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Conscience and Peace Tax International

Internacional de Conciencia e Impuestos para la Paz

NGO in Special Consultative Status with the Economic and Social Council of the UN

International non-profit organization (Belgium 15.075/96)

Bruineveld 11 · B-3010 Leuven · Belgium · Ph.: +32.16.254011 ·

www.cpti.ws

e-*: cpti@cpti.ws

Belgian account: 000-1709814-92 · IBAN: BE12 0001 7098 1492 · BIC: BPOTBEB1

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ORAL STATEMENT BY CONSCIENCE AND PEACE TAX INTERNATIONAL
Delivered by **Derek Brett**, Wednesday 22nd September 2010

ADOPTION OF UPR REPORT ON TURKEY

Conscience and Peace Tax International welcomes Turkey's acceptance of a number of recommendations¹ concerning the freedom of opinion and expression, especially that in paragraph 101.5 of the Report of the Working Group, it states that it is already in the process of implementing the recommendation "to adjust the Penal Code to fully comply with international standards of freedom of expression, and ensure that restrictions imposed in the name of security comply with the character of necessity and proportionality".

Unfortunately, this is contradicted by the rejection in the written replies of the more specific recommendations of changes to articles 301 and 318 of the Penal Code, and the Anti-Terror Law.²

Article 318, which criminalises "alienating the population from the military" is used to stifle all discussion or reporting of conscientious objection to military service. Any public statement by a conscientious objector can lead to imprisonment of up to two years. Press reporting about conscientious objection, in individual cases or in the abstract, and in Turkey or elsewhere, incurs a heavier sentence, of up to three years. Moreover, offences under Article 318 have been brought within the scope of the Anti-Terror Law, which increases by a further 50% the applicable sentences.

¹ A/HRC/15/13, paras. 100.71, 101.5, 101.6, 101.7

² A/HRC/15/13/ Add. 1, paras 32 – 37, 47, 48 and 78, referring to paras. 102.17, 102.18, 102.23 and 102.39 of A/HRC/15/13.

On 17th June this year, three activists were sentenced to six months imprisonment under article 318 for taking part in a peaceful demonstration in support of an imprisoned conscientious objector. One of the three had served a five month sentence under the same article last year for demonstrating outside the Israeli embassy in support of two Israeli conscientious objectors.

We profoundly regret that none of the recommendations addressed to Turkey in the working group concerned the issue of conscientious objection to military service, itself, and the continuing reports of the repeated call up and imprisonment in military penal establishments of conscientious objectors, (as the Jehovah's Witnesses indicated in their submission to the UPR review one of their members had, as of November 2009 been convicted for the refusal as a conscientious objector to perform military service on no less than 35 separate occasions since 1999).³

All this is despite the clear finding of the Working Group on Arbitrary Detention, with regard to the conscientious objector Halil Savda, that any imprisonment because of refusal on grounds of conscience to perform military service constitutes arbitrary detention,⁴ and of the Human Rights Committee that when imprisonment follows a repeated refusal to perform military service based on "the same constant resolve grounded in reasons of conscience" it furthermore breaches the principle of *ne bis in idem* – that one should not be "punished" twice for the same "offence".⁵ – also despite the ruling of the European Court of Human Rights that the lasting disadvantages suffered by a conscientious objector, which they described as a state of "civil death", constituted inhumane and degrading treatment.⁶

We are pleased to note that in the constitutional referendum early this month the provisions which enabled the trial of civilians by military courts were abolished. We hope that the interpretation of this will be extended to civilians facing call up to military service. We regret however that the Government bill to reform obligatory military service which has been put before the parliament this month does include provisions which would allow conscientious objectors to opt for alternative service of a civilian nature, and we urge Turkey to bring in such legislation at an early stage.

Contact: dubrett@talk21.com

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http://lib.ohchr.org/HRBodies/UPR/Documents/Session8/TR/JW_UPR_TUR_S08_2010_JehovahsWitnesses.pdf

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Working Group on Arbitrary Detention, Opinion No. 16/2008. UN Document Ref.

A/HRC/10/21.Add1, parap139-147

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General Comment No. 32, paragraph 55.

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European Court of Human Rights, Chamber Judgement, Second Section, *Ülke v Turkey* (Application no. 39437/98) 24 January 2006,