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Right to conscientious objection still not guaranteed in Europe

Amnesty International, marking the International Conscientious Objectors Day, renews its call on all states to recognise the right to conscientious objection to military service.

Nearly two years ago the European Court of Human Rights (ECtHR) ruled that states must respect the right to conscientious objection as part of their obligation to respect the right to freedom of thought, conscience and religion, bringing European law in line with international human rights standards.

Despite this, three European states, Armenia, Azerbaijan and Turkey still do not provide for this right. It is high time that they do so.

In a landmark judgment, the Court found in favour of Vahan Bayatyan, a Jehovah's Witness in Armenia who received a two and half year prison sentence in 2003 after he refused to perform military service on the grounds of conscientious objection.

Since the case of *Bayatyan vs Armenia* in July 2011, a series of judgments against Turkey have followed including *Erçep vs. Turkey* in November 2011. Despite a clear requirement from the Court to recognise the right to conscientious objection, recent statements by Turkish government officials have indicated that they will not implement the judgment. According to government statements the right to conscientious objection will only be recognised when Turkey creates a professional army and ends the current system of conscription.

Turkey has also failed to implement the 2006 judgment of the European Court of Human Rights in the case of *Ülke vs. Turkey* which required the authorities to change the law to prevent the repeated prosecution and imprisonment of conscientious objectors for their refusal to perform military service.

Azerbaijan has failed to honour its commitment to free jailed conscientious objectors and introduce an alternative service within two years upon accession to the Council of Europe in 2000. It has also failed to implement the repeated recommendations of the United Nations Human Rights Committee to adopt a law exempting conscientious objectors from compulsory military service and providing for alternative civil service.

While Azerbaijan's Constitution provides for an alternative service, no appropriate legislation has been enacted to ensure the enforcement of the right to conscientious objection. Moreover other laws of the country subject those who refuse military service to a prison term of up to two years. Most recently, in September 2012 Ganja city court has sentenced Fakhraddin Mirzayev, a young Jehovah's Witness to one year prison for refusal to serve in the military based on his declared beliefs.

Azerbaijan authorities attempt to justify the delay in adopting a law on alternative service with reference to the unresolved conflict over Nagorno-Karabakh with Armenia.

The same argument of the unresolved conflict is used by Armenia, where young male Jehovah's Witnesses continue to be imprisoned in ever larger numbers and for longer periods because their beliefs prohibit them from performing military service. As a Council of Europe member, Armenia has also undertaken the obligation to provide a genuinely civilian alternative to compulsory military service. However, Armenia's alternative service is still under the control of the military, making it incompatible with the conscientiously-held beliefs of Jehovah's Witnesses and others.

In March 2012 Armenian government initiated the amendments in the law differentiate between alternative military and alternative labour services and to ensure that the latter will no longer be under the military control or involvement. However more than one year on, it is still unclear when the amendments will be enacted into law.

Amnesty International is calling the governments of Turkey, Azerbaijan and Armenia to honour their long overdue commitments to recognise the right to conscientious objection to military service and to ensure that any alternative to military service is genuinely civilian and non-punitive in length. Any persons imprisoned because of their refusal to perform military service for reasons of conscience or profound conviction must be released immediately.

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