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Communication from an NGO (Association for Conscientious Objection) (20/04/2020) in the ULKE group of cases v. Turkey (Application No. 39437/98) and reply from the authorities (11/05/2020)

Information made available under Rules 9.2 and 9.6 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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Réunion : 1377e réunion (juin 2020) (DH)

Communication d'une ONG (Association for Conscientious Objection) (20/04/2020) relative au groupe d'affaires ULKE c. Turquie (requête n° 39437/98) et réponse des autorités (11/05/2020)
[anglais uniquement]

Informations mises à disposition en vertu des Règles 9.2 et 9.6 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

The Committee of Ministers
Council of Europe

20 April 2020

Implementation of the Ülke Group of Cases against Turkey (Application No. 39437/98)

1. Introduction

The Association for Conscientious Objection,[1] Freedom of Belief Initiative in Turkey,[2] Norwegian Helsinki Committee,[3] War Resisters' International,[4] The European Bureau for Conscientious Objection,[5] and Connection e.V[6] jointly submit a Rule 9.2 Submission on the implementation of the judgments under the Ülke Group of cases. More information on these organizations may be found in Annex 1.[7]

2. Case Description

The Ülke group of cases pertains to violations of Article 3, the prohibition of torture, inhuman and degrading treatment; Article 9, the right to freedom of thought, conscience and religion and Article 6, the right to fair trial enshrined in the European Convention on Human Rights stemming from the applicants' repetitive convictions and prosecutions for having refused, on account of their religious beliefs or convictions as pacifists and conscientious objectors, to carry out compulsory military service. There are a total of seven cases in the Ülke group under the enhanced supervision of the Committee of Ministers (CM).[8] The judgment on the first case, Ülke v. Turkey, became final on 24 April 2006.

3. The key findings of the ECtHR in the Ülke group of cases

The European Court of Human Rights (ECtHR, 'the Court') made four key findings in the Ülke group of cases:

1. The lack of a sufficient legal framework for those who refuse to wear uniform and/or perform military service on grounds of conscience or religion and the ensuing

[1] www.https://vicdaniret.org
[2] www.inancozgurlugugirisimi.org
[3] www.nhc.no
[4] https://www.wri-irg.org/en
[5] https://www.ebco-beoc.org/
[6] https://www.connection-ev.org/
[7] Annex 1,2 and 3 are added to this Submission.
[8] Ülke v Turkey, App No. 39437/98 24 April 2006, Buldu and Others v. Turkey App No 1417/08 3 September 2014, Enver Aydemir v. Turkey 26012/11 7 September 2016, Erçep v. Turkey 43965/04 22 February 2012, Feti Demirtaş v Turkey App No 5260/07 17 April 2012, Savda v Turkey App No 42730/05 12 September 2012, Tarhan v. Turkey 9078/06 17 October 2012.

interminable series of prosecutions and convictions are disproportionate to the aim of ensuring the performance of military service. The series of prosecutions and convictions aimed at repression of intellectual personality, breaking of the resistance and will and the compulsion to lead a clandestine life, amount almost to "civil death" is incompatible with the punishment regime of a democratic society. (Ülke) In the aggregate, the acts concerned constitute inhuman or degrading treatment within the meaning of Article 3. (Ülke, Savda, Feti Demirtaş, Buldu and others, Enver Aydemir, and Tarhan)

2. Lack of an effective and accessible procedure in Turkey which would have enabled conscientious objectors to have established whether they were entitled to conscientious objector status was a violation of Article 9 of the Convention. (Erçep, Savda, Feti Demirtaş, Buldu and others, and Tarhan)

3. The system of compulsory military service in Turkey imposes on the citizens an obligation which may have serious consequences for conscientious objectors: it does not allow any exemption on grounds of conscience and gives rise to the imposition of heavy criminal penalties. Thus, the interference in question originates not only from the multiple convictions of the applicant, but also from the absence of an alternative service. (Ercep, Feti Demirtaş, Tarhan)

4. The trial and conviction of civilian conscientious objectors by military courts constitutes a violation of Article 6 § 1 of the Convention. (Erçep, Savda, Buldu and Others, and Feti Demirtaş)

4. Proceedings before the CM

4.1. Individual Measures in Ülke Group of Cases

Just Satisfaction

The Government informed the CM in its 31 March 2020 Action Plan that just satisfaction awarded by the Court had been paid to the applicants.[9]

The Current Situation of the Applicants

The Action Plan informed the CM that Osman Murat Ülke, Yunus Erçep, Ersin Ölgün are still under an obligation to perform their military service; that Enver Aydemir, Feti Demirtaş, Nevzat Umdu and Halil Savda had been declared unfit to perform military service and therefore were no longer under the obligation to perform military service; that Mehmet Tarhan was considered to have completed his military service (this is as a result of the new Law No 7179 on Conscription); and that Çağlar Buldu and Barış Görmez had completed their military service.[10]

[9] Action Plan (31/03/2020) DH-DD(2020)297, 1 April 2020.
[10] Action Plan (31/03/2020) DH-DD(2020)297, 1 April 2020.

