

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Turkey: Conscientious objection is a human right not a personality disorder

Conscientious objector Enver Aydemir was released from military custody on 8 June following a report from the Gülhane Military Medical Academy in Ankara declaring him to be “unsuitable for military service”.

Enver Aydemir had been in custody since 24 December 2009. On 29 March 2010 he was convicted by a military court of “desertion” due to his refusal in 2007 to perform military service. His trial on four counts of “persistent insubordination”, also due to his refusal to perform military service was continuing. Amnesty International considered him to be a prisoner of conscience.

On 1 June during a trial hearing on one of the charges of “persistent insubordination” at Eskişehir Military Court, Enver Aydemir was sent to the Gülhane Military Medical Academy in Ankara in order for psychiatric tests to be carried out on him. Enver Aydemir’s lawyer told Amnesty International that Enver Aydemir refused to wear military clothing while being held at the hospital and that he refused to undergo psychiatric tests. Despite this the Gülhane Military Medical Academy issued a report stating that Enver Aydemir has an “anti-social personality disorder” and is “unfit for military service”. Amnesty International has long held concerns that such reports are issued not on the basis of any psychological condition but due to the individual’s insistence on their status as a conscientious objector. In the past conscientious objectors Halil Savda and more recently Mehmet Bal were both issued with such reports after being repeatedly prosecuted for their refusal to perform military service.

Amnesty International welcomes the release of Enver Aydemir and the fact that the four charges of “persistent insubordination” faced by Enver Aydemir still pending at the Eskişehir Military court are likely to be dropped. However, the organization remains concerned that Enver Aydemir’s conviction on 29 March for “desertion”, and which is pending appeal at the Military Supreme Court may still be confirmed. Should Enver Aydemir be detained by the authorities due to the charge of “desertion” or any other offence relating to his refusal to perform military service, Amnesty International would consider him to be a prisoner of conscience.

Amnesty International is concerned that there is a continuing pattern of alleged ill-treatment of conscientious objectors in military custody. Both Halil Savda and Mehmet Bal alleged that they were ill-treated in military custody. In the case of Mehmet Bal, prisoners who carried out ill-treatment were convicted by a military court. However, prison officials were not brought to justice in either case. Allegations made by Enver Aydemir that he was beaten with truncheons while in detention at Maltepe military prison in Istanbul in December 2009 have not been promptly investigated by the authorities. Amnesty International understands that following a criminal complaint issued by Enver Aydemir’s lawyer on 28 December, an investigation is continuing, but after more than six months the investigation has not concluded and no criminal charges have been brought by the authorities against prison officials.

More broadly, Amnesty International remains concerned that the Turkish authorities have not taken any steps to implement the 2006 verdict in the case of *Ülke vs. Turkey* (Application no.

39437/98) which found that Turkey's repeated prosecution and conviction of the applicant, conscientious objector Osman Murat Ülke, violated Article 3 of the European Convention on Human Rights (inhuman or degrading treatment or punishment) and required Turkey to amend its laws to prevent the repeated prosecution of conscientious objectors.

The repeated prosecution of Enver Aydemir is another example of Turkey's continued practice of repeatedly prosecuting conscientious objectors. In addition to the criminal charges Enver Aydemir was also issued with three separate disciplinary punishments while at Eskişehir military prison due to his refusal to wear military clothing as required by the prison authorities.

Amnesty International calls on the Turkish authorities to implement the *Ülke* judgment without delay and to ensure that persons are not repeatedly prosecuted for their refusal to perform military service. Amnesty International also calls on the authorities to recognize the right to conscientious objection and to introduce an alternative civilian service to military service, in line with European and international human rights standards and recommendations.

Amnesty International has also followed with concern the prosecution of 19 activists following their arrest on 6 January 2010 at a street protest in Ankara in support of Enver Aydemir. The prosecution was brought under Article 215 of the Penal Code which criminalizes "praising a crime or a criminal" and Article 318 of the Penal Code which criminalizes "alienating the public from the institution of military service".

Amnesty International is concerned that the prosecution which violates international standards on the right to freedom of expression is part of a continuing pattern of judicial harassment of conscientious objectors and their supporters who make public statements in support of the right to conscientious objection. If convicted and imprisoned Amnesty International would consider the activists to be prisoners of conscience. Amnesty International calls on the Turkish authorities to ensure that the application of domestic legislation is in accordance with international standards on freedom of expression. In this regard, the organization calls on the Turkish authorities to abolish Article 318 of the Penal Code which represents a direct and illegitimate limitation to the right to freedom of expression.

Amnesty International documents

Regarding the prosecution of Enver Aydemir:

Urgent Action, *Turkey: Conscientious objector at risk of imprisonment*, (AI Index: EUR 44/017/2007), 3 October 2007

<http://www.amnesty.org/en/library/info/EUR44/017/2007/en>

Urgent Action, *Turkey: Conscientious objector unlawfully detained*, (AI Index: EUR

44/001/2010), 7 January 2010 <http://www.amnesty.org/en/library/info/EUR44/001/2010/en>

Web Story, *Turkey must set free conscientious objector*, 11 January 2010

<http://www.amnesty.org/en/news-and-updates/turkey-must-set-free-conscientious-objector-20100111>

Urgent Action, *Enver Aydemir: Further information*, (AI Index: EUR 44/002/2010), 25 January 2010

<http://www.amnesty.org/en/library/info/EUR44/002/2010/en>

Urgent Action, *Turkey: Further information: Conscientious objector convicted: Enver Aydemir*, (AI Index: EUR 44/006/2010), 8 April 2010

<http://www.amnesty.org/en/library/info/EUR44/006/2010/en>

Regarding the prosecution of Mehmet Bal:

Urgent Action, *Turkey: Fear for safety / ill - treatment / legal concern: Mehmet Bal*, (EUR 44/009/2008), 11 June 2008 <http://www.amnesty.org/en/library/info/EUR44/009/2008/en>

Urgent Action, *Turkey: Further Information on fear for safety/ ill-treatment/ legal concern: Mehmet Bal (m)*, (EUR 44/010/2008), 17 June 2008
<http://www.amnesty.org/en/library/info/EUR44/010/2008/en>

Urgent Action, *Turkey: Further Information on Fear for safety/ ill-treatment/ legal concern: Mehmet Bal (m)*, (AI Index: EUR 44/012/2008), 2 July 2008
<http://www.amnesty.org/en/library/info/EUR44/012/2008/en>

Web story, *Soldiers convicted for ill-treatment of conscientious objector in Turkey*, 19 November 2009 <http://www.amnesty.org/en/news-and-updates/news/soldiers-convicted-ill-treatment-conscientious-objector-turkey-20091119>