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**From the European Association of Jehovah’s Witnesses**

**Submission to the UN Human Rights Committee**

**Prior to the Adoption of the List of Issues**

**132nd Session (28 June to 23 July 2021)**

**Turkey**

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| SUMMARY OF THE SUBMISSION This submission to the Human Rights Committee (CCPR) on Turkey highlights violations of the provisions of the International Covenant on Civil and Political Rights (the Covenant) prior to the adoptionof the *List of Issues* to be taken up in connection with the consideration of the 2nd report of Turkey.  Jehovah’s Witnesses in Turkey, and as a worldwide organization, respectfully request that the government of Turkey:   1. Recognize the right to conscientious objection to military service and provide an alternative civilian service (ACS) that conforms to European and international standards, namely, a programme of civilian work that is not under military control and not punitive in length. 2. Ensure that the Views of the CCPR and the judgments of the European Court of Human Rights (ECHR) that provide for the right to conscientious objection to military service are respected and implemented. This would involve refraining from imposing repeated fines on Jehovah’s Witnesses and from threatening them with imprisonment on grounds of “evasion of enlistment” for their conscientious objection to military service. 3. Expunge criminal records resulting from unjust court decisions and provide adequate compensation. 4. Abide by its commitment to uphold the fundamental freedoms guaranteed by the Covenant for all citizens, including Jehovah’s Witnesses. |

# INTRODUCTION

* 1. The European Association of Jehovah’s Witnesses (EAJW) is a charity registered in the United Kingdom. It provides support to Jehovah’s Witnesses facing fundamental human rights violations in various parts of the world.
  2. Jehovah’s Witnesses have been in Turkey for about 100 years. There are now approximately 4,800 active Witnesses in Turkey, and more than 8,600 people attend their meetings for worship. In July 2007, the Witnesses were officially granted limited legal registration as the “Association for the Support of Jehovah’s Witnesses.”
  3. Jehovah’s Witnesses in Turkey enjoy relative freedom of worship. For the most part, they are able to meet for peaceful religious worship and to practise their faith.
  4. Nevertheless, Jehovah’s Witnesses face obstacles, as the government refuses to recognize conscientious objection to military service and makes no provision for a genuine ACS.
  5. The EAJW contributed submissions to the Universal Periodic Review of Turkey in the 8th, 12th and 35th sessions to raise awareness of the government’s relentless prosecution and criminal punishment of conscientious objectors. A number of States parties, such as Germany, Slovenia and Croatia during Cycle 2 and Croatia twice during Cycle 3, recommended that Turkey remedy this issue. Turkey noted these recommendations but has as yet taken no effective action in compliance.
  6. Three separate judgments of the ECHR, involving four applicants, and a decision of the CCPR as detailed below ruled in favour of individual Jehovah’s Witnesses who refused military service based on their religious conscience. The Witnesses were punished because the government would not grant their respectful requests for alternative civilian national service. These judgments have not been implemented.

# ISSUE: CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (VIOLATIONS OF ARTICLE 18 of the Covenant AND ARTICLE 9 of the European Convention on Human rights)

