

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	372
Land:	Tyrkiet
Kilde:	Immigration and Refugee Board of Canada
Titel:	Turkey: Military service, both compulsory and voluntary, including requirements, length, alternatives and exemptions; consequences of draft evasion and conscientious objection (2011-May 2014)
Udgivet:	4. juni 2014
Optaget på baggrundsmaterialet:	12. maj 2015

Immigration and Refugee Board of Canada

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Responses to Information Requests

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4 June 2014

TUR104876.E

Turkey: Military service, both compulsory and voluntary, including requirements, length, alternatives and exemptions; consequences of draft evasion and conscientious objection (2011-May 2014)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Overview of Compulsory Military Service

Sources indicate that all male citizens are subject to compulsory military service in Turkey (Forum 18 1 May 2012; IFOR Sept. 2012; AFP 21 Oct. 2013). Citing information received from the Ministry of Defence Recruiting Department in June 2011, the UK-based human rights organization Child Soldiers International indicated that military conscripts are called to register at the age of 20 and enter service at 21 (Child Soldiers International 2012, 159). Two Turkish media sources report that the age range for compulsory military service is over the age of 20 until the age of 38 (Cihan 22 Oct. 2013; *Today's Zaman* 25 Oct. 2013). According to Forum 18, an NGO based in Norway that promotes freedom of religion and conscience (Forum 18 n.d.), those between the ages of 20 and 41 are required to perform military service (Forum 18 1 May 2012). In a submission to the UN Human Rights Committee, the International Fellowship of Reconciliation (IFOR), a network of organizations in over 50 countries that aims to peacefully resolve conflicts and establish alternatives to violence (IFOR 21 May 2014), indicates that compulsory military service in Turkey starts at 19 years of age (IFOR Sept. 2012). IFOR also states that, while the "upper age limit" is sometimes cited as 41, in practice there is no age limit to when a man can be called to military service (IFOR Sept. 2012).

Media sources indicate that, starting on 1 January 2014, the length of mandatory military service was reduced from 15 months to 12 months (ANSA 2 Jan. 2014; *Today's Zaman* 25 Oct. 2013; AFP 21 Oct. 2013).

Sources indicate that university graduates with four-year degrees can serve for either 6 months as a private or 12 months as a second lieutenant (Cihan 22 Oct. 2013; *Today's Zaman* 25 Oct. 2013). These requirements for university graduates were reportedly not affected by the change in mandatory military service that went into effect on 1 January 2014 (Cihan 22 Oct. 2013; *Today's Zaman* 25 Oct. 2013).

Sources indicate that men who are enrolled in programs of higher learning are allowed to their military service until they receive their degrees (*Today's Zaman* 25 Oct. 2013; Turkey 3 June 2013, 17). In a submission to the Organization for Cooperation and Security in Europe (OSCE), Turkish authorities explain that students who are in higher education programs, such as in university, L.L.M. and Ph.D. programs, are able to complete their education provided that they maintain their student status and are not older than 35 years of age (Turkey 3 June 2013, 11).

According to *Hurriyet Daily News*, Turkish law also allows Turkish citizens who have lived abroad for at least 3 years to complete their military service in 21 days of basic military training (26 Apr. 2012).

Agence France-Presse (AFP) reports that approximately 500,000 of 750,000 people in Turkey's military are military conscripts (21 Oct. 2013). In contrast, the Turkish media source Cihan News Agency said that the total number of military personnel in the armed forces was 439,421, consisting of 315,390 conscripts and

124,031 professionals (generals, officers, non-commissioned officers [NCOs], contracted NCOs and corporals) (8 Oct. 2013).

