letter he describes the circumstances in his prison cell, which was lead by Ahmet. Osman Murat Ülke first encountered a boycott against him, but was released soon. He returned to the same cell soon, after being rearrested because of his conscientious objection. He writes: "This time my roommates were quite surprised, because they saw that my stay was not a coincidence. They realised that I was serious about conscientious objection and that I chose to be there. Ahmet had difficulty accepting this and so he started discussing this with me. After a while we came to the point of living peacefully together. "Although our thoughts were in conflict, he began to respect me, followed by a kind of friendship. Observing my behaviour in prison, Ahmet tried more and more to understand my principles. So we began to discuss, in a more relaxed way, ethics, religion, anthropology, history, nationalism, psychology and so on. He was reading the books my friends brought me and one day one of these books acted like an explosion inside him. "After nearly two years of knowing each other, his rate of change gets faster and faster. ..." Mehmet Bal (alias Ahmet) was imprisoned because of murder, and at the time Osman Murat Ülke met him in prison, he was a fascist. In March 1999 he was sentenced to lifetime imprisonment. Osman Murat Ülke describes his process of change above. About 4 month ago an amnesty granted by the Turkish constitutional court lead to his release, and he was immediately ordered to report to his military unit in Mersin. He went there and refused to bear arms. He then was allowed to serve in the library of the barracks. Four weeks ago he was granted holidays. During this time he decided not to continue to serve - even in the library - to declare his conscientious objection to military service.

War Resisters' International calls for support letters to Mehmet Bal: Mehmet Bal
Adana 6. Kolordu Askeri Cezaevi
Adana, Turkey

War Resisters' International calls for protest letters to the Turkish authorities, especially the Military Prison in Adana, and Turkish

embassies abroad. Please mention that you are concerned about Mehmet Bal's safety.

War Resisters' International calls for the immediate release of Mehmet Bal.

Andreas Speck
War Resisters' International

TURKEY: Conscientious objector Mehmet Bal arrested again

TK12718-230103 23/01/03 15:01

Turkish conscientious objector Mehmet Bal was arrested again yesterday. Three officers of JITEM, the secret service of the Turkish gendarmie, visited the place where he was staying, and demanded that he followed them. It could be observed that they left the house, and met a police van parked around the corner. There they had a discussion with the police, which didn't want to arrest Mehmet Bal. For a couple of hours his whereabouts were unknown - something even more worrying as JITEM is known for torture and unlawful executions. Later it was found out that Mehmet Bal was at the recruitment office in Yenisehir. Four lawyers went there and demanded to talk to him, which was only granted after two hours of discussion, and a phone conversation between the highest military prosecutor and the chairperson of the lawyers chamber. They were only allowed to see him for 10 minutes. Mehmet Bal declared himself a conscientious objector on 24 October 2002, and announced that he was not willing to continue to serve in the military. He presented himself on the next day, and was arrested (see TK12718-251002). He refused to wear a uniform, and was severely mistreated. In protest he started a hunger strike (see TK12718-011102). 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.

The whole process of his arrest is very unusual. Normally a deserter would be arrested by the police.

Mehmet Bal's situation is not yet clear. Mehmet is in good spirit, and decided not to eat for the time being - until his situation is clear.

War Resisters' International calls for letters of protest to the Turkish authorities, demanding the recognition of Mehmet Bal's human right to conscientious objection.

Andreas Speck
War Resisters' International

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TURKEY:

Conscientious objector Mehmet Bal released

TK12718-040203 04/02/03 13:05

War Resisters' International was informed yesterday that Mehmet Bal was released from military prison on 28 January 2003. This was a surprise to everyone involved in support of conscientious objectors in Turkey. As reported earlier, Mehmet Bal was arrested by Secret Service on 22 January 2003 (see TK12718-230103), and was then transferred to Adana military prison (see TK12718-240103). In Adana Mehmet Bal was interviewed by the military prosecutor, who carefully listened to Mehmet Bal's explanations. Bal said that he is a conscientious objector and does not see himself as a deserter. The prosecutor decided to start a trial, but without keeping Mehmet Bal in prison. He wanted to send him back to his unit, where he should get holidays, so that he would be able to spend the upcoming public holidays with his family. Back at his military unit in Mersin Mehmet Bal was accommodated in the officers' guest house. On Monday, 27 January, the commander gave order to transfer Mehmet Bal to the military hospital in Adana. There Mehmet Bal was asked to shave (to take a picture), and to fill in a questionnaire with 550 questions. Mehmet Bal refused both. As a result of this, the doctors gave him three months holidays to recover, because of "a social disturbance of his personality". He was ordered to report to the medical academy of the Turkish military in Ankara at the end of this three months period. On 28 January in the afternoon, Mehmet Bal was released.

It is still unclear why all this happened. Turkish activists think that the entire episode - arrest by Secret Service and release because of holidays for medical reasons - was planned. They expect that Mehmet Bal is supposed to be discharged for medical reasons after the three months period. Mehmet himself at present does not want to present himself after the end of his holidays, as he sees himself as a conscientious objector. It is likely that he will again be arrested in May, or later.

War Resisters' International will continue to monitor the case of Mehmet Bal. We thank all of you for your quick response and solidarity.

Andreas Speck
War Resisters' International

Mehmet Bal's declaration

I decided not to continue carrying out my military obligation, which I have been doing for 9.5 months, and to declare my conscientious objection as of 18/10/2002. Briefly, the reasons why I made this decision are as follows.

Militarism accepts destruction as method to solve problems due to its nature. By proposing some reasons which may make militarism acquitted, it tries to have the things, which it has done and will do, legitimized by the help of some laws in order to save itself from the results as well. While taking action, militarism works with the ruling class in a complete harmony in order to produce more benefit for both sides. This loop and harmony have continuity and the ones, who dare to damage this collaboration, are shut, punished even terminated. Whole history is full of such kind of events and every time the different version of same play is staged and played successfully. The situation created is so much clear and how individual tries not to see that, conscience appears every time by pointing out that the truth is undeniable. However, the sentiment, what we call is "common sense" and which makes the people convinced every time, wants people to ignore these situations and proposes several reasons to do so. It also proposes that it would be correct action to grab a role in this game. It is usually more attractive to choose what common sense offers, but in long period, the opposite will happen contrary to what was promised.

Another core aspect of militarism is obedience, which is unconditional. The path that takes human being to such kind of obedience is prepared carefully. Individual is forced to involve this process within the idea of defense of the country and the society, in which it is born. Individual is never asked to express him/her idea at all. Reasons are ready. The acts of people in these boundaries, which are drawn by authorities, are presented as if they are holy. The country in which you were born, even your parents have no suspicion on the holiness and correctness of them. They are ready to serve their children as victims for a reason put by someone. Actually, they already got their children prepared for such situations. Even there are some exceptions, apart from thinking over what happens, the vast majority of population cannot imagine what the opposite may be.

The damage of the wars caused by militarism and its allies are not limited to human being. What purpose could clear the responsibility of destroying the nature using nuclear or biological weapons? In fact, the owners of such weapons are already aware of the situation. It surely can not be thought that they are so stupid not to notice this dilemma.

Does not world's current situation reflect the dirty games mentioned above clearly? Everyone knows the fact that the truth underlying latest assault of US & its allies to Afghanistan under 9/11 excuse, and reason under recent Iraq scenarios is not the security. However, everyone is surrounded by common sense. I am curious that how people could accept a scene that will be consisted of bombed corpses? Is it not the truth that USA is gaining power due to insufficient protests with a few exceptions? As a matter of fact, people should not expect a pre-determined behavior from anyone in society; the decisions have to be a result of our inner voice. How "Big Brother" is able to say 'you are from us or not', so people should be able to decide in same exact manner, whether they have a willing for war or not. The ones, who have a typical warrior logic based on 'building by destruction', are directing their guns to another people now, there is no guarantee that I will not face the same gun's barrel in future.

Taking into consideration both painful experiences coming from my life and the observations that I obtained by living in a military environment for 9.5 months, I have understood that I can not deny the voice of my conscience any more. I am declaring my CO to the public and I state that I will not carry out any obligation dictated by military, civilian, local or universal authority or by any person, institution or structure, whatever the reasons are.

I would like to explain the progress shortly. I joined the military in May 1995 as 1975-2 period numbered conscript and was arrested on 9th of September 1995 as a result of an ordinary crime which has no political overtones. After 7 years in prison, I was released on 23 May 2002 and was transferred to the military directly. I had continued the service until 18 October.



Moreover, I have no intention to escape. I am going to go to the military unit for the last time and will give back my military ID and military belongings.

Mehmet Bal

The case of conscientious objector Osman Murat Ülke

Osman Murat Ülke was the first Turkish conscientious objector who was arrested for his conscientious objection. He burnt his military papers publicly in a press conference in Izmir on 1 September 1995, but was only arrested one year later. He spent more than two years in prison, and was charged and sentenced repeatedly. After 2 1/2 years in prison he was released, but again supposed to report to "his" military unit in Bilecik, which he did not do. He is presently living openly in Izmir, but is legally a deserter.

The documents about his case included in this documentation are only a few examples, and cannot give a complete overview. His "case" is also part of the legal documents, which are included in this documentation too.

9 October 1996

ISKD (Izmir Savas Karsitlari Dernegi - Izmir War Resisters' Association) President and Conscientious Objector Osman Murat Ülke has been arrested

Osman Murat Ülke was detained on 7 October, 1996, as a result of his declaration of conscientious objection more than a year ago. He is currently awaiting interrogation in Buca Prison, Izmir. Once the

interrogation has taken place, the military prosecutor will bring a new suit against him, standing to the Article 155 ("alienating people from military service") in the Turkish Penal Code. The article is used widely against war resisters. It not only violates the freedom of thought and expression, but also prevents the army and militarism from criticism.

