

TURKEY

Osman Murat Ülke - conscientious objector jailed

Turkey does not recognize the right to conscientious objection to military service. Osman Murat Ülke, chairperson of the now banned Izmir War Resisters' Association (ISKD), was detained in Izmir on 7 October 1996, more than one year after he publicly burned his call-up papers and declared in a press conference on 1 September 1995 that, as a pacifist, he would not perform any military service.

In 1995 Osman Murat Ülke, together with three members of the Istanbul War Resisters' Association (subsequently also closed down) had been prosecuted by the Military Court of General Staff for violating Article 155 of the Turkish Penal Code - "alienating the people from military service". His three fellow-defendants were found guilty and sentenced, but he himself was acquitted. One year later, in 1996, he faced renewed prosecution on the same charge.

On 8 October Osman Murat Ülke was formally arrested on written orders from the Military Court of General Staff in Ankara. On 11 October he was transferred from Izmir to Ankara for interrogation by the military prosecutor and initially held at the civilian Ankara Central Closed Prison, together with political prisoners.

On 14 October Osman Murat Ülke was transferred to Mamak Military Prison in Ankara where he refused to put on a military uniform and to obey military orders. As punishment for insubordination he was put in solitary confinement for five days.

On 19 November 1996 Osman Murat Ülke was put on trial at the Military Court of the General Staff in Ankara. He was charged, under Article 155 of the Turkish Penal Code in conjunction with Article 58 of the Military Penal Code, with "alienating the public from the institution of military service", by publicly burning his call-up papers and declaring his conscientious objection to military service. The two-hour hearing was adjourned until 24 December and Osman Murat Ülke was formally released, only to be taken by gendarmes from the court to the military prison and from there to the recruitment office to begin his military service.

On 22 November Osman Murat Ülke was sent to his military unit, the 9th Gendarmerie Training Unit for conscripts in the northwestern town of Bilecik, from where he was transferred on 26 November to the military prison in Eski_ehir to stand trial at the Disciplinary Military Court in Eski_ehir for refusing to obey orders.

On 24 December 1996 another hearing took place in the trial at the Military Court of the General Staff in Ankara. Osman Murat Ülke, who was still being held at the military

prison in Eski_ehir, was not brought to the hearing. The trial was adjourned to 28 January 1997.

On 27 December 1996 the trial at Eski_ehir Military Court against Osman Murat Ülke for his refusal to wear military uniform continued. The court released him at the end of the hearing which was adjourned to 30 January 1997. In a public statement made after his release, Osman Murat Ülke said that he would not report to the military recruitment office of his own free will, as ordered by the court.

On 28 January 1997 the Military Court of the General Staff in Ankara sentenced Osman Murat Ülke to six months' imprisonment and a fine of 540,000 Turkish Lira (approx. \$ 5) for "alienating the public from the institution of military service" by publicly declaring his conscientious objection to military service and burning his call-up papers in September 1995.

In his defence speech Osman Murat Ülke stated that "*having the right to life also means having the responsibility not to cause death. Killing a person is the most obvious way of violating the right to life. Therefore, conscientious objection is not only a right for me, but also it is my responsibility*". He was then asked what had happened since the last hearing and he reported that he had not returned to the 9th Gendarmerie Training Unit in Bilecik, as ordered by the military court in Eski_ehir on 27 December. When called a "deserter" by the judge, Osman Murat Ülke replied, "*I am not a deserter, I am a conscientious objector*".

At the end of the hearing before the sentence was handed down, Osman Murat Ülke, who had been released at a previous trial hearing, was detained again by the gendarmerie and later taken to Mamak Military Prison where he could be visited by his lawyers the following day.

On 30 January the trial at the Military Court in Eski_ehir for "continuing disobedience" resumed in Osman Murat Ülke's absence to be adjourned to 6 March for sentencing. On 6 March 1997 Osman Murat Ülke was sentenced to five months' imprisonment.

On 18 February 1997 the Military Court of the General Staff in Ankara opened a new trial against Osman Murat Ülke and a further 11 defendants from the Turkish Human Rights Association (IHD) and the banned Izmir War Resisters' Association, again on charges of "alienating the public from the institution of military service". The reason is a book published by the IHD in July 1996 which contains speeches held, and messages sent, on the occasion of the IHD's Human Rights Week 1995. It includes a statement sent to the IHD on that occasion by Izmir War Resisters' Association.

Turkey's system of conscription for military service makes no provision for conscientious objection. There are large numbers of draft evaders in Turkey, avoiding conscription into the armed conflict with the Kurdish Workers' Party (PKK) in the south-east. In contrast Osman Murat Ülke is emphatic that he is not a draft evader but a resister. In the press conference he gave on 1 September 1995 he had stated, "*I am not a draft evader, but a conscientious objector. I neither think to escape nor to go to conscription. I have no reason to escape from conscription because I am in favour of people using their right not to be conscripted without having to hide. I am not a soldier and I never will be... I will never, ever, conduct military service in any way.*"

Osman Murat Ülke was born on 15 October 1970 in Runderoth, Germany, as the oldest son of Turkish migrant workers. His best childhood friend was a Spanish child from whom he learned to speak Spanish, in addition to his German. But he could hardly speak Turkish when his parents sent him back to Turkey at the age of 15 to continue his education there. He attended a boarding school in Izmir and later the Antalya School of Tourism.