1.1 Treatment of Conscripts

According to the European Commission's *2013 Progress Report* for Turkey, there were reports that conscripts were subject to "ill-treatment" and government efforts were needed to address the issue (EU 2013, 50). The European Commission also reports that Parliament's Human Rights Inquiry Committee opened a "monitoring dossier" on human rights abuses during military service (EU 2013, 50). Asker Haklari (The Rights of Conscripts Initiative), an organization that aims to prevent ill-treatment and abuse of conscripts and set up a website for the reporting of abuses against conscripts, indicates that they received 432 complaints between April 2011 and April 2012, of which:

- 48 percent complained of insults
- 39 percent complained of beatings
- 16 percent complained of forced excessive physical activity
- 15 percent complained of denial of proper health care
- 13 percent complained of threats
- 9 percent complained of disproportional punishment
- 5 percent complained of being forced to run errands for supervisors
- 4 percent complained of sleep deprivation
- 4 percent complained of institutionalized bullying (Asker Haklari [2012], part II)

Sources report that there is a high number of suicides among military conscripts (Asker Haklari [2012], part IV; *Hurriyet Daily News* 3 Dec. 2012). According to the head of the Parliament's Human Rights Inquiry Committee, 175 soldiers had committed suicide between June 2010 and December 2012 (ibid.). Asker Haklari reports of one case in which a conscript was beaten to death and another case in which a conscript became disabled as a result of a severe beating ([2012], part IV).

2. Alternatives to Military Service

Several sources indicate that there is no civilian alternative to military service available (AI 18 July 2013; Professor 20 May 2014; VR-DER 20 May 2014). In addition, IFOR notes that there is no option for unarmed service within the military (IFOR Sept. 2012).

Today's Zaman, a daily Turkish online and print newspaper (*Today's Zaman* n.d.), reports that the Turkish authorities enacted a law on 30 November 2011 to allow citizens born before 1983 to pay 30,000 in Turkish Lira [approximately C\$16,000 (XE 3 June 2014)] "within six months" to be fully exempt from compulsory military service (ibid. 30 Nov. 2011). *Hurriyet Daily News*, which reported on the same military alternative, but said the period of payment for exemption was from 15 December 2011 to 15 June 2012, said that approximately 22,500 out of an estimated 460,000 possible candidates had applied for the paid exemption by the end of the fourth month (*Hurriyet Daily News* 26 Apr. 2012). The same source indicates that there have been other times in which the Turkish authorities introduced paid military exemptions, but that few people participated (ibid.).

2.1 Exceptions to Military Service

According to the report submitted to the OSCE by Turkish authorities, exceptions to compulsory military service include:

- Those who are mentally or physically unfit for military service
- Brothers of those who died in military service; both brothers and sons of those who were killed as a result of terrorism during their military service
- Turkish citizens who immigrated from other countries and already served in the military of their country of origin (Turkey 3 June 2013, 11)

Article 10 and Article 35 of Law No. 1111 of 1927, Military Law, which includes information about military conscription and exemptions to conscription, was provided to the Research Directorate by a Canadian embassy official in Ankara and is attached to this Response.

In correspondence with the Research Directorate, an assistant professor of International Relations at Bilkent University in Ankara who specializes in border security and mobility indicated that there are very few exceptions to compulsory military service, such as certain height and weight limitations and certain health

restrictions (Professor 20 May 2014). He said that in cases of health restrictions, the draftee is sent to a military hospital for evaluation by a panel of doctors and checked regularly for 2-3 years before obtaining a discharge (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The BBC reports that sometimes homosexuals are exempted from military service, but that there is no set procedure to determine exemption based on sexual orientation and that those seeking an exemption often have to provide explicit photographs as proof of their sexual orientation (BBC 25 Mar. 2012). The same source indicates that Turkey's military hospitals define homosexuality as a psychological "illness" (ibid.).

3. Draft Process

The following information was provided to the Research Directorate by an official at the Turkish embassy in Ottawa in 2003, and it was confirmed by the Turkish embassy to continue to be accurate in 2006, 2010 and as of 21 May 2014:

Male Turkish citizens are called to report to the military draft branches between July 1st and October 31st of the year of their twentieth birthday. At this time, the process of "final military draft inspection" is initiated for draftees to register themselves for military service. Those draftees who are not ready for military service have to submit their documents showing the reasons (being a student, being unable to perform military service due to health reasons, being in prison, etc.). If these persons fail to report to their military branches, they become *yoklama kaçagi* (pre-registration draft evaders) as of November 1st of that year.