* 1. The government of Turkey continues to prosecute and condemn Jehovah’s Witnesses who conscientiously object to military service, in violation of article 18 of the Covenant as extrapolated in General Comment No. 22, 30/07/93, paragraph 11 (CCPR/C/21/Rev.1/Add.4), and of article 9 of the European Convention on Human Rights (the Convention). Authorities subject Witnesses who are conscientious objectors to unending call-ups for military duty, prosecute them relentlessly and penalise them with repeated fines and threats of imprisonment.
  2. Although Turkey acknowledges ECHR judgments against it by paying the damages awarded to the applicants, it refuses to abide by the requirements of these judgments and those of the CCPR to correct underlying violations of the Covenant and the Convention by recognizing conscientious objection to military service and providing a civilian alternative service conforming to international standards.
     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 Convention protects conscientious objectors who refuse military service. Furthermore, Turkey disregards EHCR judgments specifically against its own treatment of conscientious objectors in the cases of *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.[[1]](#footnote-1) These rulings are binding on Turkey as a member state of the Council of Europe. Turkey ratified the Convention, which entered into force on 18 May 1954.
     2. Turkey also ignores the CCPR Views in *Atasoy and Sarkut v. Turkey* (CCPR/C/104/D/1853-1854/2008, 29 March 2012). In this instance, the CCPR stated: “[Jehovah’s 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 Covenant.” Turkey ratified and acceded to the Covenant on 23 September 2003, and it entered into force on 23 December 2003.
     3. The CCPR Views in *Atasoy* (above) reiterate multiple findings in applications against the Republic of Korea (South Korea), which has now instituted a civilian alternative national service programme, in the cases of *Yoon v. Korea* (CCPR/C/88/D/1321-1322/2004, 23 January 2007), *Min-Kyu Jeong et al. v. Korea* (CCPR/C/101/D/1642-1741/2007, 27 April 2011), *Jong-nam Kim et al. v. Korea* (CCPR/C/106/D/1786/2008, 20 February 2013), *Young-kwan Kim et al. v. Korea* (CCPR/C/112/D/2179/2012, 14 January 2015) and *Jong-bum Bae et al. v. Korea* (CCPR/C/128/D/2846/2016, 13 May 2020) and against Turkmenistan, most recently in the case of *Dawletow v. Turkmenistan* (CCPR/C/125/D/ 2316/2013, 14 May 2019).
     4. The CCPR set out its concerns about Turkey’s failure to recognize conscientious objection by providing an appropriate civilian alternative national service in its 13 November 2012 Concluding Observations (CCPR/C/TUR/CO/1), which affirm: “The State party should adopt legislation recognizing and regulating conscientious objection to military service, so as to provide the option of alternative service, without the choice of that option entailing punitive or discriminatory effects and, in the meantime, suspend all proceedings against conscientious objectors and suspend all sentences already imposed.”
  3. Sixty-two of Jehovah’s Witnesses, including some of the successful applicants in the ECHR judgments, are currently facing prosecution as religiously motivated conscientious objectors to military service.
  4. As a result, male Witnesses are subject to persistent and repeated call-ups, contend with prosecutions in 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 individual case related to that specific call-up. These men remain in the never-ending cycle of call-ups and prosecutions, robbing them of any hope of a normal life or career and negatively affecting their family life, in breach of articles 17 and 23(1) of the Covenant.
  5. The following examples illustrate Turkey’s treatment of such religiously motivated conscientious objectors.
  6. Mr. Yahya Batmaz received an administrative fine of 28,971 Turkish lira (TRY) (approximately USD 5,300) on 28 November 2018 for refusal to serve in the military. The authorities accused him of evading enlistment, even though he reported for his call-up and submitted a petition to be recognized as a conscientious objector. The court rejected his appeal against the penalty, and on 14 October 2019, he applied to the Constitutional Court, which has not yet considered his application. On 29 August 2020, Mr. Batmaz received two new administrative penalties totalling TRY 7,624 (approximately USD 960) for draft evasion. Objections have been filed for the annulment of the penalties. One of the fines has been annulled, and the court has not yet ruled on the objections to the other one.
  7. Mr. Berge Çelikyazıcıyan received an administrative penalty of TRY 22,337 (approximately USD 2,800) on 26 April 2017, and the court rejected his objections to the penalty. On 5 December 2017, Mr. Çelikyazıcıyan applied to the Constitutional Court, which has not yet considered his application. In addition, three legal prosecutions have been initiated against him 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. These three cases have been merged, and on 14 May 2019, Mr. Çelikyazıcıyan was sentenced to eight months and 10 days of imprisonment. This sentence was converted to a fine of TRY 5,000 (approximately USD 900). An appeal was filed against the ruling, and the appellate court overturned the decision on 14 October 2020. The lower court is currently reviewing the case.
  8. Mr. Barış Görmez was first placed in detention as an enlistment evader in November 2007. Owing to his continued refusal of military service, to date he has spent three years and eight months in prison. Despite a ruling of the ECHR in his favour, he was again convicted of refusal to serve in the military and was sentenced on 31 March 2016 to 12 months and 15 days of imprisonment. The sentence was converted to a fine of TRY 7,500 (approximately USD 1,350). On 27 March 2019, the 19th Criminal Chamber of the Court of Cassation rejected Mr. Görmez’s appeal and upheld the fine. If he does not pay the fine, he will be imprisoned. On 1 August 2019, Mr. Görmez filed a complaint with the Constitutional Court.
  9. On 3 May 2019, Mr. Necmettin Berkin Gül was sentenced to pay an administrative fine of TRY 1,701 (approximately USD 300) for refusal to serve in the military. The authorities accused him of being an enlistment evader despite the fact that he had submitted a petition detailing his conscientious objection. He contested the penalty, but the court rejected his objections. On 10 February 2020, he received another administrative penalty, of TRY 4,216 (approximately USD 530), and on 17 March 2020, he received a third penalty, of TRY 2,104 (approximately USD 265). He has contested both penalties, and the legal process continues with complaints filed with the Constitutional Court.
  10. Mr. Ersin Ölgün received an administrative fine of TRY 3,408 (approximately USD 620) on 2 April 2019 for refusal to serve in the military. The authorities accused him of evading enlistment, even though he reported for his call-up and submitted a petition to be recognized as a conscientious objector. His appeal succeeded on 19 May 2019. Mr. Ölgün received two further fines of TRY 1,701 (approximately USD 208) each on 29 May 2020. One of the fines was cancelled, and the court has not yet ruled on Mr. Ölgün’s appeal against the other fine.
  11. Mr. Eren Faruk Tatlıeşme received an administrative penalty of TRY 4,078 (approximately USD 510) in 2015 as an enlistment evader. He filed objections in court, but the court rejected the objections without any possibility for appeal. On 9 April 2018, a prosecution was again initiated against him. On 3 April 2019, Mr. Tatlıeşme received a suspended five-month prison sentence.
  12. On 9 April 2019, Mr. Mesut Tunçbüker received an administrative fine of TRY 5,115 (approximately USD 930) for refusal to serve in the military. The authorities accused him of evading enlistment, even though he had reported for his call-up and had submitted a petition to be recognized as a conscientious objector. His appeal was rejected.
  13. Mr. Mustafa Türközü received an administrative fine of TRY 28,971 (approximately USD 5,250) on 15 November 2018 for refusal to serve in the military. The authorities accused him of evading enlistment, even though he had reported for his call-up and had submitted a petition to be recognized as a conscientious objector. His appeal against the fine was rejected on 19 February 2019. A complaint was submitted to the Constitutional Court on 18 March 2019.
  14. Mr. Caner Atlı received two administrative fines, of TRY 186 (approximately USD 20) and of TRY 830 (approximately USD 100), on 29 February 2020. The fine of TRY 186 has been annulled. The court has not yet ruled on his appeal against the larger fine.
  15. Mr. Şefik Avcı received an administrative fine of TRY 6,768 (approximately USD 827) on 10 March 2020. His appeal has been rejected.
  16. An indictment was prepared against Mr. Serdar Çobanlar as an enlistment evader on 17 October 2019. The trial continues.
  17. Since 2018, four different charges have been filed against Mr. Mehmet Can Ekin for refusal to serve in the military. Three of the cases were merged, and he was sentenced to six months and 20 days of community service. He has appealed. The fourth case continues.
  18. Mr. Sabit Can Köse received an administrative fine of TRY 422 (approximately USD 51) on 19 March 2020 as an enlistment evader. His appeal was granted on 5 October 2020. This was the third fine imposed on Mr. Köse and later annulled by the court.
  19. Mr. Aras Kürkçüoğlu received an administrative fine of TRY 186 (approximately USD 23) on 29 April 2020. His appeal was rejected.
  20. Mr. Sayat Kürkçüoğlu received an administrative fine of TRY 132 (approximately USD 16) on 22 July 2020. His appeal was rejected.
  21. Mr. Ersin Mordoğan received an administrative fine of TRY 80 (approximately USD 10) on 3 February 2020 as an enlistment evader. His appeal was successful, and the fine was annulled on 11 November 2020.
  22. Mr. Nurhak Oruş received an administrative fine of TRY 268 (approximately USD 33) on 3 March 2021 as an enlistment evader. He has appealed.
  23. Since 2018, three charges have been brought against Cemal Özgül for enlistment evasion. The three cases were merged, and he was acquitted on 27 January 2021.
  24. Mr. Fırat Şahin received an administrative fine of TRY 151 (approximately USD 186) on 17 March 2020 as an enlistment evader. His appeal succeeded, and the fine was annulled on 5 October 2020.
  25. Two different charges have been brought against Mr. Atilla Soyluoğlu for refusal to serve in the military. The cases have been merged, and the trial continues.
  26. An indictment was brought against Mr. Timuçin Muhammet Tuzlu on 21 September 2016 for refusal to serve in the military. He was acquitted on 22 January 2018, but the prosecutor appealed. On 20 June 2019, the Ankara Regional Court reversed the acquittal and imposed an administrative fine of TRY 2,000 (approximately USD 245). The case continues.
  27. 59-year-old Mr. Mehmet Bülent Yalınay received an administrative fine of TRY 5,856 (approximately USD 716) on 4 June 2020 as an enlistment evader. His appeal succeeded, and the fine was annulled on 9 July 2020.
  28. To date, there are 21 complaints before the Constitutional Court of Turkey, but the Court has delayed hearing every one of them. The conscientious objectors who filed these complaints request that the Court annul the administrative fines they received as punishment for refusing to serve in the military.

