



THE EUROPEAN ASSOCIATION OF
JEHOVAH'S WITNESSES

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From the European Association of Jehovah's Witnesses

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Turkey

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SUMMARY OF THE SUBMISSION

This submission to the Human Rights Council (HRC) on Turkey highlights human rights issues and current failures to implement accepted recommendations by Turkey during the previous UPR cycle.

Jehovah's Witnesses in Turkey, and as a worldwide organisation, respectfully request the government of Turkey to:

- (1) Recognize the right to conscientious objection to military service and to make provision for civilians to participate in true alternative service
- (2) Ensure that the views of the UN Human Rights Committee (CCPR) and the judgments of the European Court of Human Rights (ECHR) that provide for the right to conscientious objection to military service are respected and implemented. This would involve refraining from imposing repeated fines on Jehovah's Witnesses and from threatening them with imprisonment on grounds of "evasion of enlistment" for their conscientious objection to military service
- (3) Ensure that Jehovah's Witness are able to open places for peaceful religious worship
- (4) Abide by its commitment to uphold the fundamental freedoms guaranteed by the Constitution of Turkey, the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR) for all citizens, including Jehovah's Witnesses

I. INTRODUCTION

1. The European Association of Jehovah's Witnesses is a charity registered in the United Kingdom. It provides support to Jehovah's Witnesses facing fundamental human rights violations in various parts of the world.
2. Jehovah's Witnesses have been in Turkey for about 100 years. There are now approximately 4,000 active Witnesses in Turkey and more than 7,000 people who attend their meetings for worship. For decades, the Witnesses were unable to obtain any type of official legal status. However, in July 2007, they were officially granted legal registration as the "Association for the Support of Jehovah's Witnesses."
3. Jehovah's Witnesses in Turkey enjoy relative freedom of worship. For the most part, they are able to meet for peaceful religious worship and to practise their faith.
4. Nevertheless, Jehovah's Witnesses face two main obstacles: the government refuses to recognize conscientious objection to military service and makes no provision for alternative ci-

vilian service, and it refuses to grant “place of worship” status for Kingdom Halls of Jehovah's Witnesses. Turkey's failure to implement ECHR judgments and CCPR views has a direct bearing on the Witnesses' rights and freedoms.

5. Three separate judgments of the ECHR, involving four applicants, and a decision of the CCPR, as detailed below, ruled in favour of the Witnesses who refused military service based on their religious conscience. The Witnesses were punished because the government would not grant their respectful requests for alternative civilian service. These judgments remain unimplemented.
6. Jehovah's Witnesses have been unable to open places of worship in Turkey despite legal provisions allowing for these buildings to be constructed. Additionally, two judgments of the ECHR concerning conscientious objection ruled in favour of the Witnesses but remain unimplemented, as detailed below.

II. ISSUES

a. Conscientious objection to military service

7. Turkey consistently refuses to adhere to ECHR judgements against its treatment of conscientious objectors. The Grand Chamber of the ECHR in *Bayatyan v. Armenia*, no. 23459/03, 7 July 2011, found that Article 9 of the Convention protects conscientious objectors who refuse military service for reasons of religious conscience. This ruling is binding on Turkey, since it is a member of the Council of Europe.
8. Sixty-three of Jehovah's Witnesses, including the successful applicants in the ECHR judgements, are currently facing prosecution as religiously-motivated conscientious objectors to military service. The government of Turkey subjects such conscientious objectors to multiple call-ups for military duty, repeated fines, and threats of imprisonment in spite of the ECHR judgements.
9. Turkey also ignores the favourable CCPR views in *Atasoy and Sarkut v. Turkey* (CCPR/C/104/D/1853-1854/2008, 29 March 2012). In this instance, the Human Rights Committee stated:

“[The Witnesses'] refusal to be drafted for compulsory military service derives from their religious beliefs,” and their “subsequent prosecution and sentences amount to an infringement of their freedom of conscience, in breach of article 18, paragraph 1, of the [International Covenant on Civil and Political Rights].”
10. The following examples illustrate Turkey's treatment of such religiously-motivated conscientious objectors:
11. Mr Yahya Batmaz was sentenced to pay an administrative fine of 28,971 Turkish Liras (TRY) (USD 5,300) 28,971 Turkish Liras (USD 5,300) on 28 November 2018 for refusal to serve in the military (the authorities have accused him of evading enlistment even though he reported for his call-up and submitted a petition to be recognized as a conscientious objector). His appeal is pending before the local court.