Draftees who complete their final military draft registrations join the military during the year that they become 21 years old. Those who do not attend to the call of the military branches or those who fail to join the related military training center or unit after completing their registrations become *bakaya* (post-registration draft evaders).

Once the government is aware of those who have become *yoklama kaçagi* or *bakaya*, their name and address is forwarded to the security authorities (the police or gendarme) by the administrative authorities (the governorships) and consequently, security authorities are authorized to begin to search for these persons. Simultaneously, the military branches of the persons in question send an official letter to their address, stating that they have become draft evaders and that they have to apply to their military branch to complete the relevant procedures. (Turkey 21 May 2014)

The Professor provided the following information about the military draft process and government actions:

Military draft affairs (in Turkish: Asker Alma Subesi) are branches of the military that are located in every district. Every male Turkish citizen is automatically registered to these offices at birth. Once they reach 18, each male citizen is given 2 options. They either enroll in higher education and postpone their military service - schools send letters of enrollment and the branches postpone the draft - or they go and serve in the military. There are draft terms, and if your extension is up, you receive a notification letting you know that you are going to be called for service.

Once a draftee is called for service, if they are a no show, the military draft branch sends a letter to the police, and once the police register that letter to the system, the person becomes registered as a draft dodger. The police will then go to the address registered to the draft dodger to check on his whereabouts. Since the information on the draft dodger would be entered into the police database, if they are stopped in a regular police control (which happens regularly in Turkey) they would be detained and then sent to the military branch for processing and then sent to their military service. (Professor 20 May 2014)

In correspondence with the Research Directorate, a representative of the Vicdani Ret Dernegi (VR-DER, the Association of Conscientious Objection), an Istanbul-based organization established in May 2013 that promotes the rights of people who reject mandatory military service, said that in cases of draft evasions, the Ministry of National Defence releases an arrest warrant against the draft evader, but does not send a notification to the subject (VR-DER 20 May 2014). The information in the warrant is entered into the GBT database [also known as GBTS (Genel Bilgi Toplama Sistemi--General Information Gathering System) (IFOR Jan. 2014)] and the police or gendarme can arrest the subject at the time of detection (ibid.).

IFOR explains that there have been recent technological developments that have aided in identifying people who have evaded military service (IFOR Jan. 2014). The bar code in recent passports and identity documents is linked to the person's entry on the GBTS, which includes the person's military status along with

other information, such as convictions, arrest warrants and tax arrears (ibid.). Police officers and border guards can read this information with a hand-held device and can detain the person if the person is in default (ibid.).

4. Ability to Travel Abroad

According to the Turkish embassy official, neither *yoklama kaçağı* nor *bakaya* are permitted to travel abroad until they "legalize their situation" (Turkey 21 May 2014).

The Professor explained that Turkey has border exit controls and the person's identity is checked in a database called PolNET that looks for a number of markers, including draft status (Professor 20 May 2014). If the person's draft evasion report is entered into the system, the person cannot travel abroad (ibid.). However, the Professor noted that there is often some time that elapses before the person's status is entered into the system, which may enable a person to leave the country (ibid.).

5. Evasion of Military Service

5.1 Conscientious Objection

Several sources indicate that Turkey does not recognize the right to conscientious objection to military service (AI 18 July 2013; *Today's Zaman* 18 Dec. 2011; Turkey 3 June 2013, 10). Sources state that there is no official data on the number of conscientious objectors (WRI 13 Dec. 2012; VR-DER 20 May 2014) or other draft evaders and deserters (ibid.). In a 2012 news release on conscientious objectors in Turkey, War Resisters' International (WRI), a London-based organization promoting non-violent action against the causes of war (WRI n.d.), said that they were aware of 130 people in the country who declared themselves as conscientious objectors (WRI 13 Dec. 2012).

According to *Today's Zaman*, Article 45 of the Turkish Military Penal Code states, "Individuals may not evade military service, and penalties may not be revoked, for religious or moral reasons" (18 Dec. 2011).

