

**SECRETARIAT GENERAL**

SECRETARIAT OF THE COMMITTEE OF MINISTERS  
SECRETARIAT DU COMITE DES MINISTRES



Contact: Abel Campos  
Tel: 03 88 41 26 48

**Date:** 30 October/octobre 2012

**DH-DD(2012)1014**

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1157 DH meeting (4-6 December 2012)

Item reference: Communication from the authorities (29/10/12)

Communication from Turkey concerning the case of Ülke against Turkey (Application No. 39437/98).

Information made available under Rule 8.2.a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

\* \* \* \* \*

Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1157 réunion DH (4-6 décembre 2012)

Référence du point : Communication des autorités

Communication de la Turquie relative à l'affaire Ülke contre Turquie (requête n° 39437/98)  
**(anglais uniquement).**

Informations mises à disposition en vertu de la Règle 8.2.a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

---



1157<sup>th</sup> MEETING (DH) 4-6 DECEMBER 2012

**Communication from the Government of the Republic in the case of**

**Ülke against Turkey (39437/98)**

*23 October 2012*

1. At the 1144<sup>th</sup> and 1150<sup>th</sup> meetings the Turkish Government provided the Committee of Ministers with detailed information about the individual measures taken for the execution of Ülke judgment.
2. Noting the information regarding the consequences of the lifting of the arrest warrant against the applicant, at the 1157<sup>th</sup> meeting, the Committee of Ministers urged the Turkish authorities to take the necessary legislative measures with a view to preventing the repetitive prosecution and conviction of conscientious objectors in order not only to exclude any possibility of the applicant's further prosecution and conviction but also to prevent similar violations in the future.
3. As reported at the 1144<sup>th</sup> and 1157<sup>th</sup> meetings, lifting of the arrest warrant by the Military Court have considerably improved the applicant's individual situation. As noted at the Committee's decision, due to the existing legislation in force the investigation against the applicant for desertion offence is still pending, and unless the law is amended, there is a theoretical possibility that the applicant could be subjected to further prosecution and conviction.
4. However, in this context the Government underlines the Military Court's reasoning while lifting the arrest warrant. Referring to Article 90 of the Turkish Constitution and the evolving case-law of the ECtHR, the Military Court lifted the arrest warrant and, in order to prevent the applicant's potential victim status in the future, did not impose any of the alternative measures that are provided in the Criminal Procedure Code.
5. At this stage the Government would like to draw the Committee's attention to an on-going two-year Council of Europe project on "Human Rights Training of Military Judges and Prosecutors". The overall objective of the project is to support the interpretation and application of legal provisions related to human rights and

fundamental freedoms in line with the European Convention on Human Rights and the ECtHR's related case law. The project aims at improving the knowledge and implementation capacity of military judges and prosecutors and legal counsellors at the Ministry of National Defence on the ECHR, and the case law of the ECtHR by the end of 2012.

6. At the end of the project, a training system for military judges and prosecutor will have been developed; access of all military judges and prosecutors and legal counsellors at the Ministry of Defence to the translation of the related instruments and judgments of the ECtHR will have been facilitated. Thus the military judges and prosecutors and legal counselors will take into consideration more often and apply the case law of the ECtHR to the cases before them.
7. The project will come to an end with an international conference to be organized on 12-13 December 2012.
8. Moreover, the Human Rights Department of the Ministry of Justice launched an official web-site ([www.inhak.adalet.gov.tr](http://www.inhak.adalet.gov.tr)) in April 2012, where it publishes Turkish translation of the ECtHR's judgments. As of 23 October 2012, 2,556 translated judgments including the ECtHR's relevant case-law regarding Turkey on conscientious objectors have been publicly made available through this web-site.
9. The Government believes that abovementioned steps will have considerable positive impact on the implementation of existing legislation in the light of ECtHR's case-law.
10. Apart from the mentioned activities, the Government would like to inform the Committee that consultations between relevant authorities have not been finalised yet.
11. The Turkish Government will keep the Committee of Ministers informed of any developments that will take place in the future in respect of the full execution of the judgment in question.