It has taken over a year to arrest Osman, even though he has not been in hiding and has continued his everyday life. The written orders of the military prosecutor from Military Court of General Staff in Ankara, leading to his arrest on 8 October, 1996, were dated 5 September, 1995. They were received by the local police station on 1 October, 1996!

Izmir SKD believes that in a country where there is war, and basic human rights are violated systematically as a state policy, a conscientious objector would not be safe in the hands of the state and military forces. Three political prisoners were murdered as a result of state intervention in Buca prison less than one and a half years ago. The Turkish State must be held responsible for any inhuman treatment on Osman Murat Ülke, who is currently residing in that same prison.

Please send protest messages to the following fax numbers.

General Staff: + 99 - 312 - 418 53 41

Prime Ministry: + 99 - 312 - 417 04 76

Minister of Justice: + 99 - 312 - 417 39 54

Ministry of National Defence: + 99 - 312 - 324 46 27

IZMIR WAR RESISTERS' ASSOCIATION

Background Information

On 17 May 1994, Istanbul War Resisters' Association held a press conference against conscription, which led to the closure of the Association by the state, and the arrest of four people, including Osman Murat Ülke. That trial concluded on 29 August 1995. While his co-defendants were sentenced to between two and six months' imprisonment, Osman was taken to Cankaya Recruiting Office and enlisted as a conscript. The Recruiting Office allowed him to return home for two days to prepare, then requested him to report back on 31st August to the 9th Constable Sol-



dier Drilling Regiment in Bilecik, Bursa.

Instead, Osman held a press conference in Izmir on 1 September, 1995, International Peace Day. Here he declared his conscientious objection, and burnt his military pass.

Appendix:

The statement of Osman Murat Ülke, 1 September 1995 - the reason for his arrest

Good day. This press conference has not been organised by ISKD. I am personally responsible for this meeting.

As you know, the trial in the Ankara General Staff Military Court in which we were accused of "alienating people from military service" came to its conclusion on 29 August 29.

The Chairperson of the closed-down Istanbul SKD, Arif Hikmet İydoğan, was sentenced to six months in prison, university student Gokhan Demirkiran to four months, Mehmet Sefa Fersal to two months. I have been acquitted. But, during the trial, and although it was not related to the matter of the trial, the judge asked if we had gone to military service. As I admitted I had not, I was taken to Cankaya Recruiting Office.

The Army, unable to overpower us through jurisprudence, now deems necessary to distance the war resisters from public opinion with such an act.

Before all I am not a draft evader, but a conscientious objector. I neither think to escape nor to go to conscription. I have no reason to escape conscription, because I am in favour of people using their right not to be conscripted without having to hide.

According to the papers given by the Recruiting Office I am recognised as a conscript and it claimed that I should go to the 9th Constable Soldier drilling Regiment in Bilecik, on 31 August. As you see, I have not gone, I am here. Even though I cannot be called a draft evader, I consider it meaningless to go of my own accord. On the contrary, here and now, I will burn this Military Pass against which my own will rebels. In addition, I will burn the notification paper and give back the rest of the documents to the

state by mail. Perhaps they will need them. Also I will send back the 101.000 TL that was given to me by the Ankara Recruiting Office for transportation and food expenses.

I am not a soldier and I will never be. Of course I am aware that I will be taken by force. But until I am taken, there will be no change in my daily routine. They can find me here in order to take me by force. But I want to stress that I will resist in the barracks until the end and never perform military service.

Osman Murat Ülke
September 1, 1995
Izmir

Osman concluded his speech before the verdict on 29 August 1995 as follows:

"Our aim is not that conscientious objection become law: conscience cannot be restrained by laws. Our cause is to activate the self will-power of individuals against the war machine which clearly has no conscience."

Osman's original declaration of objection, 1994

In view of my deepest convictions and way of life, it is impossible for me to take part in military service or any other compulsory service.

Furthermore I refuse to acknowledge any kind of hierarchical authority. In my opinion the army is the clearest form of institutional power, which makes it a personal enemy I seek to combat and destroy. This is why I consider conscientious objection as the first step on the path I have to follow to preserve my self-esteem.

Turkey is based on an authoritarian culture that pervades all dimensions of life at work, in the private sphere, and -- especially strongly -- the political arena. It is therefore not surprising that a large part of

the population turns a blind eye to the war that Turkey is currently waging and continue in their way of life. The myth perpetuated about the role of soldiers as protectors of their country and fellow citizens from the outside enemy has turned them into one of the most commonly used instruments of oppression in their own country. I cannot say how big a difference I and those who think like me can make, but I do know that no coercive measure will ever force me to become a soldier.

Osman Murat Ülke is a conscientious objector to military service.

Following a military trial of Osman Murat Ülke on 29-8-95 in Ankara, Osman - although acquitted - was brought to the recruitment office to start his military service. He was given a military passport and a call-up to report on 31 August 1995 to the commander of the 9th Gendarmerie in Bilecik (province Bursa) for basic military training.

However, on 1 September 1995 he organised a press conference during which he publicly declared not to be a soldier and never to be one. (...)

On 7 October 1996, more than a year later, Osman was arrested because of the burning of his military papers. He was accused of violation of article 155 TCK that renders punishable 'every attempt to alienate the people from the armed forces'. This trial, before the military court in Ankara, has not come to a conclusion. After the first session on 19-11-96 Osman was released from military prison, but immediately brought to 'his' unit in Bilecik. In Bilecik, he again declared not to be a soldier nor to become one, and therefore refused to obey and order. He was then imprisoned and accused of disobedience (article 87/1 TACK). He was heard by the military judges on 11 December 1996.

The trial might lead to a prison sentence between six months and two years.

So now there are two court cases against Osman Murat Ülke.

1. Firstly, Osman is charged for 'alienating the people from the armed forces', an offense of article 155 of Turkish Penal Law (TCK).

He is accused because of publicly declaring that he is a conscientious objector. It is not the act of objecting itself, but the publicity that Osman has given to this act is an offense of article 155.

Therefore this trial can be seen as an attempt of the armed forces to limit the freedom of expression of Osman.

The next trial session in this case will be on 28 January 1997 in the military court in Ankara.

2. Secondly, Osman is charged for 'disobedience', an offense under the article 87 of Turkish Military Penal Law (TACK). In Osman's case also article 45 TACK is very important. This trial has great importance because Turkey has no provision for conscripts who have strong conscientious objectors against performance of military service. The United Nations have recognised the right to conscientious objection in Resolution 89/59 of the Human Rights Commission of the UN. The case of Osman is one of the first in Turkey in which a conscript with serious conscientious objections is tried because of refusal to perform military service. This case is therefore a test case to see to what extent Turkey has implemented international accepted standards into its legal system.

The next trial session will be on 30 January 1997 in the military court. It might be possible that this session cannot take place, due to procedural problems.

Bart Horeman, 30 DECEMBER 1996

Osman sentenced for "continuing disobedience"

Peace News No 2412, April 1997

Turkish war resister Osman Murat Ülke was sentenced to 5 months imprisonment on 6 March for "continuing disobedience in a military unit". When he completes his sentence at the beginning of April, he will again be taken to the 9th Constable Training Unit in Bilecik where he will again refuse to soldier and again be charged with "disobedience". And again sent back to Esiksehir Military Prison.

Meanwhile he is expecting a charge of "desertion" for not reporting for duty upon his release from military prison in December, and on 1 April Osman with 11 others will face trial under Article 155 for an anti-militarist declaration published in a book by the Turkish Human Rights Association.

While to the outside world, it must seem that Osman is trapped in a never-ending loop of punishments, Osman remains in good spirits, determined to resist, and several colleagues in the (now-banned) ISKD (Izmir War Resisters Association) are preparing to take the same path.

The German church group EAK (Evangelische Arbeitsgemeinschaft zur Betreuung der Kriegsdienstverweigerer) has awarded its Friedrich Siegmund-Schultze prize jointly to the Izmir War Resisters and to the Association of Greek Conscientious Objectors.

International support is vital to the ISKD strategy, so please write either a message of support to Osman or a protest to the Turkish embassy in your country, or preferably both!

15 May - International Conscientious Objection Day - will this year focus on Turkey. Anti-militarist groups in several countries have decided to focus on the situation in Turkey.

Turkey: from invasion to resistance

The constitution calls it "fatherland service" and requires all male Turkish citizens over 20 years old to do military service. Yet, despite the strength of Turkey's militarist traditions, for years there has been widespread avoidance of conscription.

It used to be official: anyone could have their military service reduced to a month's basic training simply by paying a "ransom". Others took advantage of the inefficiencies of Turkish bureaucracy or deferments such as those available to students. Somehow, even though their military registration number is included on their identity cards, the sons of the rich and influential seemed to find it especially easy to avoid doing military service.

However, since December 1993 the Turkish government, wanting to bring the undeclared war in the south-east (Kurdistan) to an end, has been taking measures to deal with its military manpower (sic) problems. Estimating there were 250,000 deserters and draft evaders, it issued an ultimatum: report by May or else face a prison sentence of up to three years, plus military service. According to official figures, only 50,000 reported, and so in February 1994 the "ransom" option -- set at 10,000 DM -- was restricted to Turks living abroad. Before long military service was lengthened, from 15 to 18 months.