Sources indicate that expressing support for the idea of conscientious objection can be prosecuted under Article 318 of the penal code (WRI 13 Dec. 2012; IFOR Sept. 2012), which punishes the offence of "alienating people from the armed forces" (ibid.). According to IFOR, people have been prosecuted under Article 318 for carrying banners that say "Every Turk is born a baby" because the slogan is viewed as mocking the slogan "Every Turk is born a soldier" (ibid. Jan. 2014). Amnesty International (AI) reports that in 2013, a conscientious objector who registered the website of www.savaskarsitlari.org was charged under Article 318, but was acquitted (AI 12 Dec. 2013).

5.2 Consequences of Draft Evasion

According to Turkish military law (and corroborated by officials at both the Turkish embassy in Ottawa and the Canadian embassy in Ankara), Article 63 of the Law on Absentee Conscripts, Draft Evaders, Persons Unregistered [For Military Service], and Deserters, draft evasion in peacetime carries the following penalties:

One month imprisonment for those who report to the authorities within seven days;

Three months for those who are arrested within seven days;

Three to twelve months for those who report within three months;

Four to eighteen months for those who are arrested within three months;

Four to twenty-four months for those who report after three months;

Six to thirty-six months for those who are arrested after three months. (Turkey 21 May 2014; Canada 26 May 2014)

Sources confirm that this law is still in use (VR-DER 20 May 2014; Turkey 21 May 2014; Canada 26 May 2014). In correspondence with the Research Directorate, the Canadian embassy official in Ankara said that this law also carries a penalty of up to ten years' imprisonment in the case of aggravating circumstances, such as self-inflicted injuries, or using false documents (Canada 26 May 2014). The official provided the Research Directorate with a translation of Articles 63 to 81 of the Military Law, which includes the prescribed punishments for a variety of offenses related to military evasion and desertion, and is attached to this Response.

According to the VR-DER representative, Article 63 can be applied multiple times; there is a separate

case for each time the evader refuses to carry out military service (VR-DER 20 May 2014).

According to IFOR, military deserters or evaders may also be charged under Articles 87 or 88 of the same law, for refusal to take the military oath, to wear a uniform or to obey orders (IFOR Sept. 2012).

Amnesty International reports that conscientious objectors have been prosecuted and sentenced to imprisonment of up to three years (AI 18 July 2013). Several sources indicate that upon release, conscientious objectors are often-re-drafted into the military, and the process of detention is repeated (ibid.; IFOR Sept. 2012; VR-DER 20 May 2014). AI provides an example in which a conscientious objector who deserted the military in 2006 was initially prosecuted and sentenced to 10 months imprisonment, but was prosecuted and sentenced again in 2009 after refusing to join his unit (AI 18 July 2013). After serving his second sentence, he was apprehended for a third time in July 2013 for continuing to evade military service (ibid.). AI states that, according to his lawyer, the conscientious objector was subjected to ill-treatment on both occasions of imprisonment at the military prison in Canakkale (ibid.). IFOR reports that "[m]ost conscientious objectors who have been detained in Turkey have reported physical mistreatment" (IFOR Sept. 2012).

AI also reports of a 2014 case in which a conscientious objector, who completed his compulsory military service but refused to participate in annual military exercises in northern Cyprus in 2009, 2010 and 2011, was imprisoned for 10 days for "'non-compliance with the mobilization call'" for the 2009 charge and continued to face charges for his refusal in 2010 and 2011 (7 Mar. 2014).

According to a January 2014 report by IFOR to the UN Human Rights Committee

[p]roceedings against conscientious objectors have continued, and new proceedings have been initiated. The penalty in the first instance now tends to be a fine rather than detention, but the ultimate threat of imprisonment remains when all judicial proceedings are exhausted, and the pattern of repeated call-ups to military service persists. (IFOR Jan. 2014)

The US Department of State's *International Religious Freedom Report for 2012* states that people who oppose compulsory military service "face charges in military and civilian courts as well as prison sentences" (US 20 May 2013, 4). The same source provides an example in which a conscientious objector had been charged 13 times for "'disobedience of orders'" since 2007, but was acquitted by a military court in February 2012 and released from prison, although the prosecutor appealed the decision (ibid., 6).

