

Religious Freedom Concerns

Statement by the European Association of Jehovah's Christian Witnesses

OSCE Supplementary Human Dimension Meeting, Vienna

14 and 15 April 2016

Turkey refuses to recognize conscientious objection to military service and has no provision for alternative service.

60 conscientious objectors under prosecution

On zoning maps, officials throughout the country refuse to classify Kingdom Halls of Jehovah's Witnesses as "places of worship."

91 requests for zoning of houses of worship denied by 29 municipalities

Denial of Right to Conscientious Objection to Military Service

As of February 2016, 60 Witnesses are facing prosecution as conscientious objectors to military service. The government of Turkey subjects Witness conscientious objectors to multiple call-ups for military duty, repeated fines, and threats of imprisonment. In doing so, Turkey continues to violate its international obligations.

(1) Turkey ignores the judgment of the Grand Chamber of the European Court of Human Rights (ECHR) in *Bayatyan v. Armenia*, no. 23459/03, 7 July 2011. The Grand Chamber found that Article 9 of the European Convention protects conscientious objectors who refuse military service. As a member of the Council of Europe, this ruling is binding on Turkey.

(2) Turkey continues to disregard ECHR judgements against it on this issue:

- *Buldu and Others v. Turkey*, no. 14017/08, 3 June 2014
- *Feti Demirtaş v. Turkey*, no. 5260/07, 17 January 2012
- *Erçep v. Turkey*, no. 43965/04, 22 November 2011

"The measures taken against the applicants . . . are an interference that was not necessary in a democratic society within the meaning of Article 9 of the Convention."—*Buldu v. Turkey*.

(3) Turkey also ignores the UN Human Rights Committee (CCPR) Views—*Atasoy and Sarkut v. Turkey* (CCPR/C/104/D/1853-1854/2008 [29 March 2012]).

"[The Witnesses'] refusal to be drafted for compulsory military service derives from their religious beliefs," and their "subsequent prosecution and sentences amount to an infringement of their freedom of conscience, in breach of article 18, paragraph 1, of the [International Covenant on Civil and Political Rights]."—*Atasoy and Sarkut v. Turkey*.

RELIGIOUS FREEDOM CONCERNS — TURKEY

Among the 60 Witnesses whom the government of Turkey is now prosecuting, 3 individuals are applicants of the above-mentioned ECHR judgments:

- Barış Görmez, *Buldu and Others v. Turkey*
- Ersin Ölgün, *Buldu and Others v. Turkey*
- Feti Demirtaş, *Feti Demirtaş v. Turkey*

Courts continue to prosecute and fine Witness men for refusal to serve in the military:

- (1) Can Ekin was fined 296 Turkish liras (88 euros) three times in May and June 2015. One of his appeals is pending before the local court. One of the other appeals was accepted but the third was rejected. An appeal was lodged with the Constitutional Court on **22 January 2016**.
- (2) Yusuf İçinli was fined 122 Turkish liras (36 euros) on 4 March 2015. The fine was confirmed on 27 March 2015. He was apprehended and issued with a report by police on **23 October 2015**.
- (3) Faruk Tatlıçeşme was fined 4,078 Turkish liras (1,210 euros) on 14 April 2015. His appeal was rejected by the local court on **12 January 2016**, confirming the fine.
- (4) Ersin Ölgün, (*Buldu and Others v. Turkey*) is currently facing prosecution on the charge of draft evasion. After winning his case before the ECHR, police twice apprehended him in the middle of the night to issue reports against him. He and his wife are still living under the stress of potential apprehension. He continues to face prosecution for his sincerely held conscientious objection to military service, with additional charges filed against him to be considered in a hearing on **3 May 2016**.
- (5) Barış Görmez (*Buldu and Others v. Turkey*) was acquitted of two charges in the lower military court, which charges were also included in the ECHR application. However, the Military Supreme Court overturned the lower military court's acquittal rulings three times, ordering that they be reconsidered. Upon the third such ruling the lower military court released an interim decision expressing agreement with the ruling by the Military Supreme Court. When the military court moved to acquit for the fourth time, the military prosecutor appealed the decision. The Military Supreme Court again overturned the acquittal on **16 September 2015** on grounds of insufficient investigation.
- (6) Volkan Altay was fined 6,796 Turkish liras (2,124 euros) on 3 December 2015. His appeal is pending before the local court. He was apprehended by police who issued a report on **20 October 2015**.
- (7) Feti Demirtaş (*Feti Demirtaş v. Turkey*) won his case at the ECHR in 2012. Despite this, he continues to face prosecution for his sincere conscientious objection to military service. On **9 September 2015** the Court commuted his prison sentence to 1,500 Turkish liras (469 euros). His appeal is pending before the Military Supreme Court.
- (8) Zafer Gül was fined 7,802 Turkish liras (2,438 euros) on **6 January 2016**. His appeal is pending before the local court.
- (9) Barış Kalaycı was fined 2,718 Turkish liras (849 euros) on **8 October 2015**. His appeal is pending before the local court.
- (10) Şahin Ölgün was apprehended by the police and issued a report on **24 December 2015**. His case is before the Constitutional Court.
- (11) Özgür Kalaycı's compensation case is ongoing.

Denial of Zoning for Houses of Worship

In 2003, Turkey modified its Law on Zoning No. 3194 in order to comply with European standards on non-discrimination and freedom of religion, providing non-Muslim religious minorities the right to build and own places of worship. In practice, however, municipal authorities and domestic courts have refused to implement this provision and routinely refuse to grant a place of worship status for Kingdom Halls of Jehovah's Witnesses.

To date, 29 different municipalities have denied 91 requests made by Jehovah's Witnesses to obtain a religious facility location on municipal zoning maps. Not one Kingdom Hall in Turkey has been zoned as a place of worship.

Because the government rejects registration of Kingdom Halls, they can close the houses of worship at any time they choose. The Witnesses must also unjustly pay property taxes because their Kingdom Halls are not properly zoned as religious facilities.

Jehovah's Witnesses have submitted two applications to the ECHR on this issue. On 2 February 2015, the ECHR informed the Witnesses that the Court had requested the government to submit their final remarks by 2 March 2015. The two applications are pending judgment by the ECHR.

- ECHR jurisprudence requires that “states must refrain from applying arbitrary measures capable of interfering with the right to assemble peacefully. In view of the essential nature of freedom of assembly and association and its close relationship with democracy there must be convincing and compelling reasons to justify an interference with this right (see *Ouranio Toxo v. Greece*, no. 74989/01, § 36, 20 October 2005, with further references).” —*Barankevich v. Russia*, no. 10519/03, §§ 24 & 25, 26 July 2007.

Jehovah's Witnesses respectfully request the government of Turkey to:

- (1) Recognize the right to conscientious objection to military service and provide for alternative civilian service so that Jehovah's Witnesses may serve their country with a clean conscience
- (2) Apply the zoning law properly to allow them to build and register places of worship

Representatives of Jehovah's Witnesses welcome the opportunity to engage in a constructive dialogue with representatives of the government of Turkey.

For more information:

Please contact the Office of General Counsel of Jehovah's Witnesses at generalcounsel@jw.org

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