At the same time, it has not wanted to tackle head-on anyone's determined refusal to fight. The first public objectors in 1990 were anarchists, Tayfun Gönül and Vedat Zencir. For Tayfun, "conscientious objection is a political act, a way of making the army debatable. In Turkey, for historical reasons, the army is taboo. Turkey was founded by military officers. That is why the use of force has a secure place in Turkish culture. The male has a dominant position, war heroes are idolised". Keeping the army above debate, the authorities charged him not with refusing to do military service, but under Article 155 of the Turkish Penal Code, "alienating the people from the military". Tayfun and Vedat were fined in 1990.

Founding of War Resisters' Association

They were two of the founders of Savas Karsitlari Dernegi (War Resisters' Association) in Izmir in December 1992. The group's aims were support for objectors and public consciousness-raising against the war. At the outset, SKD embarked on a strategy of confrontation. Within a month of its foundation, six members called a press conference to declare their objection. The authorities did not react. SKD then initiated a Peace Journey to Kurdistan, involving other non-governmental groups in Izmir, which in turn led to the Izmir Peace Platform -- a coordination of groups campaigning against the war. In July, without permission, the group hosted the International CO Meeting which also attracted anti-militarists from other parts of Turkey.

In Turkey, all associations are supposed to register with the government. In November 1993, the government refused to accept SKD in Izmir. This did not stop activity. Indeed in February 1994 a new Izmir SKD, with a new constitution, was launched and embarked on the lengthy process of registration.

After a TV interview about CO in December 1993, two SKD members -- Aytek Özel and Menderes Meltli -- were arrested for contravening Article 155, leading to a sentence of one year and 15 days for Aytek (Menderes went into hiding). At least ten peace activists, five journalists and a committee of a branch of the Human Rights Association have since been charged under Article 155.

The biggest case followed a press conference of the Istanbul SKD. Istanbul SKD had been set up in September 1993 with a somewhat different orientation to Izmir, less anarchist and more socialist, not united against all war but primarily against the war in Kurdistan. In May 1994, two days after International CO Day which had focused on Turkey, and two days before the government ultimatum to evaders expired, they called a press conference. Their president, Arif Hikmet İyidoğan, urged conscripts not to answer the call-up and demanded the right to CO in Turkey. Osman Murat Ülke stated that Izmir shared these views, and then three objectors declared that they refused military service. Arrests swiftly followed, of SKD members and of members of a German delegation, and Istanbul SKD was itself declared illegal. Arif, Osman, Mehmet Sefa Fersal and Gökhan Demirkiran were all charged under Article 155.

Held in Mamak Military Prison awaiting trial for over two

months, Arif was forced to wear military uniform, although he successfully refused military training. At one court hearing, however, he dramatically took off the military uniform, declaring that he would never become a soldier.

The case concluded over a year later, on 29 August 1995, when Arif was sentenced to six months, Gökhan to four, and Mehmet to two. Osman was acquitted as he had not been one of the organisers, but was straightaway taken to the recruiting office and ordered to join a military unit. Instead, on 1 September 1995, Osman burnt his military papers at a press conference, declaring "I am not a draft evader, but a conscientious objector".

Building solid structures

Throughout the period of this trial, Izmir SKD had been following a quieter, non-confrontational strategy to give their movement a sound basis. This meant building solid structures in Turkey and integrating with an international network; preparing the first COs "to go through fire and water"; and establishing CO as an independent concept that could not be hi-jacked by groups advocating class warfare or war for national independence.

Osman burning his military papers marked a new phase. Behind him are others, also prepared to go public and to take consequences of their objection. The days of evasion are not over, but perhaps the days of resistance have arrived.

The Broken Rifle No 37, November 1996
<http://wri-irg.org/pubs/pfp96-en.htm#Heading3>

Resisting militarism in Turkey

Serdar Tekin of ISKD (Izmir War Resisters) reflects on the impact that Osman Murat Ülke's well-publicised conscientious objection has had in Turkey.

In Turkey, all men over 20 are required to do 18 months of what the Constitution euphemistically calls "Fatherland service". Despite our country's strong militarist tradition, for years there has been widespread avoidance of conscription: by buying oneself out; by taking advantage of deferments; by evading the draft; or by deserting.

In 1990, however, for the first time a conscientious objector publicly announced he was refusing the draft. His friends and supporters followed his case anxiously. More objectors publicly followed suit. Most of them were not draft evaders, and they continued their political activities openly. They were judged in military courts, sentenced and imprisoned, but never officially on charges of conscientious objection. They were not even ordered to report to the military after serving their sentence and we started to think that it was the state's policy to ignore conscientious objectors, since it is well known that prisoners can become all too famous.

More than a year ago, however, Osman Murat Ülke ("Ossi") was arrested and the real examination of conscientious objection began. In ISKD (Izmir War Resisters), we became aware that the prison and military authorities - those responsible for oppressing him and attempting to break his resistance - also felt some respect towards him. Rather than simply criticising his opponents, Ossi was successful in explaining clearly the reasons for his action. His honest, decisive, and rational attitude made his time in prison a lot less difficult than we had expected, as did his high level of consciousness as a war resister - even in times of duress he knew what he could or could not accept.

CO and the Turkish left

For us, outside the prison, the first days were incredibly tiring and tense. We were concerned for his life, but discovered, with some surprise, that many people supported us. Even some leftist groups - which have traditionally been involved in violent and conspiratorial struggles - were impressed by his action and concerned about his fate.

But still they did not take up conscientious objection as one of their own struggles - for three essential reasons: firstly, we are against all wars; secondly, we advocate nonviolence (and for them, this means we are against revolutionary violence as well); and thirdly, they tend to misunderstand the concept of conscientious objection - viewing it as an individual resistance, rather than as an avenue for social change.

We believe that conscientious objection is not only a matter of nonviolent revolution, or a so-called "utopian idea", but also a matter of human rights, especially in a country where a war - against the Kurdish people - is still going on. So, we try to explain to other groups that we do not need to have identical political views to work together against the army - the institution most responsible for the militarisation of society and the violation of human rights. The development of conscientious objection and anti-militarism in Turkey will not just depend on the efforts of pacifists - it will also depend on the evolution of the left in general.

The general public

Ossi's case has had two main effects on the public: it has raised and explained the notion of conscientious objection; and it has made CO a practical option, something possible and marketable. It is not a heroic act from the past, but something that is going on now. And the actor is just one of us.

International solidarity

The support we have received from outside Turkey has been even stronger than we expected. This did not come entirely as a surprise, since we had been involved in international work for years. We were able to count on the support of the Alert Network in Germany and of the War Resisters' International (both from its groups and the central office). There were also the international

or European CO meetings and long speaking tours in several European countries. After one year it is still difficult to assess the full extent of international concern, but it obviously took the authorities by surprise. It certainly threw the director of the Mamak military prison into a right state of panic at the time of Ossi's hunger strike, shortly after his first arrest.

In the future each new arrest of conscientious objectors will necessitate the launch of new campaigns. But there are also other forms of international co-operation, covering other areas of the anti-militarist struggle, which could advance the CO movement here. For our part, we believe that the promotion of nonviolence for example through trainings and the publication of written material - will have a decisive impact on the future of anti-militarism in Turkey.

The Broken Rifle No 40, November 1997
<http://wri-irg.org/pubs/ptp97-en.htm#Heading14>

"To live is to resist" - letter from Ossi

Dear Peace News readers,

I'm Ossi. As many of you know I was imprisoned because of my conscientious objection to military service in Turkey. After my first imprisonment in October '96, I was released in December '96 and went back to court again in January '97 - to be imprisoned again. I got released in May '97 and went back in October '97. This was meant to be my last courtroom confrontation. But this time the recruitment office took the initiative and decided not to let me go free after the military court released me. So I was imprisoned again and again, until my lawyers managed to get me out on 9th of March this year!

During the two years I've spent in prisons, barracks and recruitment offices (as stop-overs during transportation) the legal situation hasn't developed much. I still "belong to the army", which means that I'm actually in the position of a being a deserter and could be imprisoned again at any time. On the other hand it seems that the military is not too keen on imprisoning me, because this would just carry on the confrontation-without breaking my will.

Many people might wonder if this story makes sense, if it's worth going through with all of this. Isn't this way of acting just martyrdom? Instead of working out political arguments, I would like to answer with a simple story taken from my daily life in prison.

When I first arrived in Eskisehir Military Prison in November '96, I was put in a community room (with a capacity for twelve persons). I was the only one who didn't wear a uniform (I refused and reminded the prison authorities of my previous hunger strike in Mamak Military Prison, Ankara). My room mates had been warned about me. After two days of getting known each other, silence fell all around me. Only one Islamist went on talking with me, but that's another story.

After a while I realised that there was an embargo against me and the main person responsible was the community leader. He was a convinced fascist and had already spent two years in prison for killing somebody (for economic reasons). Let's call him "Ahmet".

It was very difficult for me to live with this social stress. I was used to resisting the authorities, but how can you live in a small room full of people who don't want to share a single word with you?

Within one month I was released. However, I soon returned - as you know. This time my roommates were quite surprised, because they saw that my stay there was not a coincidence or something outside my will. They realised that I was serious about all that nonsense about conscientious objection and that I chose to be there. Ahmet especially had difficulties accepting this and so he started discussing it with me. After a while we came to the point of living peacefully together. Although our thoughts were contradictory, he began to respect me, followed by a kind of friendship. Observing my behaviour in prison, Ahmet tried more and more to understand my principles. So we began to discuss, in a more relaxed way, ethics, religion, anthropology, history, nationalism, psychology and so on. He was reading the books my friends brought me and one day one of these books acted like an explosion inside him. It was a basic introductory book about the history of Western philosophy. After that book, Ahmet's questions concerning anything you could imagine flooded through and out of him.