4.2. General Measures in Ülke Group of Cases

The Government has submitted one Action Plan on general measures in a communication to the CM on 31 March 2020 the CM, in which it sets out the following measures taken or envisaged.[11]

4.2.1. Legislative Measures

Abolishment of military courts - In its 2020 Action Plan the Authorities informed the CM that military courts were abolished with the adoption of Law No 6771 in 2017. Hence, issues related to desertion from enlistment/enrolment, desertion and persistent disobedience were today being investigated and tried by the civil prosecution offices and civil courts.

Option of military service by payment - The Government also informed the CM that under Article 5/2 of the Law No 7179 on Military Service, which entered into force in 2019, the duration of compulsory military service is now six months. The system of "military service by payment" became permanent. Under Article 9 of the said Law, persons who wish to benefit from this opportunity pay a sum of 35.054,64 TRL (approx. 5000 euros) and will be deemed to have performed military service. Persons who opt for this must however complete one-month basic military training.

Individual application to the Constitutional Court - The Government, in its Action Plan, informed the CM about the legislative measures taken to introduce an individual application mechanism before the Constitutional Court with respect to human rights violations. Therefore, an individual in the applicants' situation could pursue the remedy of lodging an individual application to the Constitutional Court.

4.2.2. Executive Measures

Judicial Reform Strategy - The Government informed the CM of the Judicial Reform Strategy that was adopted in May 2019, stating that "the implementation of [the] Strategy paper will improve the legal professions' quality and contribute [to the] prevention of human rights violations". The main objectives of the Strategy include strengthening of the rule of law, protecting rights and freedoms more effectively, strengthening the independence of the judiciary and improving impartiality.

Human Rights Action Plan -The Government informed the CM that a Human Rights Action Plan would be prepared. However, it was not specified when this Plan would be adopted or whether

[11] Action Plan (31/03/2020) DH-DD(2020)297, 1 April 2020. Previously, an Action Plan was submitted on the cases of Erçep, Demirtaş and Savda against Turkey on 29 October 2012,[11] including translation of judgments and awareness raising and training activities.

it would contain any provisions related to the right to conscientious objection to military service.

The Role of the Justice Academy - The Government informed the CM that the Justice Academy would offer trainings on human rights and jurisprudence of the ECtHR which would then help courts deliver judgments in line with ECtHR jurisprudence.

4.4. CM Resolutions

The Ülke Group of cases is subject to enhanced supervision and the CM has issued numerous Resolutions since 2007. In its most recent Decision, which dates back to 2012,[12] the CM urged the authorities to take the necessary measures to ensure that the consequences of the violations found by the Court are completely erased for the applicants and urged the authorities to take the necessary legislative measures to prevent the repetitive prosecution and conviction of conscientious objectors and to ensure that an effective and accessible procedure is made available to them in order to establish whether they are entitled to conscientious objector status.

5. Comments on Government response

5.1. Individual Measures

5.1.1. Just Satisfaction

We have been informed by the applicants and their representatives that the compensation has been paid to the applicants fully and in time.

5.1.2. Individual Situation of the Applicants

Compliance with the judgments of the Court implies the adoption of individual measures to put an end to the violations found and to erase, as far as possible, *their consequences* for applicants, as well as the adoption of general measures in order to prevent new, similar violations.

As will be demonstrated below, measures have not been taken to correct the underlying violation for each individual applicant and the information pertaining to the applicants below as provided by the authorities is incomplete and may be misleading. The vulnerability of applicants who remain “active evaders from enrollment/enlistment or deserters in the system” continues despite the ECtHR judgments. In addition to the grave situation relating to apprehension orders, monetary fines, repeated prosecution, trial and sentencing cycle restrictions remain on a diverse range of civil, political, economic and social rights (see 5.2.2.).

[12] CM 1157th meeting – 6 December 2012 Decision on Ülke group of cases.

Osman Murat Ülke - his still being under the obligation to perform military service makes him a deserter and thus an individual who violates the law. He remains under the risk of criminal procedures, he has limited right to move, his right to vote remains restricted. As long as his status does not change in the law, he misses the possibility of a "normal" life. Most recently, he was stopped by the authorities during a tour on 18 April 2019 and the police issued an official document, released him and asked him to submit to the nearest recruitment office.[13] He was prevented from voting in the general elections on 31 March 2019 as he was told by the officials at the ballot box that he was restricted from voting even though he had a document entitling him to vote as a citizen.