During these years he became interested in politics, being fascinated by the '68 student movement and Mahatma Ghandi's pacifist struggle. But his main interest was in ecology, and he and a group of friends in Antalya started their own activities including issuing a journal called *Coelacanth*. In 1992 at the time when he was due to begin his military service he met a group of pacifists at a festival in Izmir whom he joined to set up the Izmir War Resisters' Association. He distributed their journal in Antalya. In 1994 he participated in a conference of War Resisters International in Brazil.

Amnesty International believes that everyone should have the right to refuse to perform military service for reasons of conscience or profound conviction arising from religious, ethical, moral, humanitarian, philosophical, political or similar motives. Amnesty International considers Osman Murat Ülke to be a prisoner of conscience and is calling for his immediate and unconditional release. Amnesty International is also urging the Turkish Government that provision be made for alternative civilian service for conscientious objectors, in line with resolutions and recommendations by the United Nations and the Council of Europe.

5. BACKGROUND INFORMATION

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.

The United Nations Commission on Human Rights, recognized in its resolution 1989/59 of 8 March 1989 and reaffirmed in Resolution 1993/84 of 10 March 1993, *"the right of everyone to have conscientious objections to military service as 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 as well as article 18 of the International Covenant on Civil and Political Rights"*. It furthermore recommended that Member States *"with a system of compulsory military service, where such provision has not already been made...introduce for conscientious objectors various forms of alternative service"* (§ 3) which is *"in principle of a non-combatant or civilian character, in the public interest and not of a punitive nature"* (§ 4).

In its Recommendation 1995/83 of 8 March 1995 the UN Commission on Human Rights furthermore, *"Reminds States with a system of compulsory military service, where such provision has not already been made, of its recommendation that they introduce for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection and that they refrain from subjecting conscientious objectors to imprisonment"* (§ 5), and again, *"Emphasizes that such forms of alternative service should be of a non-combatant or civilian character, in the public interest and not of a punitive nature"* (§ 6).

Recommendation No. 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 states 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"* (§ 1). *It recommends that "Alternative service shall not be of a punitive nature. Its duration shall, in comparison to that of military service, remain within reasonable limits"* (§ 10) and that alternative service *"shall be in principle civilian and in the public interest"* (§ 9).

At the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (now renamed: OSCE - Organization for Security and Co-operation in Europe) in 1990, the participating States of the Conference, which included Turkey, noted that the UN Commission on Human Rights has recognized the right of everyone to have conscientious objection to military service and agreed to consider introducing, where this has not yet been done, various forms of alternative civilian service in the public interest and of a non-punitive nature (§ 18).

On 11 March 1993 the European Parliament adopted a resolution on respect for human rights in the European Community (now called: European Union). In the section on conscientious objection it *"Considers that the right of conscientious objection, as*

recognized by Resolution 1989/59 of the UN Commission on Human Rights on conscientious objection to military service, should be incorporated in the legal system of the Member States" (§ 46). It also: "Condemns the trials and imprisonment of conscientious objectors in the Member States, many of whom have been regarded as prisoners of conscience by Amnesty International" (§ 50).

Turkey is a Member State of the Council of Europe and of the OSCE and has applied for full membership of the European Union.

STOP PRESS

On 3 April 1997 a fourth trial was opened against Osman Murat Ülke on four charges:

1. Desertion, because he did not report to the military unit in Bilecik after his release on 27 December 1996 by the Military Court in Eski_ehir; under Article 66/1a of the Turkish Military Penal Code. Maximum sentence possible: three years.
2. Using the trick of claiming the right to conscientious objection in order to avoid military service; under Article 81/1 of the Turkish Military Penal Code. Maximum sentence possible: 10 years.
3. Draft evasion between 1992 and 1995; under Article 63/1a of the Turkish Military Penal Code. Maximum sentence possible: two years.
4. Failing to join his military unit on time, having been enlisted as a conscript in August 1995 (after which he burned his call-up papers) and sent to his military unit at the end of November 1996, following his arrest on 7 October 1996; under Article 63/1b of the Turkish Military Penal Code. Maximum sentence possible: one year.

The next hearing in this trial will be on 1 May 1997 in the Military Court in Eski_ehir.

As Osman Murat Ülke continues to refuse to wear military uniform, which is a disciplinary offence under the military prison regime, he was punished initially with a one-month ban on receiving letters. This has been repeated since with an added ban on visits. Letters which have arrived during the punishment period are being handed over at the end of each such period. They should be addressed:

Osman Murat Ülke, 1. Taktik Hava Kuvvetleri Komutanl___, Eski_ehir, Turkey.