After nearly two years of knowing each other, his rate of change gets faster and faster. In one of our night-conversations he told me that this was only possible, because he trusted that I wouldn't try to indoctrinate him. So, step by step prison life also started to change. Ahmet was responsible for the twelve-man community, but didn't want to continue in that position. On the other hand everybody was used to living with this strict hierarchy. Ahmet couldn't withdraw, because we all knew that the situation would become worse. We-all together-slowly tried to create a more human and democratic atmosphere. That was quite difficult, because people who are used to being governed interpret

this as a sign of weakness. The outcome is often chaos, instead of democracy. On the other hand the prison authorities and warders always are always looking for chances to intervene and control life in the community rooms.

We haven't created a pure oasis, but at least reached consensus about externalising physical violence and things like that. But most important for me is to have known Ahmet, to have observed the process he has gone through. To have a real example of how somebody can change. When I was finally released, he had been in prison for four years and there were thirteen years left to go. Now I'm trying not to lose contact.

Of course this story is not the whole answer and I didn't decide to be a CO to get acquainted with somebody like Ahmet-but this experience and many others have shown me again and again that it is worth insisting on being your self and of following your will. I've never had the feeling that I've spent my time without purpose during my stays in prison. On the contrary, these years have made it once again clear to me: to live is to resist.

I would like to end with a few words to the Peace News readers and Amnesty International activists, who showed me their solidarity throughout these years. I never received your letters, but when it became clear that the army was interrupting the flow of letters coming my way, my group, the Izmir War Resisters' Association, started to collect them. In just three months more than 2.500 letters arrived in Izmir. Even though I couldn't read them, my friends told me about the flow. Upon release, one of the first things I did was to examine this mountain of post. I'll never finish them all! So, thank you very very much for being with me.

Yours,

Ossi

(Osman Murat Ulke)

The Broken Rifle No 44, November 1999
<http://wri-irg.org/pubs/pfp99-en.htm#pfp99oss>

Movement Lifeline of the Turkish Conscientious Objectors' Movement

1989: first public declaration of conscientious objection to military service (Tayfun)

1990: the second public declaration of a conscientious objector (Vedat) is linked to a campaign against conscription, which is covered by Günes and Sokak newspapers.

early 1990: Turkish intellectuals come out in support of this campaign, Tayfun and Vedat are sentenced by the State Security Court on the basis of § 155

1992: the International Conscientious Objectors' Meeting (ICOM) decides to hold its next meeting in Turkey

December 1992: Savas Karsitlari Dernegi (SKD - War Resisters' Association) is founded in Izmir

January 16, 1993: 6 men announce their conscientious objection, SKD holds a press conference in this context

July 10-17, 1993: ICOM meets in Turkey

1993: Salih Askeroglu from Cyprus announces his conscientious objection

November 8, 1993: SKD is disbanded by the governor of Izmir

autumn 1993: SKD Istanbul is founded

December 1993: Aytek Özel, chairman of SKD Izmir, is arrested. He is prosecuted on the basis of §155 because of a TV interview. Aytek spends two months in Ankara military prison.

February 1994: Izmir Savas Karsitlari Dernegi (ISKD) is founded

1994: campaign against military jurisdiction

1994: DEP tables a bill on conscientious objection

1994: SHP tables a bill to the effect that civilians may not be tried at military courts

May 17, 1994: on the occasion of the International Day of Conscientious Objection, SKD Istanbul holds a press conference in Istanbul. 17 people and 3 German observers get arrested. 4 Turks remain in detention and are tried at Ankara military court on the basis of §155. Initially the Germans are not allowed to leave the country, however after a trial in early July they are forced to leave. SKD Istanbul is banned.

August 29, 1995: Ruling of Ankara military court on the events of May 17: Osman Murat Ülke (Ossi) is acquitted, but at the same time conscripted into military service.

September 1, 1995: press conference and burning of conscription card by Ossi in Izmir

April 1996: first non-violent action training in Foca

October 3-6, 1996: series of seminars on anti-militarism held in Izmir

October 7, 1996: Ossi is arrested and taken to Mamak

October 1996: Ossi goes on a hunger strike against poor prison conditions autumn 1996: foundation of solidarity committees for Ossi in Istanbul, Izmir, Antalya and Ankara

November 1996: ISKD is again closed down by the governor of Izmir November 1996: first court proceedings against Ossi at Ankara military court. Ossi is represented by many lawyers. The trial is widely covered by the media until finally an enlarged general staff imposes press censorship. Protest faxes are organized to be sent to the commander in Bilecik (Ossi's unit) and the military court in Eskisehir.

December 27, 1996: trial at Eskisehir military court for renewed disobedience

March 6, 1997: court proceedings at Eskisehir military court: Ossi is sentenced to 5 months in prison

April 1, 1997: trial against ISKD and IHD (Human Rights Association) in Ankara on the basis of §155

May 29, 1997: trial in Eskisehir, Ossi is subsequently released

October 9, 1997: trial in Eskisehir: Ossi is arrested again and sentenced to 10 months in prison on October 23, 1997

early 1998: decision by the Enlarged General Staff that conscientious objection is not punishable, whereas incitement thereto is.

March 9, 1999: Ossi is released from prison

Source: A Movement Action Plan for Turkey? Documentation of a seminar in Sigacik from 4-8 April 1998, http://people.freeet.de/ask/map_turkey.html

May 18, 2000

Turkey: Three New Conscientious Objectors on Anti-Militarist Festival

On 14th of May, IAMI (Istanbul Anti-Militarist Initiative) organized an anti-militarist festival in Istanbul -for the annual of World Conscientious Objectors (15th of May). The festival was supported by anarchist groups from Ankara and Istanbul, ISKD (Izmir War Resisters Association), and ASKD Girişimi (Ankara War Resisters Initiative). There were also some guests from abroad -Germany and Italy. Legal permission for the festival was taken by ÖDP (Freedom and Solidarity Party).

The festival began with speeches on anti-militarism and conscientious objection (to do military service) and later three 'new' conscientious objectors (Ugur Yorulmaz, Timucin Kizilay and Hasan Cimen) declared their objections in front of the 800 people who had filled the auditorium. The festival continued on with songs of music groups making Turkish and Kurdish folk and rock music. Ankara Anarchists, ISKD, and Amnesty International sent their solidarity messages for conscientious

objectors. The following is the English translation of one of those objectors' declaration.

Why can't I be a soldier?

Governments never care about the way I feel, think and live. It is the governmental approach that forces me to be one of those billions of men who should do nothing but obey. I am asked for governmental service as a soldier; I am required to learn how to use guns and forcibly defend the state, of which I am claimed to be a citizen; I am asked for unconditional obedience and even killing and being killed.

My acceptance of this obligatory "military service" means my approval of this power elite regime for which I am not a decision maker but a subject. It means my whole-hearted guaranty that I will never make objections and I will not disturb "them" as long as I live.

However, for me, intersocial domination, states and their imaginary boundaries are major obstacles on humanitarian advance; armies are nothing but organized violence institutions responsible for protecting governmental and capital interests.

I always solved my problems by detailed discussing, analysis

and at worst by isolating the problem source. However, I have never used violence. I have always excluded myself from any form of hierarchy. I do not want to rule or be ruled anymore. I have always desired to live in a world where there are no classes, boundaries, states, and countries and where sharing outshadows exploitation. Current regime is not what I dream of, but it does not necessarily mean that I should accept your life style.

Your conscription for my military service means your call for my confidence in life, my dream for a free world and my hopes. All these belong to me and I will never give them to you. On grounds of these, I reject to complete military charge and serve for any states. I do not accept to make any legal defense in any suit to be brought against me due to my ideas and non-fulfillment of military charge; I call all people suffering from similar consequences for solidarity and nonviolent action.

Ugur Yorulmaz



'Militourism Festival' has been held!

This year on '15th of May - International Day of Conscientious Objectors' - an initial thing has been

done. Antimilitarists organized a 'tourist' trip to some of the well-known militarist symbols in Istanbul, tried to introduce historical and political features of these symbols to approximately 120 people traveling in 3 buses including those from the press and foreign guests. Meeting at 10 o'clock, at 11, participants sat on the stairs of Haydar Pasa Train Station which was the first stop and listened one of the organizers' Mehmet Tarhan's talk on historical feature of the station and later about the importance of it in the meaning of seeing soldiers off to the army. Afterwards they have watched a street theatre which was performed by Antimilitarists from Izmir on the theme of not joining the army. Before moving back to the buses, one of those who were to declare his conscientious objection, Ersan was thrown up as it is done in seeing soldiers off to the army and people shouted as "the greatest objector, our objector".

From here, getting back on the buses, under the "wide support" of cops, the convoy moved to Gata Military Hospital. However, in a junction, it was seen that a traffic vehicle that we were forced to follow wanted to channel us to another direction. In the junction we have blocked all the traffic and told them they don't have any right to do such a thing and declared that we will go on our way. As the result of a negotiation with Uskudar District Police Manager who has come to the bus -as it was told be-

fore by the lawyers that it is forbidden to make activity in front of military establishments, for sure we had an alternative against this situation- we would hardly agree on holding our activity in a park area between Gata and Selimiye. After the statement on Gata and Selimiye was read again by Mehmet, a box of apples including "rotten" was put there to be picked, this was more useful for the cops.

Moving from here, the convoy kept on its way, this time it made its way to Maslak to visit one of the important capitalists' of the local arm industry Nuro'l's Plaza.