Osman Murat Ülke was requested by the Bilecik Prosecutor's office to give a statement regarding the pending desertion file No 2017/2776. He provided his written and oral statements in 2017. His lawyer lodged an application to the Bilecik Prosecutor's office to stop the prosecution with reference to the ECtHR judgment. The applicant is yet to receive any response from the prosecutor's office. Ülke lodged an individual application to the Constitutional Court on 30 May 2015 with the sole request that the EctHR judgment pertaining his case is effectively implemented.[14]

In the case of Mehmet Tarhan, following the ECtHR judgment the search warrant against him was lifted and he was able to obtain a passport. However, two cases on disobedience to orders were conjoined and he was sentenced to 15 months in prison that was converted to payment of an administrative panelty of TRL 9,000 in 2015. He felt compelled to flee the country following a new investigation into his alleged "desertion" on 15 March 2015.

Ersin Ölgün, an applicant in *Buldu and Others v. Turkey* continues to face a cycle of prosecutions and penalties for 'evasion of enlistment' in the course of which he has been administratively penalised 17 times.[15] On 19 March 2019 he received notification of an administrative penalty of TRY 3,408 in this connection. He lodged an application to the Constitutional Court.

Barış Görmez, an applicant in *Buldu and Others v. Turkey* has been subjected to the conjoining of five further cases against him and an administrative penalty of TRY 1,500 in respect of each of them. This was upheld by the Court of Cassation on 27 March 2019 and he is one of the Constitutional Court applicants.

5.2. General Measures

5.2.1. Legislative Measures

[13] Information note by the representative of the applicant to the CM sent on 22 July 2019.
[14] Information received from his legal representative on 15 April 2020.
[15] E-mail correspondence with representative of the Jehovah's Witnesses community, 13 April 2020.

Adoption of the Law No 6771 in 2017 and the abolishment of military courts - The abolishment of the military courts is a welcome general measure that is capable of preventing similar violations of Article 6.

Adoption of the Law on Military Service
Option of completing military service by payment - While the Authorities refer to the possibility of fulfilling the obligation to perform military service by payment, this cannot be considered a general measure that will prevent similar violations from happening. Firstly, the payment option does not constitute an alternative service, which means that the finding of the Court that the interference with the applicants' rights under Article 9 originated from the lack of alternative service is not addressed. Secondly, approximately 5000 EUR must be paid to benefit form this option and this is an amount about 8 times the net minimum monthly wage (2558 TL, approximately 650 EUR) in Turkey, and therefore not easily accessible as an option. Thirdly, everyone who opts for military service by payment must perform basic military training for one month which also requires wearing of the uniform. This is not possible for individuals who object to military service and wearing of the uniform categorically. Finally, under Article 9(6) of the Law on Military Service, those who have already started their military service and those who have the status of enrollment or enlistment evaders or deserters or those in hiding cannot benefit from this option. Therefore, the finding of the Court that the system of compulsory military service in force in Turkey imposes on the citizens an obligation which may have serious consequences for conscientious objectors, in that it does not allow any exemption on grounds of conscience, is still valid.

Administrative monetary fines - Under Article 24/1,2,3 of the Law on Military Service, evaders and deserters are given administrative monetary fines. Those who surrender pay TRL 5 per day, starting from the day they became evaders or deserters. Those who are caught pay TRL 10 per day. Administrative monetary fines must be paid within a month. If this fine is not contested, it becomes final after 15 days. If applicants contest the monetary fine, it becomes final following a ruling of the Peace Court of Criminal Jurisdiction. Once the administrative monetary fine is final, a criminal investigation starts under the Military Criminal Law as described below.

Criminal investigation based on Military Criminal Law No. 1632 of 22 May 1930 - Under Article Article 63/1, once the administrative monetary fine becomes final, those without an admissible excuse are sentenced to prison ranging from two months to six months if they surrender within four months, and four months to one year if they are captured. They are sentenced to four months to two years if they surrender after one year and if they are apprehended the sentence is six months to three years.

In times of war effort (Article 63/2), the sentence may range from one month to five years or death penalty depending on the period of desertion and whether the individual surrenders or is apprehended.

The cycle of the administrative and criminal prosecutions is presented as a flow-chart in Annex 2.

Individual application to Constitutional Court - As the Authorities informed the CM, together with the introduction of the individual application mechanism, conscientious objectors, too, have this possibility since 23 September 2012. This possibility, however, cannot be considered a general measure to prevent similar violations for two reasons. First, legislative changes that recognize the right to conscientious objection, establish an independent mechanism to receive and process applications.

Second, since 2012 over 20 individual applications have been made by conscientious objectors to the Constitutional Court (see Annex 3). In 2016, it was reported in the media that the Constitutional Court referred an individual application involving conscientious objection to the Plenary.[16] However, at the time of writing of this Submission, the Constitutional Court is yet to deliver a judgment dealing directly with the right to conscientious objection.

The Constitutional Court did, however, deliver a decision of inadmissibility regarding the application of Uğur Yorulmaz, a conscientious objector, and his case is now pending with the ECtHR.[17] Mr. Yorulmaz's employer was informed on 30 November 2016 by the Ministry of Defence about Mr Yorulmaz's status as an evader and about the fact that, unless it was ensured that he surrender to a Recruitment Branch and that a document to this end be submitted to the Recrutiment Branch within 15 days, the employer would be subject to investigation for unlawfully employing an evader. Facing the prospect of being investigated and possibly prosecuted, the employer ended the applicant's contract. In its inadmissibility decision, the Constitutional Court did not address the right to conscientious object and referred solely to the right to fair trial and found the application manifestly ill founded.