1. Mr. Benyamin Şahin Ölgün, convicted for refusal to serve in the military, has been waiting for the finalisation of his complaint (application no. 2013/5564) since 1 July 2013.
2. Mr. Volkan Altay applied to the Constitutional Court on 1 August 2016 (application no. 2016/14174).
3. Mr. Cem Palandökenler applied to the Constitutional Court on 4 April 2017 (application no. 2017/20170).
4. Mr. Arden Üzel applied to the Constitutional Court on 22 May 2017 (application no. 2017/24734).
5. Mr. İbrahim Varıcılar applied to the Constitutional Court on 13 October 2017 (application no. 2017/35626).
6. Mr. Berge Çelikyazıcıyan applied to the Constitutional Court on 5 December 2017 (application no. 2017/39393).
7. Mr. Yakup Erdem Bilensir applied to the Constitutional Court on 21 June 2018 (application no. 2018/19904).
8. Mr. Arif Emrah Orak applied to the Constitutional Court on 7 August 2018 (application no. 2018/25273).
9. Mr. Sami Şekip Peker applied to the Constitutional Court on 5 November 2018 (application no. 2018/36419).
10. Mr. Mustafa Türközü applied to the Constitutional Court on 18 March 2019 (application no. 2019/9217).
11. Mr. Altuğ Öncü applied to the Constitutional Court on 1 April 2019 (application no. 2019/11268).
12. Mr. Nuri Elbe applied to the Constitutional Court on 18 April 2019 (application no. 2019/13550).
13. Mr. Öcal Yılmaztürk applied to the Constitutional Court on 18 April 2019 to demand the annulment of an administrative fine given to him for refusal to serve in the military. (application no. 2019/13456).
14. Mr. Barış Görmez applied to the Constitutional Court on 1 August 2019 (application no. 2019/26374).
15. Mr. İlker Sarıalp applied to the Constitutional Court on 21 August 2019 (application no. 2019/30683).
16. Mr. Zafer Gül applied to the Constitutional Court in two separate applications for two penalties totalling TRY 3,827 (approximately USD 480) (application nos. 2019/29837 and 2020/4791).
17. Mr. Yahya Batmaz applied to the Constitutional Court on 14 October 2019 (application no. 2019/34575).
18. Mr. Necmettin Berkin Gül made two separate applications to the Constitutional Court for penalties totalling TRY 6,320 (approximately USD 790) (application nos. 2020/33813 and 2020/34009).
19. Mr. Saim Gürel Tunçbüker applied to the Constitutional Court on 28 January 2021 (application no. 2021/5471).