Passing by the War Academies with buses, importance and properties of this symbol for the Militarist Deep State was explained by the 'guides' to those traveling in the buses. For sure, among the other things, exercise of learning music pieces that were to be sang together during the 'belly-dance' in Besiktas has been made with amusement in the buses. After a declaration was read, participants who has gathered in front of Nuro'l Plaza got on the buses again and moved towards Besiktas. Passing by General Directorate of Oyak and a petrol station owned by the Mehmetcik Foundation with buses, properties of these symbols of militarist structure were also described by the 'guides' to the participants. People gathered in the park which is nearby the Military Marine Museum in Besiktas in which there is a statue of Barbaros Hayrettin Pasa the greatest Kaptani Derya [Navy Commander] of the Ottomans' and historical cannons. In here

the cannons were both nicely "decorated" and exhibited, an article stating the importance of this panorama we are forced to live in every moment was read by Mehmet again.

Later, singing some the well-known cheerful soldier folk songs like "kiz ben sene demedim mi" people did belly-dance. Participants get really enjoyed it while they were posing for a photo of "Memory of Militourism" by putting their heads in a cardboard on which a soldier breaking rifle was caricaturized.

From here, getting back on to the buses the group went to a park field in Tepebasi. In the park field after the declaration that was read by Mehmet, 5 man and 5 woman new conscientious objectors took the word. After objection declarations of Savas from Canada and Mustafa from Germany - that of which

they have sent to www.savaskarsitlari.org - was read, with the participation of the objectors toy rifles were broken. In the evening meeting at 18.30, participants exhibited Conscientious Objectors with a cocktail in Doga Cafe.

[From the website of Savaskarsitlari (Warresisters) :
<http://www.savaskarsitlari.org/arsiv.asp?ArsivTipID=8&ArsivAnalID=19548>]

[This activity was organized by anti-militarist, anti-authoritarian and anarchist groups and individuals from Istanbul, Ankara & Izmir.]

[translation - b.ö./ainfos]



Conscientious Objectors and Total Objectors Pilau Day

Today (5th of Sep.) about 70 people met in "Conscientious Objectors and Total Objectors Pilau Day" activity at Danistay Park nearby Militaryhouse in Ankara-Sihhiye. Except a bus full of activists from Istanbul, there were also participants from Ankara, Izmir, Izmit, Denizli, Iskenderun, Germany, Israel and Slovenia. The most tragic event was two friends' of ours having a traffic accident on the way to Ankara from Zonguldak to join the action. We have learned that our friends had some bruises and broken bones; after taking medical treatment for a while both were discharged from hospital.

Meeting at Ankara Train Station at about 11 am, the group drew attention of civilian uncles [cops]. Following some talks we have had opportunity to make a release in Danistay Park. On the way civilian uncles did not leave us alone. At about 12:00 arriving the park we have seen that it was circled with 3 midibus full of cops [çevik kuvvet-agile force; a specific police force which is used against social protests]. Despite this we have entered the park and ate the pilau together while Mehmet Tarhan was reading the press release text. At first they did not let us to open "Con-

scientious Objectors and Total Objectors Pilau Day" banner but telling this is only the call of the activity it was hold open. The action finished right after Inci read the declaration text in the name of five of our physically handicapped friends and Levont Durançyan read his own objection declaration.

During the action there were some rumors about that cops were intended to arrest few people, however they have only noted ID info of those who have read the declarations. After the action, civilian dressed uncles followed us for a while and then they have finished up their working hours. The group that came from Istanbul went back by their bus after a few hours of resting. Among the interesting details of the day there were the park guard who did aggressive warnings about not stepping on the grass and flowers of the park and also vegans' not eating pilau that was made by consommé.

<http://www.ainfos.ca/04/sep/ainfos00099.html>



TURKEY

Conscription

Conscription is enshrined in Article 72 of the 1982 Constitution. Its further legal basis is the Law on Military Service (1111/1982) and Law for Reserve Officers and Reserve Military Servants (1076).

The length of military service is 15 months. University graduates may perform 8 months' military service, or 12 months if they are trained to become reserve officers. Certain professional groups (doctors, teachers, civil servants) may be permitted to perform special service.

All men between the ages of 19 and 40 are liable for military service. Men who have not fulfilled their military service by the age of 40 and who have not been legally exempt from service, may still be called up after the age of 40.

Students may postpone their military service up to the age of 29, or up to the age of 36 in the case of postgraduate students.

After completion of military service, reservist duties apply up to the age of 40.

Different military service regulations apply for Turkish citizens who are living abroad. They can postpone their service up to the age of 38, for a period of three years at a time. Turkish citizens living abroad may also partially buy themselves out of military service by paying a sum of 5,112 Euros. However, in this case they still need to perform a one-month military service.[1]

Turkish citizens who live abroad and who possess dual nationality may get legally exempt from service, on the condition that they lived abroad before the age of 18 and that they performed military service in another country. Exemption on this ground is only possible if the length of military service that has been performed in another country is considered to be comparable to the length of service in Turkey.[2]

Statistics

The armed forces comprise 514,000 troops including 391,000 conscripts. Every year, approx. 640,000 young men reach conscription age.

In recent years, the share of conscripts in the armed forces has been reduced by 17 per cent, mainly by reducing the length of military service. In 2003, the length of military service was reduced from 18 months. The Turkish government plans to increase the number of professional soldiers in the future, but it has no plans to abolish conscription.[3]

Conscientious objection

Legal basis

The right to conscientious objection is not legally recognized.

Although Article 24.1 of the 1982 Constitution guarantees the right to freedom of conscience, the Constitution does not widen this to include the right to conscientious objection to military service. In 1991, the Turkish Constitutional Court explicitly ruled that the freedom of conscience mentioned in Article 24 does not include the right to conscientious objection to military service.[4]

According to Article 72 of the Constitution: "Fatherland service is the right and duty of every Turk. How this service in the armed forces or public sector is carried out or is supposed to be carried out is prescribed by law". Thus the Constitution does, at least in theory, allow fatherland service to be a non-military service. However, Turkish legislation does not provide for a substitute service or for an unarmed military service within the armed forces.

The Turkish government has never considered introducing legislation on conscientious objection. A brochure published by the armed forces in 1999 in fact states: "In our laws there are no provisions on exemption from military service for reasons of conscience. This is because of the pressing need for security, caused by the strategic geographic position of our country and the circumstances we find ourselves in. As long as the factors threatening the internal and external security of Turkey do not change, it is considered to be impossible to introduce the concept of 'conscientious objection' into our legislation".[5]

The Turkish government has disassociated itself from the United Nations Commission on Human Rights Resolution 1998/77, which affirms the right to conscientious objection to military service as a legitimate exercise of the freedom of thought, conscience and religion as laid down in Article 18 of the Universal Declaration of Human Rights and Article 19 of the International Covenant on Civil and Political Rights. The Turkish government does not recognise the right to conscientious objection to military service as stated in these two international instruments.[6]

The Council of Europe and the United Nations have regularly called upon Turkey to legally recognise the right to conscientious objection. In March 2004, the Parliamentary Assembly of the Council of Europe stated that: "Despite Turkey's geostrategic position, the Assembly demands that Turkey recognises the right to conscientious objection and introduce an alternative civilian service".[7]

In another development, the European Court of Human Rights has recently admitted the case of Osman Murat Ülke, a CO who was sentenced to imprisonment in 1996 (see: Practice). His complaint to the European Court is mainly based on the claim that his arrest and imprisonment for conscientious objection are a violation of Article 9 of the European Convention, which guarantees the right to freedom of thought and conscience. He made his complaint in 1997, which was finally admitted in 2004. The admission of the case means that the Court will judge if conscientious objection is part of the right to freedom of thought and conscience as mentioned in the Convention.[8]

Practice

Since the 1990s, there are a small number of COs who publicly state that they refuse to perform military service for non-religious, pacifist reasons. The Turkish language actually makes a distinction between conscientious objectors (*vicdani retci*) and draft evaders (*asker kacagi*).

The first known Turkish CO was Osman Murat Ülke, a Turkish citizen who grew up in Germany and returned to Turkey. In 1995 he publicly declared that he was a conscientious objector and refused to perform military service. Since then, dozens of others have followed. Between 1995 and 2004 approx. 40 men have openly declared themselves as conscientious objectors, mostly by making a public statement or giving media interviews about their reasons for refusing military service.

COs may be punished under Article 63 of the Turkish Military Penal Code for avoiding military service. COs who attract media attention or publish articles about their refusal to perform military service may also be punished to between six months' and two years' imprisonment under Article 318 of the Turkish Criminal Code for "alienating the people from the armed forces". In 2004, a new Criminal Code was introduced (Law No 5237). Under the previous Criminal Code, "alienating people from the armed forces" was punishable under Article 155 with a similar term of imprisonment.[9]

In the past, there have been several cases of COs who have been sentenced under these two articles. The most well known case was Osman Murat Ülke, who was arrested in October 1996 and during the following years spent a total of 30 months in prison on several charges of disobeying orders. In some other cases, COs have been acquitted of the charges by military court.

In recent years, it appears that the Turkish authorities have refrained from harsh punishment of COs. This may have been caused by the fact that previous trials of COs attracted considerable (international) attention and the Turkish authorities may wish to avoid further attention for the issue of conscientious objection.

However, as long as there are no legal provisions for their right to conscientious objection, the legal position of COs remains vulnerable and they may still be subject to criminal prosecution.

In 2004 there were five known cases of COs. In May 2004, one CO was briefly arrested after he publicly declared that he re-

fused to perform military service. The police arrested him briefly, but subsequently released him again. So far, the police have not attempted to arrest him again. In October 2004, four COs publicly declared their conscientious objection.[10] In December 2004, one of them was arrested and held in military prison.[11] His case is believed to be still pending.