Executive

Judicial Reform Strategy & Human Rights Action Plan – We welcome the Judicial Reform Strategy and the Human Rights Action Plan, however, it is important to note, again, these do not provide for the necessary legislative changes. In addition, monitoring the effectiveness of

[16] Hürriyet, "Vicdani ret AYM Genel Kurulu'nda" [Conscientious Objection at Constitutional Court Plenary], 22 February 2016.
[17] Inadmissibility decision on the Individual Application of Uğur Kaymaz 2018/12409, 30 November Communication of *Yorulmaz v. Turkey*, Application No 32823/2019 14 June 2019.

these trainings and awareness raising activities in relation to their impact on the protection of human rights, specifically for conscientious objectors.

5.2.2. Restriction of other human rights

The "almost civil death" that the ECtHR has referred to in Ülke v. Turkey in 2006 and ensuing infringement on the right to human dignity remain a reality for conscientious objectors given the continued restrictions on a wide range of rights in addition to the unending cycle of prosecution, trials and fines and the Government response does not address these issues.

Political rights - In order to be eligible to be elected as a deputy, under Article 76 of the Constitution, one must be exempt or deferred from military service or must have fulfilled one's military service.

Freedom of movement - The freedom of movement of conscientious objectors is highly restricted due to a number of possible checks that would lead to their being identified as evaders or deserters and thus starting a process of the prosecution. The General Information Gathering (Genel Bilgi Toplama, GBT) is an Identity checking technology that police officers can access up to date information on persons, including their status related to military service, criminal or suspect records. This is used for example during identity or passport controls. Further, identity checks at hotels and general searches on public transport lead to restrictions for conscientious objectors of moving around freely without fear of being detained and prosecuted. Under Article 26(1) of the Law on Military Service, evaders and deserters are reported to the Ministry of Interior to ensure their apprehension to perform their military service. Once they are apprehended they are either taken to the nearest Conscription Branch or released, given an official record, and asked to submit to the nearest Conscription Branch within two days.

Right to education - Under Article 41(1) of the Law Military Service, the high-school or university registration of students who have not fulfilled their military service - taking into account their right to postponement for a certain period of time - will be frozen. Those whose registration has been frozen this way cannot benefit from any public-funded scholarships.

Opportunity to earn one's living - Under Article 41 (2) of the Law on Military Service, enlistment evaders and deserters cannot be employed in civil service or private service. Those who employ them will be prosecuted and the termination of the contracts of conscientious objectors is considered "rightful termination". In addition, Article 48 (6) of the Law No. 657 on Civil Servants states that in order to qualify as a civil servant, one must not have obligation to fulfill military service.

Impossibility of "having a legal entity" - Not being able to open bank account, acquire a checkbook or a credit card, acquire a tax number for private or commercial activity leaves consciencious objectors without opportunities to live with human dignity.[18]

[18] See for example the Constitutional Court application of conscientious objector Vedat Zencir, date of application 2 March 2015.

6. Recommendations

To the Committee of Ministers

- underline that the human rights violations that have been found in the Ülke Group of Cases continue to occur in Turkey;
- continue to supervise the execution of the Ülke group of cases under enhanced supervision until effective measures are taken by the Turkish authorities, and resolve to re-examine the case in six months' time;
- ask the Turkish authorities to report on the effectiveness of the Constitutional Court individual application mechanism to protect conscientious objectors in six months time;
- ask the Turkish authorities to report on the effectiveness of the trainings provided for judges and prosecutors on international human rights obligations pertaining to the right to conscientious objection to military service on the compatibility of judicial proceedings with applicable international human rights standards and include affected groups and relevant civil society organizations in preparing and delivering the trainings;
- ask the Turkish authorities to provide statistical information on the number of conscientious objectors, on monetary fines and criminal investigations, and convictions delivered in connection to conscientious objectors;
- request the Turkish authorities to provide information on the measures they intend to take to safeguard the rights of conscientioues objectors to education, security of persons, protection of property, right to vote and opportunities to earn a living are impacted due to evader/deserter status in law;
- request the Turkish authorities to take measures to ensure that the applicants and other conscientious objectors are free from the risk of of further prosecution and can fully exercise their political, civil, economic, social and cultural rights;
- request the Turkish authorities to repeal already existing convictions against conscientious objectors, to delete these convictions on the criminal record and grant compensation.

