

19 September 2019

Enclosed information material is submitted by the European Association of Jehovah's Witnesses

European Association of Jehovah's Witnesses

T U R K E Y

RELIGIOUS FREEDOM ISSUES

STATEMENT BY THE
EUROPEAN ASSOCIATION OF
JEHOVAH'S WITNESSES

**OSCE Human
Dimension
Implementation
Meeting, Warsaw**

16-27 SEPTEMBER 2019

Turkey

Jehovah's Witnesses in Turkey have legal registration and, in general, they enjoy freedom of worship.

→ However, Turkey refuses to recognize conscientious objection to military service and makes no provision for alternative civilian service.

→ The government relentlessly prosecutes conscientious objectors.

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

Abuses and Restrictions of Religious Freedom

DENIAL OF RIGHT TO CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

The government of Turkey subjects Jehovah's Witnesses who are conscientious objectors to unending call-ups for military duty, prosecutes them relentlessly and penalizes them with repeated fines and threats of imprisonment. There are 63 of Jehovah's Witnesses who are currently under prosecution as conscientious objectors to military service. Forty-four of the men have a total of 177 cases pending against them and pending fines of more than EUR 48,600 (USD 54,000).

These young Witnesses find it virtually impossible to find or maintain employment. The Ministry of National Defence sends letters to their employers to make sure that they lose their jobs.

Although Turkey acknowledges European Court of Human Rights (ECHR) judgments against it by paying damages to the applicants, it *refuses* to abide by the requirements of these judgments and those of the UN Human Rights Committee (CCPR) to recognize conscientious objection to military service.

63

Conscientious objectors
under prosecution

44

of these conscientious
objectors have 177 cases
pending against them and pen-
ding fines of more than
EUR 48,600 (USD 54,000)

100

Requests for zoning of
houses of worship denied by
30 municipalities

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1. Turkey ignores the landmark judgment of the Grand Chamber of the 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.
 2. Turkey disregards ECHR judgments against its treatment of conscientious objectors:
 - *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

These rulings are binding on Turkey, since it is a member of the Council of Europe.

3. Turkey also ignores the CCPR Views in *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]”.

The government issues four call-ups per year for military service. Every time a male Witness who is a conscientious objector receives a call-up, he reports in person to the enlistment office and informs the officers of his refusal to serve in the military. Since there is no provision for alternative civilian service, he is considered a “draft evader” and the military authorities initiate a legal case against him.

As a result, male Witnesses are subject to persistent call-ups, contend with court cases related to each individual call-up and often face heavy fines. On appeal, some local courts have cancelled the administrative fines, referring to international ECHR judgments and CCPR Views. However, even these cancellations resolve only the cases related to that specific call-up. These men remain in the never-ending cycle of call-ups, robbing them of any hope of a normal life and negatively affecting their family.

The following cases were in progress during the reporting period:

1. **Yahya Batmaz** was ordered to pay an administrative fine of EUR 4,882 (USD 5,509) on **28 November 2018** for refusal to serve in the military. The authorities have accused him of being an enlistment evader, even though he reported to the military recruitment office and submitted a petition for recognition of his conscientious objection. His appeal is pending before the local court.
2. **Özgür Haggay Baysel** refused to serve in the military and was ordered to pay two administrative fines of EUR 68 (approximately USD 77) and EUR 276 (approximately USD 311) on **12 November 2018** and a third



Yahya Batmaz and his wife, Melek

administrative fine of EUR 130 (approximately USD 147) on **12 April 2019**. The authorities have accused him of being an enlistment evader, even though he reported to the military recruitment office and submitted a petition for conscientious objection. No appeals were filed against the first two fines because of the statute of limitations, and his appeal against the third fine is pending before the local court.