IFOR reported in January 2014 that most cases of refusing the call-up to military service are heard in the civilian courts rather than military courts (IFOR Jan. 2014). IFOR notes that the majority of conscientious objectors do not respond to the "call up to military service" and live "semi-clandestinely so as not to be identified and prosecuted as 'draft dodgers'," while "many of the cases which figure in the jurisprudence have arisen when objectors co-operated with the requirement to report for military service, but then declared their objection" (ibid.). Some of the judicial cases of conscientious objection involve Jehovah's Witnesses (US 20 May 2013, 6; ECHR 22 Nov. 2011; Forum 18 1 May 2012).

5.3 Cases Brought Before the European Court of Human Rights

In 2006, in the case of *Ulke v. Turkey*, the European Court of Human Rights (ECHR) ruled in favour of a Turkish conscientious objector who was sentenced to imprisonment eight times for refusing conscription (ECHR 24 Apr. 2006, No. 60) and found Turkey to be in violation of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR 24 Apr. 2006). The court found that the successive convictions caused him to be in a "situation of humiliation or debasement" (ibid., No. 59) and characterized the applicant's life as "amounting almost to a 'civil death'" which is "incompatible with the punishment regime of a democratic society" (ibid., No. 62). He was awarded 11,000 Euros in damages, costs and expenses (ibid., No. 74, 77). Sources indicate that Turkey has not yet filled the requirements of the 2006 ECHR judgement (Forum 18 1 May 2012; AI 18 July 2013). Forum 18 reports that in cases from 2011 and 2012, the ECHR has reiterated its findings from *Ulke* that the situation of conscientious objectors amounts to "'civil death'" and is "not compatible with rule of law in a democratic society" (Forum 18 1 May 2012). In the cases of *Savda v. Turkey* (ECHR 12 June 2012) and *Ercep v. Turkey* (ECHR 22 Nov. 2011), the ECHR found that, in addition to violations of Article 9 of the Convention, the right to freedom of thought, conscience and religion; there was also a violation of Article 6, right to a fair trial, because the defendants were civilians, but were being tried by a military court. The 2012 case of *Savda v. Turkey* also found Turkey to be in violation of Article 3 of the Convention, the prohibition of degrading treatment (ECHR 12 June 2012).

6. Voluntary Military Service

According to Child Soldiers International, voluntary military service can begin at the age of 18, but is not applied in practice (2012, 159). The Canadian embassy official in Ankara also said that Turkish citizens can volunteer for military service as early as the age of 18 (Canada 26 May 2014). In their submission to the OSCE, Turkish authorities indicate that "Regular Officers" and non-commissioned officers (NCOs), including female officers, serve voluntarily in the military (Turkey 3 June 2013, 17). The same source indicates that female NCOs are university graduates who work on a contractual basis, while "Regular officers" are trained in military academies (ibid.).

According to the VR-DER representative, most volunteer military service in Turkey is for paid professionals (VR-DER 20 May 2014). The same source said that the government has launched a salary-based military service program to recruit volunteers to serve in the war against the PKK (Partiya Karkeren Kurdistan, Kurdish Workers Party) (ibid.). The VR-DER representative said that these volunteers are not able to void their agreements and would be subject to charges of insubordination and desertion if they left their duty (ibid.). Similarly, the Canadian embassy official in Ankara said that the terms of service for volunteers in the military are the same as those in compulsory military service (Canada 26 May 2014).

The VR-DER representative said that the professional military staff who are trained in military schools and work in positions such as lieutenants, chiefs, commanders and generals, are also subject to the same laws as conscripts (ibid.). VR-DER cited an example in which a commander who served in the military for 22 years faced criminal charges after being detected in the GBT database as a deserter (ibid.). Corroborating information about the treatment of people who voluntarily serve in the Turkish military could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Attachments

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