To the Turkish Government

To take legislative measures *without delay*

- to recognize the right to conscientious objection to military service in line with international human rights standards;
- to set up independent and impartial decision-making bodies tasked with determining whether a conscientious objection to military service is genuinely held in a specific case, taking account of the requirement not to discriminate between conscientious objectors on the basis of the nature of their particular belief;
- to review relevant legislation, including but not limited to the Law on Conscription, the Military Criminal Law, the Law on Civil Servants, and the Criminal Code, to remove all restrictive provisions impacting conscientious objectors;

- to ensure that the applicants and persons in a similar position are free from the risk of further prosecution and can fully enjoy their political, civil, economic, social and cultural rights.

ANNEX 1

The Association for Conscientious Objection (Vicdani Ret Derneği, VR-DER) works to ensure that the right to conscientious objection is a constitutionally protected human right in Turkey since 2013, and monitors the protection of the right to conscientious objection to military service, provides legal support to conscientious objectors and regularly submits reports to regional and global international human rights compliance control mechanisms on the situation of this right.

The Freedom of Belief Initiative in Turkey (İnanç Özgürlüğü Girişimi, İOG) promotes freedom of religion or belief for all and monitors and reports on legislative, judicial and administrative developments on this right.

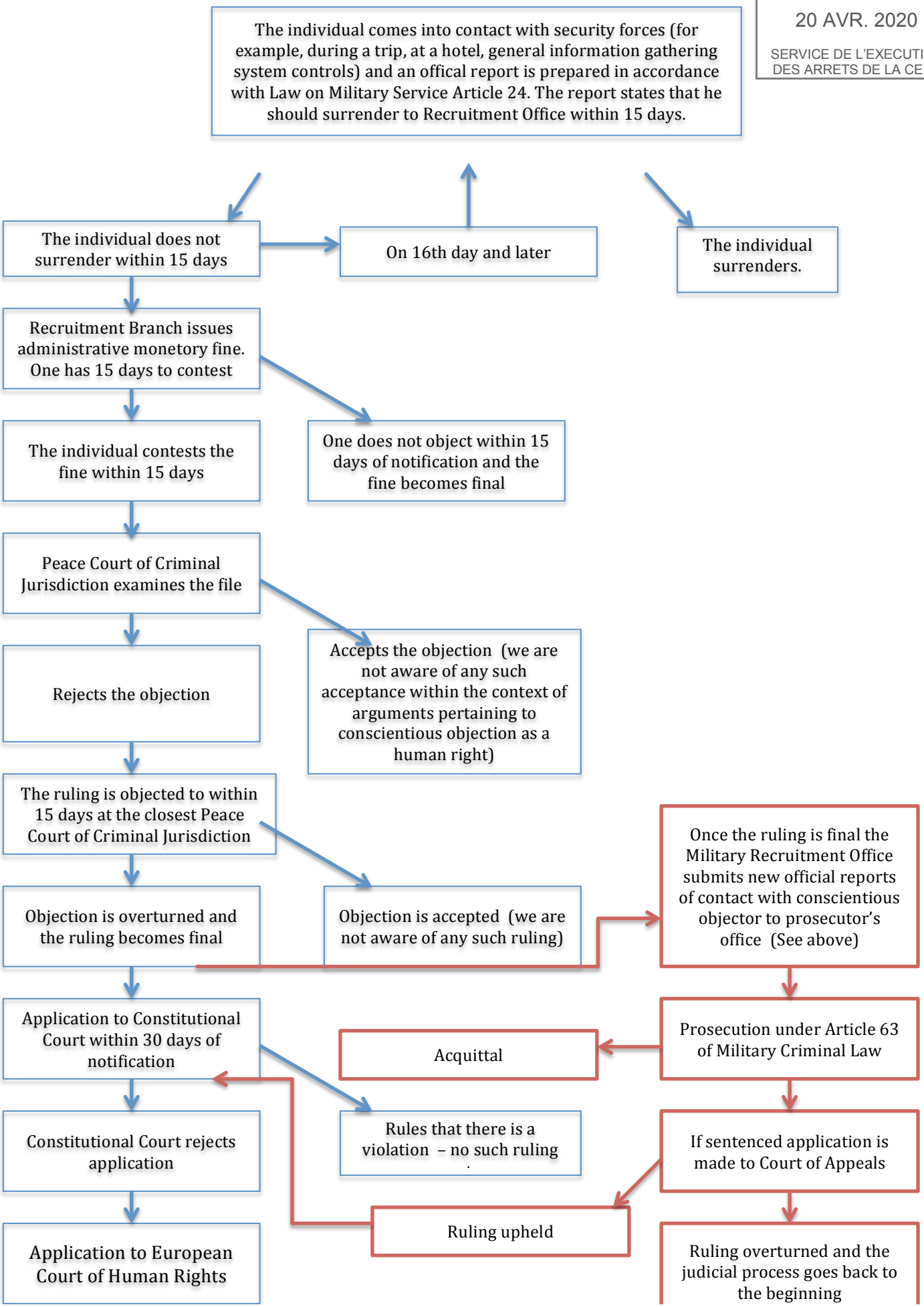
Norwegian Helsinki Committee (NHC) is a human rights organization based in Oslo working to ensure that human rights are respected in practice. Its main activities include, monitoring, reporting, training and supporting democratic governance.

