

URGENT ACTION

TURKEY MUST RELEASE CONSCIENTIOUS OBJECTOR

Following a military court hearing on 21 January, Turkish conscientious objector Enver Aydemir will have to appear before a higher court. He remains unlawfully detained in a military prison.

Enver Aydemir's lawyer told Amnesty International that Enver Aydemir's hearing for 'persistent insubordination' which took place on 21 January concluded that his offence was too serious for that court to consider and referred the case to a higher military court, in front of a panel of judges rather than a single judge. The date of that hearing is not yet known.

Due to his refusal to wear military clothing, Enver Aydemir was not brought to the court hearing. He told his lawyer that he will continue to disobey military rules in custody.

On 6 January, a group of 23 people were detained during a protest in the capital, Ankara, in support of Enver Aydemir. According to their lawyer, 19 of the group are now being prosecuted under Article 318 of the Penal Code which criminalizes 'alienating the public from military service' and article 215 of the Penal Code, which criminalizes "praising a crime or criminal", due to the peaceful expression of their support for Enver Aydemir.

PLEASE WRITE IMMEDIATELY in Turkish or your own language:

- calling on the authorities to release Enver Aydemir immediately and unconditionally;
- urging them to ensure that Enver Aydemir is not tortured or otherwise ill-treated, and that he has access to an independent medical examination and receives appropriate medical treatment;
- reminding them that Turkey is a state party to the International Covenant on Civil and Political Rights, and is therefore obliged to recognize the right to conscientious objection;
- expressing concern at the prosecution of 19 supporters of Enver Aydemir which are in breach international standards on freedom of expression.

PLEASE SEND APPEALS BEFORE 8 MARCH 2010 TO:

Ministry of National Defence

Vecdi Gonul
Minister of National Defence
Milli Savunma Bakanligi
06100 Ankara, Turkey
Fax: +90 312 418 4737
Email: info@msb.gov.tr
Salutation: Dear Minister

Military Prison Commander

Eskisehir Military Prison
1. Taktik Hava Kuvvetleri Komutanligi
Askeri Cezaevi
Eskisehir, Turkey
Fax: +90 222 237 5928
Salutation: Dear Commander

And copies to:

Parliamentary Commission on Human Rights
Mehmet Zafer Uskul,
Commission Chairperson
TBMM Insan Haklarini Inceleme Komisyonu
Bakanliklar, 06543 Ankara, Turkey
Fax: +90 312 420 53 94
Email: inshkkom@tbmm.gov.tr
Salutation: Dear Mr Uskul

Also send copies to diplomatic representatives accredited to your country. Please check with your section office if sending appeals after the above date. This is the first update of UA 04/10 (EUR 44/001/2010).

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ADDITIONAL INFORMATION

In its national law, Turkey fails to recognize the right to conscientious objection and no civilian alternative is available. Conscientious objectors who have publicly stated their refusal to carry out military service have been subjected to criminal prosecution and imprisonment of up to three years. On release, they often receive new call-up papers, and the process is repeated. Turkey has failed to implement the 2006 ruling of the European Court of Human Rights that required Turkey to amend its legislation to prevent the "civil death" of conscientious objectors repeatedly prosecuted and convicted for their refusal to carry out military service, found by the Court to be a violation of Article 3 of the European Convention on Human Rights (prohibition of degrading treatment).

Enver Aydemir declared his conscientious objection in 2007. He was taken, against his will, to carry out his military service in Bilecik Gendarmerie Training Brigade Command on 24 July 2007. He was imprisoned a week later in Eskisehir military prison. On 4 October 2007, he was brought before a military court for refusing to perform military service. The court released him on condition that he present himself promptly to the military authorities to perform military service. Following his release, he has restated his refusal to perform military service on grounds of religious conviction and did not join his unit, leading to the issuing of an arrest warrant.

Amnesty International considers a conscientious objector to be any person who, for reasons of conscience or profound conviction, refuses to perform service in the armed forces, or any other direct or indirect participation in wars or armed conflicts. This can include refusal to participate in a war because one disagrees with its aims or the manner in which it is being waged, even if one does not oppose taking part in all wars. Amnesty International considers a person to be a prisoner of conscience when they are detained or imprisoned solely because they have been denied their right to register an objection or to perform a genuinely civilian alternative service. They would also be prisoners of conscience if imprisoned for leaving the armed forces without authorization for reasons of conscience, if they have taken reasonable steps to secure release from military obligations.

The right to refuse military service for reasons of conscience is inherent in the notion of freedom of thought, conscience and religion as laid down in a number of international human rights instruments, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR) to which Turkey is a party.

As far back as 1995, in its Resolution 1998/77 the UN Commission for Human Rights has stated that the right to conscientious objection to military service is protected by Article 18 of the International Covenant on Civil and Political Rights (ICCPR, right to freedom of religion, conscience and belief), "The right of everyone to have conscientious objections to military service [constitutes] a legitimate exercise of the right to freedom of thought, conscience and religion, as laid down in Article 18 of the Universal Declaration of Human Rights and Article 18 of the ICCPR." In the resolution, the Committee also repeated its call on states to "provide for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive nature" and emphasised that states must "refrain from subjecting conscientious objectors to imprisonment and to repeated punishment for failure to perform military service," recalling "that no one shall be liable or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country."

On 3 November 2006, the Human Rights Committee ruled that the prosecution and conviction of two conscientious objectors by the Republic of Korea for their refusal to perform compulsory military service had breached Article 18 of the ICCPR as no civilian alternative was available (Communication nos. 1321/2004 and 1322/2004).

Amnesty International issued a press release on the eve of Enver Aydemir's military trial in October 2007:

<http://www.amnesty.org/en/library/asset/EUR44/017/2007/en/d0d80105-d364-11dd-a329-2f46302a8cc6/eur440172007en.html>

Further Information on UA: 04/10 Index: EUR 44/001/2010 Issue Date: 25 January 2010

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