12. Three legal prosecutions have been initiated by the prosecutor against Mr Berge Çelikyazıcıyan for being an enlistment evader (the first indictment was filed on 23 July 2018, the second on 7 November 2018 and the third on 19 February 2019). The three cases have been merged, and on 14 May 2019, he was sentenced to seven months and 10 days in prison. This sentence was converted to a fine of TRY 5,000 (approximately USD 900). An appeal will be filed against the ruling.
13. Five ongoing cases against Mr Barış Görmez have been merged. Despite a ruling of the ECHR in his favor, he was convicted once again on 31 March 2016 for refusal to serve in the military and was sentenced to 12 months and 15 days in prison. The sentence has been converted to a fine, totalling TRY 7,500 (approximately USD 1,350). An appeal has been filed with the Court of Cassation. On 26 January 2019, the chief prosecutor of the Court of Cassation requested the court to uphold the ruling. In the likely event that the Court of Cassation upholds the decision, it will set a negative precedent for all of Jehovah's Witnesses in Turkey who are conscientious objectors.
14. On 3 May 2019, Mr Necmettin Berkin Gül was sentenced to pay an administrative fine of TRY 1,701 (approximately USD 300) for refusal to serve in the military (the authorities had accused him of being an enlistment evader despite the fact that he had submitted a petition about his conscientious objection). His appeal is pending before the local court.
15. Mr Ersin Ölgün was sentenced to pay an administrative fine of TRY 3,408 (approximately USD 620) on 2 April 2019 for refusal to serve in the military (the authorities have accused him of evading enlistment, even though he reported for his call-up and submitted a petition to be recognized as a conscientious objector). His appeal was successful on 19 May 2019.
16. A legal prosecution was initiated on 9 April 2018 against Mr Eren Faruk Tatlıeşme for being an enlistment evader. On 3 April 2019, Mr. Tatlıeşme was sentenced to five months in prison. His appeal is pending before the higher court.
17. On 9 April 2019, Mr Mesut Tunçbüker was sentenced to pay an administrative fine of TRY 5,115 (approximately USD 930) for refusal to serve in the military (the authorities had accused him of evading enlistment, even though he had reported for his call-up and had submitted a petition to be recognized as a conscientious objector). His appeal is pending before the local court.
18. Mr Mustafa Türközü was sentenced to pay administrative fine of TRY 28,971 (USD 5,250) on 15 November 2018 for refusal to serve in the military (the authorities had accused him of evading enlistment, even though he had reported for his call-up and had submitted a petition to be recognized as a conscientious objector). Following his appeal, the local court annulled the fine, but the Ministry of National Defense applied to the Court of Cassation and objected to the annulment. The 19th Chamber of the Court of Cassation reversed the annulment. The lower court complied and upheld the fine on 19 February 2019, and a complaint was submitted to the Constitutional Court on 18 March 2019.
19. To date, there are 13 complaints submitted to the Constitutional Court, but the Court has delayed hearing them. The conscientious objectors who filed the complaints request the Court to annul the administrative fines they received as punishment for refusing to serve in the military.

- (1) Mr Benyamin Şahin Ölgün (convicted for refusal to serve in the military) has been waiting for the finalization of his complaint (application number 2013/5564) since 1 July 2013
- (2) Mr Volkan Altay applied to the Constitutional Court on 1 August 2016 (application number 2016/14174)
- (3) Mr Cem Palandökenler applied to the Constitutional Court on 4 April 2017 (application number 2017/20170)
- (4) Mr Arden Üzel applied to the Constitutional Court on 22 May 2019 (application number 2017/24734)
- (5) Mr İbrahim Varıcılar applied to the Constitutional Court on 13 October 2017 (application number 2017/35626)
- (6) Mr Berge Çelikyazıcıyan applied to the Constitutional Court on 5 December 2017 (application number 2017/39393)
- (7) Mr Yakup Erdem Bilensir applied to the Constitutional Court on 21 June 2018 (application number 2018/19904)
- (8) Mr Arif Emrah Orak applied to the Constitutional Court on 7 August 2018 (application number 2018/25273)
- (9) Mr Sami Şekip Peker applied to the Constitutional Court on 5 November 2018 (application number 2018/36419)
- (10) Mr Mustafa Türközü applied to the Constitutional Court on 18 March 2019 (application number 2019/9217)
- (11) Mr Altuğ Öncü applied to the Constitutional Court on 1 April 2019 (application number 2019/11268)
- (12) Mr Nuri Elbe applied to the Constitutional Court on 18 April 2019 (application number 2019/13550)
- (13) Mr Öcal Yılmaztürk applied to the Constitutional Court on 18 April 2019 to demand the annulment of an administrative fine given to him for refusal to serve in the military. So far the authorities have not responded to any of the applications.

b. Refusal to allow places of worship

20. Municipal officials throughout the country have refused to properly classify the Kingdom Halls (houses of worship) of Jehovah's Witnesses as legal "places of worship" on their zoning maps.
21. In 2003, Turkey modified its Law on Zoning No. 3194 in order to comply with European standards on non-discrimination and freedom of religion, granting non-Muslim religious minorities the right to build and own places of worship. In practice, municipal authorities and

the domestic courts have refused to implement this provision and routinely refuse to grant “place of worship” status to Kingdom Halls of Jehovah's Witnesses.