War Resisters International (WRI) is a global pacifist and antimilitarist network with over 90 affiliated groups in 40 countries. WRI works with conscientious objectors to military service and those resisting militarisation in their own states, connecting and supporting war resisters around the world.

The European Bureau for Conscientious Objection (EBCO) is an umbrella organisation for national associations of conscientious objectors, with the aim of promoting collective campaigns for the release of the imprisoned conscientious objectors and lobbying the European governments and institutions for the full recognition of the right to conscientious objection to military service.

Connection e.V.: Connection e.V. is engaged in achieving recognition of the human rights of conscientious objectors, and acknowledgement of the persecution which conscientious objectors and deserters face as a reason for asylum. The organization has been involved with supporting conscientious objectors in Turkey since 1993.

Flow chart of administrative and judicial processes pertaining to conscientious objectors



Legal Proceedings Against Conscientious Objectors in Turkey

avr-20 **Constitutional Court. The information presented here is based on communications with representatives of conscientious objectors.**

Applicant	Motivation	Application to ECtHR	Application to Constitutional Court	Constitutional Court Individual App No	Date of Application to Constitutional Court	Date of Declaration of Conscientious Objection	Declaration of Conscientious Objection while serving Military Service	Letter from Ministry of Defense stating exemption on grounds of CO is not possible	Fines & Penalty Fines (TRL)		Date of Penalty Fine Decision	Party Issuing the Penalty Fine	Administrative Monetary Fine Final Ruling Court	Criminal Investigation, trial	Apprehended, detained and tried	Prison Sentence	ServedImprisonment	Current status of judiciary process	Prohibition of Torture inhuman and degrading treatment (Article 3)	Right to liberty & security of person (Article 5)	Opportunity to earn one's living European Social Charter 1	Social Security System	Right to property (Article 1 of Protocol I)	Right to vote	Right to freedom of movement	Right to Freedom of thought, conscience and religion (Article 9)
Sabit Can Köse	Jehovah's Witness		N			N/A			TRY 422,00		19/03/2020	Military Recruitment Office						Antakya Peace Penal Court (appeal)								x
Necmettin Berkin Gül	Jehovah's Witness					N/A			TRY 2 104,00		17/03/2020	Military Recruitment Office						Mersin Peace Penal Court (Appeal)								x
Fırat Şahin	Jehovah's Witness					N/A			TRY151		12/03/2020	Military Recruitment Office						Antakya Peace Penal Court (Appeal)								x
Caner Atlı	Jehovah's Witness					N/A			TRY 186		29-févr-20	Military Recruitment Office						İzmir Peace Penal Court (Appeal)								x
									TRY 830		29-févr-20	Military Recruitment Office						İzmir Peace Penal Court (Appeal)								x
Şefik Avcı	Jehovah's Witness					N/A			TRY 6,768		27-févr-20	Military Recruitment Office						Istanbul Peace Penal Court (Appeal)								x
Saim Gürel Tunçbüker	Jehovah's Witness					N/A			TRY 18.976		11-févr-20	Military Recruitment Office						Mersin Peace Penal Court (Appeal)								x
Necmettin Berkin Gül	Jehovah's Witness					N/A			TRY 4.216,00		10/02/2020	Military Recruitment Office						Mersin Peace Penal Court (Appeal)								x
Ersin Mordoğan	Jehovah's Witness					N/A			TRY 80		17/01/2020	Military Recruitment Office						Malatya Peace Penal Court (Appeal)								x
Serdar Çobanlar	Jehovah's Witness					N/A			TRY 7.447		17/10/2019	Istanbul 3rd First Instance Penal Court						Appeal dismissed								x
Zafer Gül	Jehovah's Witness		Y	2019/29837		N/A			TRY 849		16/09/2019	Istanbul 6th Anadolu Peace Penalty Court														x
Ersin Ölgün	Jehovah's Witness			1401/08		N/A			TRY 3.408		19/03/2019															x
Mehmet Can Ekin	Jehovah's Witness					N/A			Received three penalties																	x
Ömer Refik Pesen	Jehovah's Witness					N/A			TRY 137									In Appeal process								x
Atilla Soyluoğlu	Jehovah's Witness					N/A			TRY 6.173																	x
Timuçin Tuzlu	Jehovah's Witness					N/A			TRY 2.000																	x
Barış Kalaycı	Jehovah's Witness					N/A																				x
Özgür Haggay Baysel	Jehovah's Witness					N/A			TRY 14.960 / Canceled																	x
Ali Doğan	Jehovah's Witness					N/A																				x
Coşkun Doğangün	Jehovah's Witness					N/A			TRY 5.369																	x
Deniz Gülaydın	Jehovah's Witness					N/A			TRY 13.587																	x
Yusuf İçinli	Jehovah's Witness					N/A																				x
Yunus Kızılırmak	Jehovah's Witness					N/A			TRY 8.229																	x
Erdem Okçuoğlu	Jehovah's Witness					N/A																				x
Caner Palandökenler	Jehovah's Witness					N/A																				x
Aşkın Saygın	Jehovah's Witness					N/A			TRY 13.406																	x
Eren Faruk Tatlıeşme	Jehovah's Witness					N/A			TRY 4.078																	x
Zafer Türkmen	Jehovah's Witness					N/A																				x
Kemal Yılmaz	Jehovah's Witness					N/A																				x
Cemal Özgül	Jehovah's Witness					N/A			TRY 356																	x
Mesut Tunçbüker	Jehovah's Witness					N/A			TRY 5.115																	x
Yahya Batmaz	Jehovah's Witness					N/A			28 971																	x
Şahin Ölgün	Jehovah's Witness					N/A			TRY 500																	x
Volkan Altay	Jehovah's Witness					N/A			TRY 7.046																	x
Cem Palandökenler	Jehovah's Witness		Y	2017/20170		N/A																				x
Arden Üzel	Jehovah's Witness					N/A			TRY 4.306		22/05/2017															x
İbrahim Varıcılar	Jehovah's Witness		Y	2017/35626		N/A			TRY 7.147																	x
Berge Çelikyazıcıyan	Jehovah's Witness					N/A			TRY 22.337																	x
Yakup Erdem Bilensir	Jehovah's Witness	N/A	Y	2018/19904		N/A			TRY 21.519																	x
Arif Emrah Orak	Jehovah's Witness	N/A	Y	2018/25273		N/A			TRY 7.447			Military Recruitment Office														x
Sami Şekip Peker	Jehovah's Witness	N/A	Y	2018/36419		N/A																				x
Mustafa Türközü	Jehovah's Witness	N/A	Y	2019/9217		N/A			TRY 28.971																	x
Altuğ Öncü	Jehovah's Witness	N/A	Y	2019/11268		N/A			TRY 6.460																	x
Nuri Elbe	Jehovah's Witness	N/A	Y	2019/13550		N/A																				x
Öcal Yılmaztürk	Jehovah's Witness	N/A	Y	2019/13456		N/A																				x
Barış Görmez	Jehovah's Witness	N/A		2019/26374		N/A			TRY 1.500																	x
İlker Sarıalp	Jehovah's Witness	N/A	Y	2019/30683		N/A			TRY 250 & TRY 10.043																	x

