

PUBLIC

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UA 186/07 **Possible prisoner of conscience**

TURKEY **Osman Murat Ülke (m), aged 36, conscientious objector**

Conscientious objector Osman Murat Ülke, who has in the past served a total of almost two years for his refusal to do military service, has now been ordered to present himself at the office of the military prosecutor to serve a 17½- month prison term. If he is arrested and jailed again, Amnesty International would consider him a prisoner of conscience.

Osman Murat Ülke became the first conscientious objector in Turkey to be jailed, when he was sentenced to six months' imprisonment in January 1997. Between March 1997 and November 1998 he was convicted eight times of "persistent disobedience" for refusing to wear military uniform and twice for desertion when he failed to rejoin the regiment. There are around 60 conscientious objectors in Turkey, each of whom risks prosecution.

An order was issued to Osman Murat Ülke on 14 June to present himself at the office of the military prosecutor in the north-western city of Eskişehir within 10 days to serve a prison sentence of 17 months and 15 days on the basis of his earlier convictions for refusing to perform military service.

The European Court of Human Rights found unanimously, on 24 January 2006, that the repeated prosecutions and convictions of Osman Murat Ülke resulting in imprisonment for "persistent disobedience" and "desertion" constituted a violation of Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (prohibition of degrading treatment). The Court also noted that "the clandestine life amounting almost to a 'civil death' which the applicant had been compelled to adopt [as a result of the numerous prosecutions] was incompatible with the punishment regime of a democratic society."

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

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

BACKGROUND INFORMATION

Military service for 15 months is compulsory for men aged 19-40 in Turkey. The right to conscientious objection is not legally recognized, and there is no alternative civilian service for conscientious objectors.

International human rights standards recognize the right to conscientious objection. In a recommendation to the Council of Europe, the Committee of Ministers stated that "Anyone liable to conscription for military service who, for compelling reasons of conscience, refuses to be involved in the use of arms, shall have the right to be released from the obligation to perform such service... Such persons may be liable to perform

alternative service." (Recommendation R (87) 8 of the Committee of Ministers to Member States of the Council of Europe Regarding Conscientious Objection to Compulsory Military Service of 9 April 1987) 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 usually face criminal prosecution, leading to prison sentences of up to three years. On release, they often receive new call-up papers, and the process is repeated, as has happened with Osman Murat Ülke.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

w- urging the authorities to ensure that the latest decision of the military prosecutor's office in Eskişehir is revoked immediately;

- calling on them to ensure that Osman Murat Ülke is not imprisoned yet again solely on the basis of his conscientiously-held beliefs;

- urging them to ensure that the judgment of the European Court of Human Rights of 24 January 2006 is published and distributed immediately to all relevant authorities, including the General Staff;

- urging them to introduce legislative reform to ensure that the right to conscientious objection is recognized in Turkey;

- urging them to put an end to the practice of trying the same person for the same crime more than once.

APPEALS TO:

Foreign Minister

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Salutation: Dear Minister

Defence Minister

Mr Vecdi Gönül

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Ministry of Defence

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COPIES TO:

Justice Minister

Mr Fahri Kasirga

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Office of the Military Prosecutor in Eskişehir

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and to diplomatic representatives of Turkey accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 30 August 2007.