22. To date, more than 30 different municipalities have denied more than 100 separate requests by Jehovah's Witnesses to obtain a “religious facility location” on municipal zoning maps. Not one Kingdom Hall in Turkey has been zoned as a place of worship. Because the government rejects registration of Jehovah's Witnesses' Kingdom Halls, these may be arbitrarily closed at any time. Jehovah's Witnesses are also obliged to pay property taxes on such properties because of their not being zoned as religious premises and are thus deprived of benefiting from the corresponding exemption.
23. Jehovah's Witnesses in Turkey submitted two applications about this matter to the ECHR, in 2010 and 2013. (*Association de solidarité avec les témoins de Jéhovah et autres v. Turkey*, No. 36915/10 and 8606/13, respectively) On 24 May 2016, the ECHR issued favourable judgments concerning both applications.
24. The Court concluded that the government of Turkey had interfered with freedom of religion by preventing Jehovah's Witnesses from having an appropriate place of worship that conformed to local zoning laws. The Court ruled that the government failed to take into account in its zoning legislation the specific needs of a small community of believers, since it only provided for larger buildings to be used as places of worship. The Court therefore concluded that by a strict application of the zoning legislation, the government was in effect preventing smaller religious communities, such as Jehovah's Witnesses, from having their own places of worship and that this was a direct interference with their religious freedom.
25. On 14 June 2017, the Ministry of Justice notified some government offices regarding this judgment.
26. In early 2018, Jehovah's Witnesses applied to the local courts with respect to the two locations that were the subject of the two applications cited above. With regard to the first application, concerning a building in the city of Mersin, the local court in Mersin ruled in favor of Jehovah's Witnesses on 9 February 2018 and annulled the municipality decision to shut down their place for worship. The decision was upheld by the Council of State on 11 September 2018. The municipality has filed a final appeal in a last attempt to reverse the court ruling, and this appeal is still pending. With regard to the second application, on 19 February 2018, the 3rd Administrative Court in Izmir ruled that the previous negative decision, made 14 years previously, was unjust and cancelled it. However, the local municipality appealed this decision before the Council of State on 28 May 2018. No decision has been rendered as yet.

III. IMPLEMENTATION OF ACCEPTED RECOMMENDATIONS

27. Following its previous review in 2015, Turkey supported specific recommendations made by Member States.
28. The failure to implement decisions of the ECHR and of the CCPR with respect to conscientious objection to military service and with respect to the opening of places of worship is in contradiction to the following list of recommendations accepted by Turkey during the previous UPR review cycle in 2015.

29. Italy recommended that Turkey renew its commitment to a comprehensive reform of legislation aimed at guaranteeing the rule of law, freedom of thought, religion and expression and freedom of the media, in compliance with international standards. (A/HRC/29/15 par. 148.36)
30. Angola recommended that Turkey continue the measures in favour of different religious groups for the exercise of freedom of religion and conscience. (A/HRC/29/15 par. 148.126)
31. France urged Turkey to guarantee freedom of peaceful assembly, a recommendation that Turkey considered already implemented or in the process of implementation. (A/HRC/29/15 par. 149.41)
32. In addition, the following pertinent recommendations were *not* accepted by Turkey, following its previous review in 2015:
33. Croatia recommended adopting laws recognizing and regulating the right to conscientious objection and ensuring that the civilian alternative to military service has no punitive or discriminatory effects. (A/HRC/29/15 par. 151.12)
34. Germany recommended adopting laws recognizing and regulating the right to conscientious objection to military service and ensuring that any genuinely civilian alternative is not punitive in length. (A/HRC/29/15 par. 151.13)
35. Slovenia recommended recognizing the right to conscientious objection and offering a civilian alternative to military service. (A/HRC/29/15 par. 151.14)

IV. CONCLUSION AND RECOMMENDATIONS

36. Jehovah's Witnesses in Turkey, and as a worldwide organization, express concern about Turkey's denial of zoning permits for places of worship and about the refusal to acknowledge the rights of its citizens to object to military service without an alternative service in place. They respectfully request the government of Turkey to take the necessary steps to:
 - (1) Recognize the right to conscientious objection to military service and make provision for civilians to participate in true alternative service
 - (2) Ensure that the views of the CCPR and the judgements of the ECHR that provide for the right to conscientious objection to military service are respected and implemented. This would involve refraining from imposing repeated fines on Jehovah's Witnesses and from threatening them with imprisonment on grounds of "evasion of enlistment" for their conscientious objection to military service
 - (3) Ensure that Jehovah's Witness are able to open places for peaceful religious worship
 - (4) Abide by its commitment to uphold the fundamental freedoms guaranteed by the Constitution of Turkey, the ICCPR and the ECHR for all citizens, including Jehovah's Witnesses