Muhammed Cihad Saatçioğlu	WR/Islamic beliefs	N/A	Y		06/03/2015	11/11/2012			TRL 9.514 30/9/2015			Kadıköy Administrative Authority Provincial Council on Legal Affairs	5/5/2016 İstanbul Anadolu 1st Peace Court of Criminal Affairs							*	Order to capture issued by Ministry of Defense and Ministry of Interior with no recourse to object				*	x
Utku Korkmaz	War Resister	N/A	Y		26/12/2016	14/7/2014			TRY 128 & TRL 128 & TRL 128	Multiple	29/06/2016	Mesudiye Provincial Administrative Council	10/11/2016 Mesudiye Peace Court of Criminal Jurisdiction							x	Order to capture issued by Ministry of Defense and Ministry of Interior with no recourse to object				*	x
Mustafa Çankal	War Resister	N/A			26/7/2017	22/6/2017		30/6/2017	TRY 9 514,00										Individual application to CC	*	Order to capture issued by Ministry of Defense and Ministry of Interior with no recourse to object				*	x
Oğuz Topal	War Resister	N/A	Y		21/6/2017				17668 30/9/2015		24/2/2016	Varto Administrative Authority Legal Affairs Section	25/4/2017 Varto Peace Court of Criminal Jurisdiction						Individual application to CC	*	Order to capture issued by Ministry of Defense and Ministry of Interior with no recourse to object				*	x
Recep Bulan	War Resister	N/A	Y		01/11/2017	21/11/2016		19/12/2016											Individual application to CC	x	x					x
Ozan Bayram	War Resister	N/A	Y		07/11/2017				TRY 12 912,00		16/2/2017	Boztepe Adminstrative Autority Provincial Council	25/4/2017 Kırşehir Peace Court of Criminal Jurisdiction						Individual application to CC	*	Order to capture issued by Ministry of Defense and Ministry of Interior no recourse to object	x			*	x
Vahap Güler	War Resister	N/A	Y		01/03/2018	24/05/2014			TRY 715,00	Previous	27/07/2017	Yeşilyurt	21/11/2017 Malatya						Individual	x	Order to capture	x			*	x
Atakan Polat	War Resister	N/A	Y		06/06/2018	28/12/2014			TRL 132 ; 27/12/2017			Hafik Administrative	30/4/2018 Sivas Peace														x
Bünyamin Çakmak	War Resister	N/A	Y		12/11/2018				TRL 7.447 26.04.2017			Bingöl Governorship Administrative Council	1/11/2018 MuşPeace Court of Criminal Jurisdictioni						Individual application to CC	*	Order to capture issued by Ministry of Defense and Ministry of Interior	x			*	x
Cemal Karakuş	War Resister	N/A	Y						TRL 1.701 ; 21.02.2018; TRL	Multiple		Alaca Administrative	8/10/2018 Alaca Peace	Alanya Cumhuriyet	7/7/2006, 9/3/2009, escape to Northern Cyprus; asylum	10 months; 10 months; 10 months converted to 6000 TRL	6 months 20 days;x,x 50 days; released in 2013		Individual	x	Order to capture	x			*	x
Onur Erden	War Resister	N/A	Y		06/12/2018	03/03/2011	x											Applicant is being tried in numerous cases against him		*	Order to capture issued by Ministry of Defense and	x			*	x
Özgür Küçüktükü	War Resister	N/A	Y		19/10/2017			17/11/2016	Amount unknown	Multiple			Nevşehir Peace Court of	20th Adana Criminal					Individual	x	Order to capture	x			*	x
Uğur Yorulmaz	War Resister / Anti-militarist	Y	Y		30/05/2014						10/2/2015		reversed by Military														
Mehmet Tarhan	Anti-militarist Anti-war	App No 9078/06 - 2012 judgment				2001							15 months in 2015, converted to TRL 9000					Ongoing 2 conjoined cases against him for disobedience to orders.		x	Order to capture issued by Ministry of Defense and Ministry of Interior no recourse to	x	x		x	x
Osman Murat Ülke	Anti-militarist and anti-war	Y	Y		30/05/2014																	x		Could not register the flat purchased in his name because he still appears as a deserter in the system and this would lead to legal and practical problems	*	x
Vedat Zencir	Anti-militarist				2/3/2015	6/2/1990			TRY 13 586,00		12/12/2014		Aliağa 1st Criminal Court	22/12/2001 (2 days); 27/7/2014;		2 day detention		Individual application to	*	Order to capture issued by Ministry	*			*	*

