

## Amnesty International

### **Statement to Working Session 4: Fundamental Freedoms I, including:**

- **Freedom of thought, conscience, religion or belief;**
- **Freedom of movement**

### **Conscientious objection:**

The right to conscientious objection is a basic component of the right to freedom of thought, conscience and religion. It has been recognized as such in resolutions and recommendations adopted by the United Nations Commission on Human Rights, the United Nations Human Rights Committee, the Council of Europe and the European Parliament.

These bodies have all urged governments to guarantee that individuals objecting to compulsory military service because of their conscientiously held beliefs are given the opportunity to perform an alternative service. They have stated explicitly in a number of resolutions that this alternative service should be of a genuinely civilian character and of a length which cannot be considered as punitive. They have also recommended that individuals be permitted to register as conscientious objectors at any point in time before their conscription, after call-up papers have been issued, or during military service. Likewise, the United Nations Commission on Human Rights, the Council of Europe and the European Parliament have emphasized that information about how to seek recognition as a conscientious objector should be readily available to all those facing conscription into the armed forces - as well as to those already conscripted.

However, many participating states continue to prosecute and imprison people for refusing compulsory military service on grounds of conscience.

In **Armenia**, Amnesty International is concerned by the continuing practice of imprisoning conscientious objectors, the vast majority of whom are Jehovah's Witnesses but who have also included members of the Russian Molokan minority, in defiance of Armenia's obligations under international human rights standards. Rather than providing a genuine civilian alternative to military service, an obligation undertaken by Armenia upon accession to the Council of Europe in 2001, the current legislative framework and implementation of the alternative service appears to be characterized by a pattern of deterrence aimed at discouraging conscientious objection.

According to information supplied to Amnesty International, as of 1 June 2007 there were 75 Jehovah's Witnesses imprisoned in Armenia (70 tried and convicted, five charged and in pre-trial detention). Numbers of conscientious objectors imprisoned have increased due to successful appeals by prosecutors for harsher sentences and greater reluctance to release them on parole.

In **Turkey**, Amnesty International remains concerned that the right to conscientious objection is not recognized and that no alternative civilian service is available.

Conscientious objectors continue to find themselves in a vicious circle whereby they are prosecuted and usually imprisoned each time they refuse to perform military service, and upon release are issued with new call-up papers. Most recently, Amnesty International was concerned in June by the order for Osman Murat Ülke to present himself at the office of the military prosecutor in the north-western city of Eskişehir within 10 days to serve a prison sentence of 17 months and 15 days on the basis of his earlier convictions for refusing to perform military service. Osman Murat Ülke has been prosecuted and imprisoned repeatedly since declaring his conscientious objection in 1997. The latest incident occurred despite the unanimous January 2006 ruling of the European Court of Human Rights that the repeated prosecutions and convictions of Osman Murat Ülke resulting in imprisonment for “persistent disobedience” and “desertion” constituted a violation of Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (prohibition of degrading treatment). The Court also noted that “the clandestine life amounting almost to a ‘civil death’ which the applicant had been compelled to adopt [as a result of the numerous prosecutions] was incompatible with the punishment regime of a democratic society.” The judgment has to date been examined four times by the Committee of Ministers, who in February 2007 “deplored the fact that the Turkish authorities had as yet taken no individual measure to put an end to the violation found by the Court, the applicant still being subject to an arrest warrant with a view to the execution of his sentence”. The Turkish authorities have informed the Committee of Ministers that a draft law to put an end to the repeated punishment of conscientious objectors is under preparation.

**Greece**, in spite of its obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms and the International Covenant on Civil and Political Rights, fails to uphold the right to conscientious objection. The alternative civilian service remains discriminatory and of punitive length. Conscientious objectors continue to face repeated arrest attempts and prosecutions following their refusal to perform military service. It is common practice for conscientious objectors to be prosecuted on charges of disobedience, insubordination or desertion every time they refuse to carry out military service, in contravention of Article 14 paragraph 7 of the International Covenant on Civil and Political Rights.

In **Albania**, Amnesty International knows of two conscientious objectors to military service who are being tried by Tirana Court of first instance on a charge of “avoiding military call-up” under Article 16 (paragraph 1) of the Military Criminal Code of Albania. This is an offence punishable by a fine or up to two years’ imprisonment. The two young men are Jehovah’s Witnesses.

The law "On Military Service" of 2003 introduced the possibility for conscientious objectors to do alternative unarmed service, either in a civilian or in a military institution. The length of alternative service is the same as that for military service (12 months). However, the conscientious objector must apply to do alternative service six months before he reaches the age of call-up (19 years).

These two defendants reportedly reached the age of 19 before the Law on Military Service of 2003 was adopted; they were consequently unable to file their applications for alternative service at the required age, and their applications were refused.

In **Finland** the length of the civilian alternative to military service remains punitive and discriminatory. In 2006 Amnesty International regarded 11 imprisoned conscientious objectors as prisoners of conscience, most of whom served sentences of 197 days for refusing to perform alternative military service.

**Recommendations:**

Amnesty International calls on the authorities of Albania, Armenia, Finland, Greece, and Turkey:

- for immediate legislative amendments to ensure that alternative civilian service is no longer discriminatory and of punitive length, for the right to conscientious objection to be recognized and upheld at all times, and an end to prosecutions of conscientious objectors.

Amnesty International is calling on the Turkish authorities to:

- clarify when the aforementioned draft law will be opened to public consultation.