

**SECRETARIAT GENERAL**

SECRETARIAT OF THE COMMITTEE OF MINISTERS  
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COMMITTEE  
OF MINISTERS  
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**Date:** 28/09/2018

**DH-DD(2018)938**

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: 1331<sup>st</sup> meeting (December 2018) (DH)

Communication from the authorities (24/09/2018) concerning the case of ULKE GROUP v. Turkey (Application No. 39437/98).

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

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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 : 1331<sup>e</sup> réunion (décembre 2018) (DH)

Communication des autorités (24/09/2018) concernant l'affaire GROUPE ULKE c. Turquie (Requête n° 39437/98) (**Anglais uniquement**)

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

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**Ankara, 17 September 2019**

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**GOVERNMENT SUBMISSION**

**ON**

**ÜLKE v. Turkey**

**(39437/98)**

**ADDITIONAL INFORMATION**

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In response to the Secretariat's request, the Turkish authorities would like to submit additional information with respect to the applicants' current situation. Within this context, brief information on whether the applicants are still under obligation to perform their military service; if so, whether they can apply military service by payment is provided.

At this point, the authorities would like to provide information on an avenue that is alternative to mandatory military service, notably the military service by payment. This is an exceptional arrangement adopted by the Parliament from time to time. Recently, on 3 August 2018, a new law on military service by payment was adopted. The person meeting the conditions specified in the law can benefit from this opportunity by paying a certain sum to be exempted from performing his military service. In addition, information on whether the applicants' are still prosecuted also provided.

1) Osman Murat Ülke

The applicant is still obliged to perform his military service as he is identified as a deserter. On the other hand, the prosecution initiated on charges of desertion is still pending before the Bilecik Public Prosecution Office, which has taken over the case-file from the closed Eskişehir Military Public Prosecution Office. For this reason, the Bilecik Public Prosecution Office requested the İzmir Public Prosecution Office to take the applicant's fresh statements as he lived in İzmir at that time. In this respect, the İzmir Public Prosecution Office took the applicants' statements on 21/11/2017. On the same day, following his statement, the applicant was released. The authorities, therefore, would like to note that the applicant was

neither arrested nor detained. In addition, the Bilecik Public Prosecution Office has not taken any further action concerning the applicant's prosecution since then.

The applicant is not entitled to military service by payment as he has already commenced his military service.

2) Buldu (14017/08)

There are four applicants in this case, notably Çağlar Buldu, Barış Görmez, Ersin Ölgün and Nevzat Umdü.

In respect of Çağlar Buldu, there is no any criminal prosecution or proceedings at the moment. Furthermore, he is not obliged to perform his military service as he was discharged on 20/03/2008.

As regards Barış Görmez, the applicant was convicted of the offence of not implementing the commands concerning military service. His case is still pending before the Court of Cassation, which is the final appeal court. As his military service was suspended until end of the proceedings, he was discharged temporarily. In other words, the applicant is not currently under the obligation of military service.

As regards Ersin Ölgün , there are several final decisions requiring payment of judicial fine for the act of draft evasion. At the moment, there is no a pending criminal prosecution or proceedings concerning this applicant. The applicant is entitled to benefit from military service by payment. However, he has not made an application.

In respect of the fourth applicant, Nevzat Umdü, the Hatay Magistrate's Court imposed a judicial fine for draft evasion. The Court of Cassation quashed this judgment finding that no fine could be imposed for the applicant's act. As the applicant was found not fit for the military service, he was discharged. He is not obliged to perform his military service anymore.

3) Enver Aydemir (26012/11)

The criminal proceedings lodged against the applicant for the offence of desertion came to an end on 05/06/2018. As a result, the applicant was acquitted. There is no any prosecution or criminal proceedings concerning the applicant. In addition, the applicant was discharged for being not fit for the military service. He is not charged with compulsory military service anymore.

4) Yunus Erçep (43965/04)

There is no any prosecution or criminal proceedings pending with respect to this applicant. He is under the obligation of performing his military service. However, he is eligible to apply for military service by payment. He has not availed himself of this opportunity yet.

5) Feti Demirtaş (5260/07)

The applicant was convicted of the offence of non-performance of a military command concerning the military service by the Balıkesir First Instance Court. The appeal process is still ongoing before the Court of Cassation. The applicant was found to be not fit for the military service. For this reason, he was discharged. He is not charged with compulsory military service anymore.

6) Halil Savda (42730/05)

The applicant was acquitted as a result of the criminal proceedings lodged against him for the offence of alienating people from the duty of military service. This judgment became final in 2013. There is no any prosecution or criminal proceedings carried out concerning the applicant at the moment. On the other hand, the applicant was discharged on the basis of a medical report indicating that he was not fit for military service.

7) Mehmet Tarhan (9078/06)

The criminal proceedings commenced on account of the offence of desertion is still ongoing before the Aydın First Instance Criminal Court. In addition, the applicant is also prosecuted by Tokat Public Prosecution Office for the offence of desertion. The applicant's whereabouts is unknown to the authorities. He is still charged with the compulsory military service and is not eligible to apply military service by payment.

## **CONCLUSION**

The Turkish authorities will continue to update Committee of Ministers as regards measures to be taken.