Previously, in 2003 one CO openly stated his conscientious objection. He was arrested in January 2003, but was released after some days pending trial. The military doctors gave him a three months' holiday to recover from what they diagnosed as "a social disturbance of his personality". His case is believed to be still pending.[12]

Apart from the secular COs mentioned above, some members of religious denominations who forbid their members to bear arms, in particular Jehovah's Witnesses, have also refused to perform military service. Members of Jehovah's Witnesses have regularly been sentenced to imprisonment under Article 63 of the Penal Code for avoiding military service. In recent years, Jehovah's Witnesses are reportedly regularly allowed to perform unarmed military service within the armed forces. They have complied with this.[13]

However, in some cases, members of Jehovah's Witnesses have still been sentenced to imprisonment. In 2003 and 2004, several Jehovah's Witnesses were imprisoned for not taking the military oath and/or refusing to carry weapons. They are usually sentenced to one month's imprisonment, after which they are released pending trial.[14]

Draft evasion

Draft evasion and desertion are widespread. The exact number of draft evaders is not known, but the number is estimated to be approx. 350,000.

Draft evasion is prompted by the risk of being sent to serve in South Turkey and poor conditions and human rights violations within the armed forces. There have been regular reports of Kurdish conscripts in particular being subjected to discriminatory treatment, especially when they are suspected of having separatist sympathies.[15]

For years, the Turkish armed forces have been involved in heavy fighting with the PKK in South Eastern Turkey. In 1999 a ceasefire was agreed between the Turkish government and the PKK, but the situation has remained tense ever since. All conscripts may be sent to serve in South Eastern Turkey as postings of conscripts are usually decided at random by computer. There is a sizeable group of conscripts of Kurdish origin who refuse to perform military service because they do not want to fight against their own people. Many Kurdish draft evaders have, in fact, left Turkey and applied for asylum abroad.

Draft evasion and desertion are punishable under the Law on Military Service and the Turkish Military Penal Code. Turkish law actually makes a distinction between evasion of military registration, evasion of medical examination, evasion of enlistment and desertion.

According to Article 63 of the Penal Code, draft evasion is punishable (in peacetime) by imprisonment of:

- One month for those who report themselves within seven days;
- Three months for those who are arrested within seven days;
- Between three months and one year for those who report themselves within three months;
- Between four months and 18 months for those who are arrested within three months;
- Between four months and two years for those who report themselves after three months;
- Between six months and three years for those who are arrested after three months;
- Up to ten years' imprisonment in the case of aggravating circumstances, such as self-inflicted injuries, using false documents (Articles 79-81 of the Penal Code).

Desertion is punishable under Articles 66-68 of the Penal Code with up to three years' imprisonment. Deserters who have fled abroad may be sentenced to up to five years' imprisonment, and up to ten years in case of aggravating circumstances (Article 67).

Monitoring of draft evasion and desertion is strict.[16] The registration of conscripts is, in fact, one of the most effective government registrations in Turkey. Draft evaders and deserters may be arrested after routine checks such as traffic control. They are not able to leave Turkey, as the military registration number is included on identity documents. In addition, police and gendarmerie authorities are responsible for finding draft evaders and deserters and may conduct house searches and arrest them.

There are no detailed figures available on the scale of prosecution of draft evaders and deserters, but military courts are believed to deal with approx. 60,000 cases per year that are connected to draft evasion. About half of these cases reportedly deal with cases of conscripts going absent for less than a week, mostly conscripts who do not report themselves back in time after a period of leave.

Prison sentences of less than one year's imprisonment for evasion of registration/examination for enlistment or for desertion are generally commuted into fines, which must be paid after the end of military service. Sentences for draft evasion for periods longer than three months, when the draft evader has not reported himself voluntarily, may not be commuted into a fine. Suspended sentences may not be imposed for evasion of registration/examination or enlistment or for desertion.

Those who are convicted for draft evasion must still complete their term of military service. Repeated offenders may thus be sentenced again. Prison sentences for repeated offenders may not be commuted into fines.

Those convicted to less than six months' imprisonment usually serve their prison sentence in military prisons; those convicted to over six months' imprisonment are imprisoned in regular prisons. After serving their prison sentence, they still need to perform the remaining term of their military service.

In addition to the sentences outlined above, Turkish citizens can also have their citizenship withdrawn if they live abroad and do not return to perform military service within a certain time limit (Article 25(c) of the Turkish Nationality Law No. 403). The names of individuals who have forfeited their citizenship are published in the official Government Gazette. Over the years, thousands of Turks have, in fact, forfeited their citizenship. Those who have lost their citizenship in this way may apply to get their citizenship restored, but their applications may only be accepted if they complete their military service.[17]

In December 2000, the Turkish government adopted an amnesty law. The amnesty law applied to various crimes, including draft evasion. The amnesty law applied to draft evaders and deserters who reported themselves to the authorities before 23 April 1999. Although they were freed from criminal prosecution under Articles 63-68 and 70-75 of the Penal Code, they still remained liable for military service. Those who had not reported themselves to the authorities by April 1999 were not granted amnesty.[18]

Notes:

[1] A temporary regulation has been in place which also allowed young men living in Turkey to buy themselves out of service and do a one-month military service. This regulation applied to men born before 1 January 1973 and applications needed to be made before 4 May 2000. 70,000 Turkish men reportedly applied for this regulation.

[2] Netherlands Ministry of Foreign Affairs: *Algemeen Ambtsbericht Turkije* (country report), November 2003.

[3] UK Home Office Immigration and Nationality Directorate: *Country Report*, October 2004.

[4] Turkish Constitutional Court 467/1991 and 422,343/1993 (Netherlands Ministry of Foreign Affairs 2003).

[5] Netherlands Ministry of Foreign Affairs (2003).

[6] United Nations Commission on Human Rights, Civil and Political Rights, including the question of conscientious objection to military service, Report of the Secretary-General submitted pursuant to Commission resolution 1998/77, 56th session (E/CN.4/2000/55), 17 December 1999.

[7] Parliamentary Assembly of the Council of Europe, Honouring of obligations and commitments by Turkey, Doc. 10111, 17 March 2004.

Treatment of gays in the military

Research Directorate, Immigration and Refugee Board, Ottawa

GLBTQ: An Encyclopedia of Gay, Lesbian, Bisexual, Transgender and Queer Culture describes Turkey as having a "restrictive" military policy on homosexuals (2004), which prohibits military service by homosexuals (GLBTQ 2004; Turkish Daily News 17 July 2003). The Turkish military officially recognizes homosexuals as "threats to the armed forces and discharges them for indecency if [their sexual orientation is] discovered" (GLBTQ 2004). Homosexuality is deemed to be an illness by the military, and those who are affected by it are exempt from serving (Turkish Daily News 8 Sept. 2003; KAOS GL 31 Oct. 2002; *ibid.* 2002; The Nonviolent Activist July-August 2002). Homosexuals seeking exemption are required to provide the military with a photograph of themselves while on the receiving end of anal intercourse as proof of their sexual orientation (*ibid.*; see also KAOS GL 31 Oct. 2002; *ibid.* 2002). A photograph of oneself on the giving end of anal penetration will not result in military exemption (The Nonviolent Activist July-August 2002). A medical examination of the anus may also be required by the military (KAOS GL 31 Oct. 2002). In 2002, KAOS GL, an advocacy group based in Turkey and aimed at combating discrimination against homosexuals (9 Sept. 2004), reported that in reality, very few conscripts apply to the military for exemption from military service on the basis of their sexual orientation because homosexuals who are exempted from military service on this basis face "repressive Islamic social pressures" (The Nonviolent Activist July-Aug. 2002) and problems in respect of employment opportunities and social acceptance (KAOS GL 31 Oct. 2002).

Additional and more recent information on the military and societal treatment of homosexuals who have been deemed unfit to serve in the military and/or who have been discharged from the military due to their sexual orientation, could not be found among the sources consulted by the Research Directorate.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

References

- [8] Council of Europe, European Court of Human Rights, Second Section: Judgment as to the admissibility of the application 39437/98 by Osman Murat Ülke against Turkey, 1 June 2004. War Resisters' International: Conscientious Objection Update, No.3/November 2004.
- [9] Hülya Ücünar: Was erwartet Kriegsdienstverweiger mit dem neuen Strafgesetzbuch, in: Connection e.V., Rundbrief KDV im Krieg, January 2005.
- [10] War Resisters' International: Conscientious Objection Update, No.3/November 2004.
- [11] War Resisters' International: Conscientious objector Halil Savda arrested / fears of torture, 16 December 2004.
- [12] War Resisters' International: Conscientious objector Mehmet Bal released, 4 February 2003.
- [13] Spokesman of the Jehovah's Witnesses, quoted in: Netherlands Ministry of Foreign Affairs (2003).
- [14] US State Department Bureau of Democracy, Human Rights and Labor: Country report on human rights practices 2004, International Religious Freedom Report 2004, International Religious Freedom Report 2003.
- [15] Different sources make different assessments of the extent to which Kurdish conscripts face discriminatory treatment within the armed forces. This has, in fact, been the subject of de-

- GLBTQ: An Encyclopedia of Gay, Lesbian, Bisexual, Transgender & Queer Culture. 2004. "Military Culture: European." <http://www.glbtq.com/social-sciences/military_culture_eur.html> [Accessed 9 Sept. 2004]
- KAOS GL. 31 October 2002. "Press Statement for Ninth Meeting of Gays and Lesbians." <http://www.kaosgl.com/english/9.meeting_press_statement.php> [Accessed 9 Sept. 2004]
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- Nonviolent Activist. July-August 2002. War Resisters League. Greg Payton. "Conversations with Turkish Resisters." <<http://warresisters.org/nva0702-3.htm>> [Accessed 9 Sept. 2004]
- Turkish Daily News [Ankara]. 8 September 2003. "Homosexuals, Transvestites, Transsexuals and Lesbians." <http://www.turkishdailynews.com/old_editions/09_08_03/dom2.htm> [Accessed 9 Sept. 2004]
- _____. 17 July 2003. "Birch: US, Turkey Do Not Allow Homosexuality in Military." <http://www.turkishdailynews.com/old_editions/07_17_03/for.htm> [Accessed 9 Sept. 2004]

Additional Sources Consulted

Internet sites, including: Amnesty International (AI), BBC, Center for the Study of Sexual Minorities in the Military (CSSMM), Country Reports on Human Rights Practices for 2003, European Country of Origin Information Network (ECOI), Freedom in the World 2003, Global Gayz, Human Rights Watch (HRW), International Helsinki Federation for Human Rights, International Lesbian and Gay Association (ILGA), Integrated Regional Information Networks (IRIN), Lambda (Istanbul), TR Gay International, WNC.