# CONCLUSION AND RECOMMENDATIONS

* 1. Jehovah’s Witnesses in Turkey, and as a worldwide organization, express concern for the government’s continued punishment of Jehovah’s Witness conscientious objectors despite the repeated recommendations made by the ECHR and the CCPR. They respectfully request that the government of Turkey take the necessary steps to:

1. Recognize the right to conscientious objection to military service and provide an ACS that conforms to European and international standards, namely, a programme of civilian work that is not under military control and not punitive in length.
2. Ensure that the Views of the CCPR and the judgments of the ECHR that provide for the right to conscientious objection to military service are respected and implemented. This would involve refraining from imposing repeated fines on Jehovah’s Witnesses and from threatening them with imprisonment on grounds of “evasion of enlistment” for their conscientious objection to military service.
3. Expunge criminal records resulting from unjust court decisions and provide adequate compensation.
4. Abide by its commitment to uphold the fundamental freedoms guaranteed by the Covenant for all citizens, including Jehovah’s Witnesses.
   1. The EAJW will consider submitting an additional complementary submission with the CCPR *after* the *List of Issues* has been adopted.

1. See Annex 1: Committee of Ministers of the Council of Europe, Turkish government’s submissions in response to the Committee of Minister’s decision adopted at its 1377th meeting on 4 June 2020. Turkey’s response to the issues raised on the cases of *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. [↑](#footnote-ref-1)