THE GOVERNMENT RESPONSE TO THE RULE 9.2 COMMUNICATION

Ulke (39437/98) Group of Cases

1. The Turkish Authorities would like to make the following explanations in response to the NGO (Association for Conscientious Objection) submission dated 20 April 2020,

2. At the outset, The Action Plan submitted to the Committee in March, within the context of *Ulke group* of cases, comprises Turkey's actions regarding the issues raised in the NGO communication. The authorities reiterate its submissions in this regard.

3. In this submission the Authorities would like to clarify the following issues raised in the NGO communication.

INDIVIDUAL MEASURES

4. In the NGO submission it is asserted that the proceedings against the applicant Osman Murat Ülke (39437/98) before the Bilecik Prosecution Office are still pending. However, as stated in the Action Plan, the proceedings were concluded with a non-prosecution decision on 12.03.2020.

5. In the NGO submission it is also stated that the applicant Ersin Ölgün (One of the applicants in the case of *Buldu and others* (14017/08) had lastly received a notification of and administrative penalty on March 2019. As plainly explained in the Action Plan, the said administrative fine on account of his desertion from enrolment (bakaya) was quashed by İzmir Peace Court on 21/05/2019. As he is still under an obligation to perform his military service, if an investigation is initiated against the applicant, the Authorities will share the information on its outcome.

6. As regards Barış Görmez (One of the applicants in the case of *Buldu and others* (14017/08); in its action plan; the Authorities shared the information that he had completed his military service and **currently**, there is neither an investigation nor a prosecution being conducted against him. The information provided in the NGO does not refer any on-going criminal proceedings as well. To conclude, the Applicant Barış is not under any risk to be prosecuted, convicted or fined in the future.

GENERAL MEASURES

7. In its latest action plan, the authorities explained the measures have been taken to prevent similar violations.

a. Abolition of Military Courts

8. As is known; in most of the cases under Ulke, the European Court found a violation of Article 6 on account of the fact that the civilians were tried and convicted by Military Courts because of their acts stemming from obligatory military service. In order to prevent similar violations firstly the jurisdiction of the Military Courts' in certain crimes were lifted and finally Military Courts were abolished in 2017. Accordingly, Turkey has completely complied with its obligation under this heading.

b. Duration of Military Service and Military Service by Payment

9. Turkey has also made significant changes as regards the duration of the obligatory military service in recent years. Namely In 2019, theterm obligatory military service for privates (er) was reduced from 12 months to 6 months. Additionally, the system of "military service by payment" became permanent.If the person concerned so wish he can benefit from this opportunity by paying a certain sum. In this case, the persons concerned are deemed to have performed military service if they have completed one-month basic military training.

CONCLUSION

10. The Turkish Government kindly invites the Committee to take into consideration its above-mentioned explanations within the scope of the execution of the judgment in the *Ulke* Group of Cases.

11. Furthermore, the Turkish authorities would not like to speculate on the claims raised in the communication that are not subject to any current application or judgment of violation.