Source: TUR42961.E, 10 September 2004

Turkey: Military and societal treatment of homosexuals who have been deemed unfit to serve in the military and/or who have been discharged from the military due to their sexual orientation (January 2002 - September 2004)

<http://www.wirb-csrgc.ca/en/research/ndp/ref/?action=view&doc=tur42961e>

bate in many asylum cases of Turkish/Kurdish draft evaders and deserters in Western European countries.

[16] Netherlands Ministry of Foreign Affairs (2003).

[17] UK Home Office (2004).

[18] Netherlands Ministry of Foreign Affairs (2003). Schweizerische Flüchtlingshilfe: Türkei, Zur Aktuellen Situation, SFH, Bern, June 2003.

Source: Quaker Council for European Affairs: The Right to Conscientious Objection in Europe: A Review of the Current Situation. 2005

Address: Quaker Council for European Affairs (QCEA), Square Ambiorix 50, B-1000 Brussels, Tel: +32 2 230 49 35, Fax: +32 2 230 63 70, email: info@qcea.org

COUNCIL OF EUROPE

EUROPEAN COURT OF HUMAN RIGHTS

SECOND SECTION

JUDGMENT

AS TO THE ADMISSIBILITY

of the application n°39437/98
by Osman Murat ÜLKE
against Turkey

The European Court of Human Rights (second section), sitting on 1st June 2004 as a Chamber composed of:

Mr J.P. Costa, President,

Mr A.B. Baka,

Mr L. Loucaides,

Mr R. Türmen,

Mr C. Birsan,

Mr K. Jungwiert,

Mrs A. Mularoni, judges,

and Mr T.L. Early, Deputy Section Registrar,

Having regard to the above application introduced before the European Commission on Human Rights on 22 January 1997,

Having regard to Article 5§2 of Protocol n°11 to the Convention, which transferred to the Court the jurisdiction to examine the application,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, Osman Murat Ülke, is a Turkish national, who was born in 1970 in Röntheroth and who lives in Izmir. He is represented by Mr. Kevin Boyle, a professor at the University of Essex and Me Tony Fisher, a lawyer practicing in Essex.

A. The circumstances of the case:

The facts of the case, as submitted by the parties, may be summarised as follows.

The applicant lived and did a part of his studies in Germany until 1985. He subsequently went to Turkey where he continued his studies in school and at the university.

In 1993, the applicant became an active member of the "war opponents association" ("Savas Karsitlari Dernegi") (SKD) founded in 1992. Until the end of the year 1993, he represented the SKD in diverse international conferences in various countries. Following the dissolution of the SKD in November 1993, the "opponents to the Izmir war association" ("Izmir Savas Karsitlari Dernegi") (ISKD) was founded and the applicant was the president of this association from 1994 to 1998.

In August 1995, the applicant was called up for military service. As a staunch pacifist, he refused to do his military service and publicly burnt the call-up papers during a press conference held in Izmir on 1 September 1995.

On 8 October 1996, the applicant was arrested. In the charge of 18 October 1996, the military prosecutor attached to the general etats-majors tribunal of Ankara charged him with incitement to dissuade conscripts from doing their military service, on the ground of Article 155 of the criminal code and of Article 58 of the military criminal code. In its decision of 28 January 1997, the general etats-majors tribunal of Ankara ("the etats-majors tribunal") sentenced him to 6 months in prison and to a fine based on the charge of 18 October 1996. The etats-majors tribunal also noted the deserter status of the applicant and consequently decided to refer a ruling to the military prosecutor attached to the etats-majors tribunal in order to enlist the applicant. On 3 March 1997, the applicant appealed to the Supreme Court. He invoked, *inter alia*, Articles 9 and 10 of the Convention as grounds for this appeal and declared that he was a conscientious objector. On 3 July 1997, the martial Supreme Court upheld the first instance de-

cision.

On 22 November 1996, the applicant was transferred to the 9th regiment attached to the gendarmerie headquarter in Bilecik. He refused to wear the military uniform and to execute the orders from the regiment commandant. He was detained and placed in the detention house of the regiment where he refused to wear the prison uniform. In the charge of 26 November 1996, the military prosecutor attached to the Eskisehr Air Forces headquarter tribunal of the 1st tactics accused the applicant of "persistent disobedience" and called for his condemnation on the ground of Article 87 of the military criminal code. Regarding the applicant's refusal to wear the detention prison uniform, in a charge of 26 November 1996, the headquarter tribunal of the 1st tactics of the Eskisehr Air Forces ("the headquarter tribunal"), condemned the applicant to a disciplinary measure which restricts the applicant's right to receive visitors during 15 days. In a decision of 6 March 1997, the tribunal finally sentenced the applicant to 5 months in prison. On 4 July 1997, the martial Supreme Court upheld the contested decision.

When he was released on 27 December 1996, the applicant did not go to his regiment. In a charge of 7 March 1997, the military prosecutor attached to the headquarter tribunal charged the applicant with desertion and "persistent disobedience". In a decision of 23 October 1997, the headquarter tribunal sentenced the applicant to 10 months in prison and to a fine.

On 29 May 1997, the applicant was released provided that he would go to his regiment to fulfil his military obligations on the 31st of May. As he did not fulfil this condition, he was arrested on 9 October 1997 and transferred to Eskisehir prison in order to serve the 10-month prison sentence decided by the headquarter tribunal on 6 March 1997. In a charge of 16 October 1997, the military prosecutor attached to the headquarter tribunal called for the applicant to be condemned for his desertion between 31 May 1997 and 9 October 1997. In a decision of 22 January 1998, the headquarter tribunal sentenced the applicant to 10 months in prison. In a decision of 30 September 1998, the martial Supreme Court upheld the first instance decision.

On 26 January 1998, the applicant was escorted to his regiment in Bilecik. He was arrested because he refused to wear (the) military uniform. In a decision of 11 June 1998, the headquarter tribunal sentenced the applicant to 7 months and 15 days in prison. On 7 October 1998, the martial Supreme Court upheld the contested decision.

The applicant was escorted to his regiment on 20 March 1998, and was arrested, on 21 March 1998, because he refused to wear the military uniform. In a decision of 4 May 1998, the headquarter tribunal sentenced the applicant to 7 months and 15 days in prison on the ground of "persistent disobedience". On 7 October 1998, the martial Supreme Court upheld this decision.

On 4 May 1998, the applicant was sent back to his regiment where he refused to wear the military uniform. In a decision of 11 June 1998, the headquarter tribunal sentenced the applicant to 7 months and 15 days in prison. On 7 October 1998, the martial Supreme Court upheld the first instance decision.

On 24 November 1998, the applicant was released and transferred to his regiment where he refused to wear the military uniform once again. After he was searched for, found and arrested, he was sentenced by the headquarter tribunal on 26 November 1998 to 7 months and 15 days in prison. On 22 September 1999, the martial Supreme Court upheld this decision.

B. Relevant domestic law and practice:

Article 72 of the Constitution provides:

"National service is the right and duty of every Turk. The manner in which this service shall be performed, or considered as performed, either in the Armed Forces or in public service shall be regulated by law."

The legal provisions in force solely rule the realisation of the national service within the armed forces. The law does not provide for a civil service as a substitute.

Article 1 of the military service Act n°1111 of 17 July 1927 provides:

“(…) every man with the Turkish nationality is compelled to do military service.”

According to article 10§2 of the military service Act n°1111, in cases where the number of conscripts is higher than the army need, after they have attended a basic military training, the conscripts can, the conscripts can do a short military service in exchange for the payment of a tax or they can finish their national service in the public sector.

The military criminal code states that once the conscripts are registered for the military service, they must report to their designated military unit. If not, the conscript shall be considered as illegally absent and may face a criminal sentence on the ground of Article 63 of the military criminal code. Any additional act of disobedience shall be considered as a “persistent disobedience” and as falling within the scope of application of article 87/1 of the military criminal code.

Article 155 of the criminal code provides:

“(…) Dissuasion from the military service “

Anyone – except in the situations listed in the previous articles- who incite (...) in order to dissuade conscripts from doing their military service, shall face from two months to two years in prison and a fine.”

COMPLAINTS:

The applicant complains under Article 3 of the Convention that the series of prosecution and sentences he has been subjected to violates in itself this article.

The applicant claims, on the ground of Article 9 of the Convention, that these criminal prosecutions and sentences have violated his freedom of thought and conscience.

¶The applicant also alleges a violation of Article 5 and 8.

THE LAW:

¶The applicant complains because he has been prosecuted and sentenced on the basis of his convictions. In this respect, he invoked Articles 3, 5, 8 and 9 of the Convention.