- 3. Yakup Erdem Bilensir.** On **2 February 2019**, the prosecutor initiated legal proceedings against Mr Bilensir as an enlistment evader.
- 4. Nuri Elbe** was ordered to pay an administrative fine of EUR 498 (approximately USD 570) on **4 February 2019** for refusal to serve in the military. The authorities have accused him of being an enlistment evader, even though he reported to the military recruitment office and submitted a petition for conscientious objection. His appeal has been rejected by the local court, and a complaint has been submitted to the Constitutional Court.
- 5. Berge Çelikyazıcıyan.** Three legal proceedings have been initiated by the prosecutor against Mr Çelikyazıcıyan as an enlistment evader. The first indictment was filed on **23 July 2018**, the second on **7 November 2018** and the third on **19 February 2019**. The three cases were merged, and on **14 May 2019**, he was sentenced to seven months and 10 days in prison. This sentence was converted to a fine of EUR 741 (approximately USD 831). An appeal will be filed against the ruling.
- 6. Barış Görmez.** Turkey paid Mr Görmez EUR 15,000 (approximately USD 20,420) in damages as one of the applicants in the ECHR judgment *Buldu and Others v. Turkey*, no. 14017/08, 3 June 2014. However, he continues to be prosecuted. On **26 January 2019**, the chief prosecutor of the Court of Cassation requested that the court uphold a 31 March 2016 ruling against Mr Görmez sentencing him to 12 months and 15 days in prison for refusal to serve in the military. The conviction came long after the ECHR had ruled in his favour in *Buldu*. On **27 March 2019**, the 19th Criminal Chamber of the Court of Cassation rejected the appeal and upheld a fine totalling EUR 1,222 (approximately USD 1,375). If he does not pay the fine, he will be sentenced to prison. On **1 August 2019**, Mr Görmez filed a complaint with the Constitutional Court.
- 7. Necmettin Berkin Gül** was ordered to pay an administrative fine of EUR 276 (approximately USD 312) on **13 March 2019**, for refusal to serve in the military. The authorities have accused him of being an enlistment evader, even though he reported to the military recruitment office and submitted a petition for recognition of his conscientious objection. His appeal is pending before the local court.
- 8. Mehmet Can Ekin.** On **10 December 2018**, three legal proceedings initiated by the prosecutor accusing Mr Ekin of being an enlistment evader have been merged. The case is still under consideration.



Nuri Elbe and his wife, Yeliz



Barış Görmez and his wife, Beyhan



Berkin Gül and his wife, Gökçe



Ersin Ölgün and his wife, Neslihan



Arif Emrah Orak and his wife, Roda



Atilla Soyloğlu and his wife,
Alvina

9. **Cemal Özgül.** The prosecutor indicted him as an enlistment evader on **15 October 2018**. The case is still under consideration.
10. **Ersin Ölgün.** Turkey paid Mr Ölgün EUR 7,000 (approximately USD 9,530) in damages as one of the applicants in *Buldu and Others v. Turkey*, no. 14017/08, 3 June 2014. However, he continues to be prosecuted. Mr Ölgün was ordered to pay an administrative fine of EUR 539 (approximately USD 603) on **2 April 2019** for refusal to serve in the military. The authorities have accused him of being an enlistment evader, even though he reported to the military recruitment office and submitted a petition for recognition of his conscientious objection. He appealed, and on **19 May 2019**, the court cancelled the fine.
11. **Sami Şekip Peker** applied to the Constitutional Court on **5 November 2018** (application number 2018/36419) to demand the annulment of an administrative fine given to him for refusal to serve in the military.
12. **Timuçin Muhammet Tuzlu** was sentenced to 100 days in prison for evasion of military service on **20 June 2019**. The sentence was converted to a fine of EUR 306 (approximately USD 345).
13. **Arif Emrah Orak.** Two legal proceedings initiated by the prosecutor against Mr Orak as an enlistment evader on **4 January 2019** and **25 April 2019** have been merged. The case is still under consideration.
14. **Eren Faruk Tatlıeşme.** The prosecutor indicted him as an enlistment evader on **9 April 2018**. On **3 April 2019**, Mr Tatlıeşme was sentenced to five months in prison. His appeal is pending before a higher court.
15. **Mesut Tunçbükler** was fined EUR 796 (approximately USD 898) on **9 April 2019** for refusal to serve in the military. The authorities have accused him of being an enlistment evader, even though he reported to the military recruitment office and submitted a petition for recognition of his conscientious objection. His appeal is pending before a local court.
16. **Atilla Soyloğlu.** The prosecutor indicted him as an enlistment evader on **19 December 2018**. That case is still under consideration, and in the meantime, the prosecutor initiated a new case against him on **11 June 2019**.
17. **Ali Zafer Türkmen** was fined EUR 126 (approximately USD 141) on **20 May 2019** for refusal to serve in the military. The authorities have accused him of being an enlistment evader, even though he reported to the military recruitment office and submitted a petition for recognition of his conscientious objection. His appeal is pending before a local court.
18. **Mustafa Türközü** was fined EUR 4,798 (approximately USD 5,434) on **15 November 2018** for refusal to serve in the military. The authorities have accused him of being an enlistment evader, even though he

reported to the military recruitment office and submitted a petition for recognition of his conscientious objection. Following his appeal, the local court annulled the fine, but the Ministry of National Defence objected. The 19th Chamber of the Court of Cassation later reversed the annulment, and the lower court upheld the fine on **19 February 2019**. A complaint was submitted to the Constitutional Court on **18 March 2019**.

19. Barış Kalaycı. On **21 January 2019**, the prosecutor initiated legal proceedings against him as an enlistment evader. The case is still under consideration.

20. Öcal Yılmaztürk was fined EUR 560 (approximately USD 636) on **12 December 2018** for refusal to serve in the military. The authorities have accused him of being an enlistment evader, even though he reported to the military recruitment office and submitted a petition for recognition of his conscientious objection. His appeal was rejected by a local court on **28 March 2019**, and he submitted a complaint to the Constitutional Court on **18 April 2019**.