¶Thus stated, the Court considers that these complaints fall under the scope of Article 9 of the Convention, which provides as follows:

□ □ ¶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.

□ 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.”

Applicability of Article 9 of the Convention

¶The Government contests the applicability of Article 9 in the present case. It pointed out that according to the consistent jurisprudence of the Convention's organs Article 9 does not guarantee in itself a right to conscientious objection.

¶The applicant stands by his allegation and reaffirms that Article 9 is applicable in the present case.

¶The Court considers that it is preferable to take the question of the applicability of Article 9 in conjunction with the validity of the complaint related to this provision.

Six-month time-limit

The Government invokes a belated application. According to it, considering that the compulsory nature of the military service results from domestic legislation, the applicant had no effective way to bring an appeal to remedy his complaint. Under such circumstances, the 6-month time-limit should have run from the date when the applicant had received his call-up paper. The Government notices that the date of the call-up is not specified in the application and maintains that the date on which the applicant

had burnt the call up sheets during the press conference in Izmir, that is to say on 1 September 1995, should be considered as the starting point of the time-limit. Consequently, according to the government, the application should have been introduced on 1 March 1996 at the latest and that as such, it does not respect the six-month rule provided for in Article 35§1 of the Convention.

¶The applicant contested these arguments. As he had to face a series of prosecutions and sentences because of his convictions, he claims that he has been the victim of a series of elements that constitute a continuing situation. The applicant invokes that the six-month time-limit only starts when the contentious situation ends.

¶The Court observes from the outset that the applicant does not 's complaint does not refer to a single act but to a succession of sentences decided by the national tribunals every time that he declared himself as a “conscientious objector” and refused to wear the military uniform. This series of prosecutions and sentences corresponds to a continuing situation against which the applicant could bring no appeal under the domestic law. The Court recalls that when the alleged violation consists, as in the present case, in a continuing situation, the six-month time-limit only starts from the moment where this situation ended (see, inter alia, çinar v. Turkey, n°17864/91, decision of the Commission of 5 September 1994). As the circumstances referred to by the applicant were still ongoing at the time of the introduction of the application (compare with Ersöz, Cetin, Kaya, Ülken Bastn ve Yayincilik Sanayi Ticaret Ltd v. Turkey, n°23144/93, decision of the Commission of 20 October 1995), the inadmissibility objection raised by the Government on the ground of Article 35§1 of the Convention cannot be upheld.

The merits

First, the Government emphasizes that according to the domestic law, the obligation to do military service applies to every man of Turkish nationality, and that it does not admit any exception for reason of conscience. Second, the Government emphasizes that the applicant was found guilty of military insubordination because he violated provisions of military discipline. According to the Government, the charges against the applicant were likely to cause a certain concern and even an upheaval among the conscripts and could legitimately justify a criminal sanction. In addition, the Government refers to the cases of Heudens v. Belgium (n° 24630/94, decision of the Commission of 22 May 1995) and Autio V. Finland (n° 17086/90, decision of the Commission of 6 December 1991) and invokes that Article 9 of the Convention has to be interpreted in the light of Article 4 and that the right to conscientious objection is not recognised as such in the Convention.

¶The applicant contested these arguments. He recalls that every time that he refused to wear the military uniform, he was condemned and imprisoned, and that following his release, he was escorted to his regiment, condemned and imprisoned once again for his refusal to wear the military uniform. According to the applicant, this endless series of prosecutions and sentences is not proportionate to the aims of the national authorities.

¶The Court considers, in the light of the parties' submissions, that the complaint raises serious issues of fact and law under the Convention, the determination of which should depend on an examination of the merits. The Court concludes therefore that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. No other ground for declaring it inadmissible has been established.

For these reasons, the Court unanimously,

Joins to the merits, the issue of the applicability of Article 9 in the present case.

Declares the application admissible, without prejudging the merits.

T.L Early
Deputy Registrar

J.P. Costa
President

OPINION No. 36/1999 (TURKEY)

United Nations: Working Group on Arbitrary Detention

Communication addressed to the Government on 24 July 1998

Concerning Osman Murat Ülke

The State is not a party to the International Covenant on Civil and Political Rights

1. The Working Group on Arbitrary Detention was established by resolution 1991/42 of the Commission on Human Rights, which extended and clarified its mandate in resolution 1997/50. In accordance with its methods of work, the Working Group transmitted the above-mentioned communication to the Government.

2. The Working Group expresses its appreciation to the Government for providing timely information.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

When it manifestly cannot be justified on any legal basis (such as continued detention after the sentence has been served or despite an applicable amnesty act) (category I);

When the deprivation of liberty is the result of a judgement or sentence for the exercise of the rights and freedoms proclaimed in articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and also, in respect of States parties, in articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights (category II);

When the complete or partial non-observance of the international standards relating to a fair trial set forth in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned is of such gravity as to confer on the deprivation of liberty, of whatever kind, an arbitrary character (category III).

4. In the light of the allegations made, the Working Group welcomes the Government's cooperation. It transmitted the Government's reply to the source of the communication, which has not yet made known its comments thereon.

5. According to the source of the communication, Osman Murat Ülke publicly declared himself to be a conscientious objector ("I am not a deserter, I am a conscientious objector.") because, to use his words, he did "not want to kill people". Having burned his call-up papers, he was questioned, arrested and detained by the military authorities on several occasions, beginning on 7 October 1996, for refusal to perform military service. He received seven sentences of imprisonment of a few months each. On 4 May 1998, he was sentenced to seven months' imprisonment, bringing the total duration of the sentences to 43 months. With the exception of the period from December 1996 to 28 January 1997, Mr. Ülke has been in continuous detention since 7 October 1996.

6. According to the source, Mr. Ülke expects to be tried again for the same reason. The source maintains that Mr. Ülke's detention is contrary to article 18 of the Universal Declaration of Human Rights. Military service is compulsory in Turkey and the authorities do not recognize civilian service as a legitimate alternative in the case of conscientious objectors.

7. The Government of Turkey explains that Turkey is among the countries in the Council of Europe that do not recognize civilian service as a substitute for military service. It refers to article 3 of the European Convention on Human Rights, to which Turkey is a party and which has become an integral part of Turkish law. In the Government's view, the fact that military service is compulsory in Turkey is consistent with international law. Mr. Ülke was prosecuted not only for unwillingness to perform military service, but also for having publicly urged Turkish citizens to shun military service, which the Government describes as being "morally considered as a sacred duty to the homeland". It ac-

knowledges that Mr. Ülke refuses to wear a uniform and to obey orders. It acknowledges that he has been tried on several occasions by a military tribunal, with his most recent sentence - to seven months and 15 days' imprisonment - dating from 11 June 1998. Mr. Ülke is detained at Eskisehir military prison.

8. The question before the Working Group is whether, after an initial conviction, each subsequent refusal to obey a summons to perform military service does or does not constitute a new offence capable of giving rise to a fresh conviction. If it does, deprivation of liberty, when applied to a conscientious objector, is not arbitrary, providing the rules on the right to a fair trial are respected. If it does not, detention must be considered as arbitrary for being in breach of the principle non bis in idem, a fundamental principle in a country where the rule of law prevails, as borne out by article 14, paragraph 7, of the International Covenant on Civil and Political Rights and, in the case of Europe, by article 4, paragraph 1, of Protocol No. 7 to the European Convention, which state that no one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted. It is generally acknowledged that this principle, which is the corollary of the principle of res judicata, presupposes the meeting of three conditions: identity of the parties, identity of the purpose and identity of the subject-matter. In the case in question, the condition of the identity of the defendant (the conscientious objector) may be presumed to have been met. The same applies to the condition of identity of the purpose, since in criminal cases, unlike civil cases, the purpose is always the same: to establish guilt and fix a penalty. It remains, therefore, to determine whether there is identity of subject-matter.

9. The Working Group is of the opinion that there is, since, after the initial conviction, the person exhibits, for reasons of conscience, a constant resolve not to obey the subsequent summons, so that there is "one and the same action entailing the same consequences and, therefore, the offence is the same and not a new one" (see Decision of the Constitutional Court of the Czech Republic, 18 September 1999, No. 2, No. 130/95). Systematically to interpret such a refusal as being perhaps provisional (selective) would, in a country where the rule of law prevails, be tantamount to compelling someone to change his mind for fear of being deprived of his liberty if not for life, at least until the date at which citizens cease to be liable to military service.

10. It follows that the Working Group considers that Mr. Ülke's detention from 7 October to December 1996 was not arbitrary. Regarding the other periods, and in view of the foregoing, the Working Group considers that Mr. Ülke's detention is arbitrary, it having been ordered in violation of the fundamental principle non bis in idem, a principle generally recognized in countries where the rule of law prevails as being one of the most essential guarantees of the right to a fair trial.

11. In the light of the foregoing, the Working Group expresses the following opinion:

The deprivation of liberty of Mr. Osman Murat Ülke from October to December 1996 was not arbitrary. His detention since 28 January 1997 is, however, arbitrary, being contrary to article 10 of the Universal Declaration of Human Rights, and it falls within category III of the principles applicable in the consideration of the cases submitted to the Working Group.



12. The Working Group therefore requests the Government to take the necessary steps to remedy the situation so as to bring it into line with the principles set forth in the Universal Declaration of Human Rights.

Adopted on 2 December 1999

United Nations, Working Group on Arbitrary Detention. Opinion No 36/1999

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_____	 <i>Housmans Peace Diary 2005</i> and <i>Housmans World Peace Directory</i> ISSN 0957-0126, ISBN 0 85283 260 5	£7.95	€12.00	US\$12.00
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