21. Caner Palandökenler. Three legal proceedings have been initiated by the prosecutor on the charge of being an enlistment evader. The cases are still under consideration.

22. Altuğ Öncü applied to the Constitutional Court on **1 April 2019** (application number 2019/11268) to demand the annulment of an administrative fine given to him for refusal to serve in the military.

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 refuse to implement this provision and grant “place of worship” status to Kingdom Halls of Jehovah’s Witnesses.

Jehovah’s Witnesses have filed more than 100 requests with more than 30 municipalities to obtain a “religious facility location” on municipal zoning maps, but all these requests have been denied. Not one Kingdom Hall in Turkey has been zoned as a place of worship.

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

In 2010 and 2012, Jehovah’s Witnesses in Turkey submitted two applications about this matter to the ECHR. On 24 May 2016, the ECHR released its judgment in the cases of *Association de solidarité avec les témoins de Jéhovah et autres c. Turquie*, nos. 36915/10 and 8606/13, finding that Turkey used



Barış Kalaycı and his wife, Helen



Caner Palandökenler

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Altuğ Öncü; his wife, Beste; and children

Because the government rejects registration of Kingdom Halls, officials can close them at any time they choose

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The Witnesses must unjustly pay property taxes because their Kingdom Halls are not properly zoned as religious facilities

its zoning legislation to “impose rigid, even prohibitive, requirements on the exercise [of worship] of minority denominations, one of which being Jehovah’s Witnesses”. The Court ruled that the law unnecessarily restricted the Witnesses’ ability to worship freely and therefore violated Article 9 of the European Convention on Human Rights.

In early 2018, Jehovah’s Witnesses applied to the local courts in the two locations that were the subject of the above-mentioned ECHR judgment, namely, Mersin and Izmir.

- 1. Mersin.** On **9 February 2018**, the local court ruled in favour of Jehovah’s Witnesses and annulled the municipality’s decision to shut down their place of worship. The decision was upheld by the Council of State on **11 September 2018**. On **27 February 2019**, the municipality filed a final appeal in a last attempt to reverse the court ruling. The appeal is still pending.
- 2. Izmir.** On **19 February 2018**, the 3rd Administrative Court decided that a previous negative decision was unjust and therefore cancelled it 14 years after the original decision. However, on **28 May 2018**, the local municipality appealed this decision before the Council of State. The appeal is still pending.

During this reporting period, other municipalities have denied zoning permits:

- 1.** A request for permission to open a Kingdom Hall in İskenderun was filed on **15 March 2019**. On **20 March 2019**, the local municipality replied that there was no available parcel on which to build a house of worship.
- 2.** A request for permission to open a Kingdom Hall in Samsun was filed on **21 February 2019**. On **28 February 2019**, the local municipality replied that there was no available parcel on which to build a house of worship.
- 3.** A request for permission to open a Kingdom Hall in Denizli was filed on **1 April 2019**. On **10 April 2019**, the local municipality replied that there was no available parcel on which to build a house of worship.

Interference With Manifestation of Religious Belief

During the reporting period, there were 10 incidents involving 21 of Jehovah’s Witnesses where local police or municipal authorities imposed fines for religious activity—mainly for distributing religious literature. The incidents occurred in the cities of Alanya, Çorlu, İskenderun, Istanbul, Izmir, Kemalpaşa, Kayseri and Samsun. In most instances, local courts annulled the fines, while other cases are pending consideration.

Regarding the incident in Kemalpaşa, the authorities deported a female Witness who was a foreign national under the pretext that she entered the

country illegally, even though she was holding a valid visa. The municipal authorities in Alanya confiscated a mobile literature cart from two female Witnesses but returned it after the women formally complained.

Positive Developments

Some appeal courts have cancelled the administrative penalty fines issued against conscientious objectors, referring to the facts stated in conscientious objectors' petitions and to standards upheld in international court decisions.

- Since **September 2018**, appeal courts have revoked penalty fines against three Witness conscientious objectors.
- Since **September 2018**, five Witness conscientious objectors have been acquitted by appeal courts. Jehovah's Witnesses appreciate these decisions as they can serve as precedents in other cases involving conscientious objectors.

RELIGIOUS FREEDOM OBJECTIVES

JEHOVAH'S WITNESSES RESPECTFULLY REQUEST THE GOVERNMENT OF TURKEY TO:

- Recognize the right to conscientious objection to military service and provide for alternative civilian service;
- Allow Jehovah's Witnesses to register their places of worship and benefit from the protections of law that this recognition provides; and
- Allow Jehovah's Witnesses to manifest their religious beliefs without hindrance.

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

For more information:

Please contact the Office of Public Information for Jehovah's Witnesses at OPIGov@jw.org.



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