

UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL

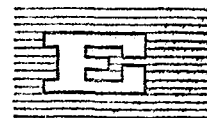


Distr.  
GENERAL

E/CN.4/1419/Add.2  
29 December 1980

ENGLISH

Original: ENGLISH/FRENCH/  
SPANISH



COMMISSION ON HUMAN RIGHTS  
Thirty-seventh session  
2 February-13 March 1981  
Item 18 of the provisional agenda

THE ROLE OF YOUTH IN THE PROMOTION AND PROTECTION OF  
HUMAN RIGHTS, INCLUDING THE QUESTION OF CONSCIENTIOUS  
OBJECTION TO MILITARY SERVICE

Report of the Secretary-General

Addendum

CONTENTS

	<u>Page</u>
INTRODUCTION .....	2
REPLIES FROM GOVERNMENTS:	
Equatorial Guinea .....	2
Madagascar .....	2
Netherlands .....	2
Yugoslavia .....	5

INTRODUCTION

In addition to those mentioned in paragraph 3 of the introduction to document E/CN.4/1419, the Governments of Grenada and Lebanon have reported that compulsory military service does not exist in their countries.

REPLIES FROM GOVERNMENTS

EQUATORIAL GUINEA

[Original: Spanish]

[21 November 1980]

To date in our country there is no legislation relating to conscientious objection to military service; nevertheless, it is felt that people have the right to refuse to serve in military or police forces which are used to impose apartheid.

MADAGASCAR

[Original: French]

[27 November 1980]

Articles 19 and 20 of the Constitution state only that compulsory national service is organized to ensure the social and cultural development of the majority, in addition to the requirements of national defence.

Failure to comply with the terms of the legislation on enlistment for national service and insubordination are punishable by penalties ranging from imprisonment to capital punishment in accordance with articles 124 and 138 of the Penal Code relating to national service (JORM No. 250 of 19 December 1962, p. 2,402 and incorporated in the Malagasy Code of Penal Procedure).

NETHERLANDS

[Original: English]

[26 November 1980]

National legislation and other measures and practices relating to conscientious objection to service and alternative service

(a) Legislation

Article 196 of the Constitution provides that the law shall state on what conditions exemption from military service may be granted on account of serious conscientious objections. The matter is regulated in the Conscientious Objections to Military Service Act of 27 September 1962 (Staatsblad - Bulletin of Acts, Orders and Decrees - No. 370), lately amended by the Act of 24 November 1978 (Staatsblad No. 694).

(b) Grounds on which conscientious objections are recognized

Article 2 of the amended Conscientious Objections to Military Service Act defines "serious conscientious objections" as "insurmountable conscientious objections to the personal performance of military service in connection with the use of instruments of violence in which a person may become involved as a consequence of his serving in the Netherlands military forces".

(c) Authorities competent to decide the validity of objections

Without prejudice to what is stated in the last paragraph of point (d), the Minister of Defence is the authority competent to decide whether objections raised are to be recognized as serious objections within the meaning of the Conscientious Objections to Military Service Act. He only reaches his decision, however, after he has heard the advice of a Committee appointed by the Crown on the recommendation of the Minister of Defence. The Committee renders its advice after the objector has been given an opportunity to present his case.

(d) Appeals

Any person whose petition to be recognized as a conscientious objector has been rejected may appeal to the Crown within 30 days. The grounds for appeal are not limitative. If, on appeal, a decision rejecting a petition is set aside, the Crown itself may dispose of the case and give a further decision.

(e) Consequences of the recognition of conscientious objection

As a result of the 1978 amendments to the Act of 1962, it is no longer possible to require people, whose objections to military service relate specifically to fighting with weapons, to perform military service in a non-combatant capacity.

People recognized as conscientious objectors are discharged from military service as soon as possible, but are obliged to perform alternative service, which is of two types: ordinary and extraordinary.

The duration of ordinary alternative service exceeds in general that of the preliminary training of people conscripted to military service by one-third and lasts at least 18 months.

Extraordinary alternative service has to be performed only in time of war, when war threatens or in other emergencies, or if the people recognized as conscientious objectors belong to a group which, in accordance with rules to be established by the Crown, are summoned to perform alternative service only in cases of urgent necessity.

Exemption from ordinary alternative service is possible if:

- (i) the objector is a breadwinner
- (ii) the objector is personally indispensable
- (iii) two brothers of the objector have already performed or are performing military service
- (iv) there is a special situation.

Exemption from alternative service, both ordinary and extraordinary, will be given to ministers of religion and those receiving an education to perform such offices.

(f) The way in which and the conditions under which alternative service is performed

Alternative service is performed with government bodies or with institutions, designated by the Minister of Social Affairs, whose work is in the general interest of the community. The Minister of Social Affairs calls up the recognized conscientious objectors to perform alternative service, and decides where the service shall be performed, by whom orders may be given to or instructions laid down for the person concerned in connection with the work to be performed.

The status of people who are exempted from military service and perform alternative service is regulated in a similar manner as possible to that of conscripts (pocket-money as for people doing their preliminary training; analogous application of the Breadwinners' Allowance Decree and the Income Compensation Decree; etc.).

(g) Penal measures

Any person who deliberately ignores a lawful summons to perform alternative service is liable to a term of imprisonment not exceeding two years. If the offence was not deliberate, he is liable to a term of imprisonment not exceeding nine months.

Any person performing alternative service who deliberately and impermissibly absents himself from work or who seriously neglects his duties is liable to a term of imprisonment not exceeding two years, the length of the sentence depending on the offence.

(h) Applicability of the regulations in time of peace and in time of emergency

The relevant statutory regulations contain no provision to the effect that their applicability shall differ as between time of peace and time of emergency.

(i) Proposals for amendment to article 196 of the Constitution

Proposals for amendment to article 196 of the Constitution are under discussion in Parliament. The proposed article (5.2.5.) of the revised Constitution, which will become operative after the new Parliament to be elected in 1981 passes it on second reading by a two-third majority, reads as follows:

"Exemption from military service for reasons of serious conscientious objections will be regulated by law".

The objective of this proposal for a new constitutional provision is of a mere drafting nature and does not aim, therefore, at a change in substance of the present provision.

YUGOSLAVIA

[Original: English]

[5 December 1980]

Compulsory military service is of particular importance in the realization of the rights and duties of the citizens of the Socialist Federal Republic of Yugoslavia (SFRY) regarding the defence of the country and as such is regulated by the Constitution of the SFRY. Article 241 of the Constitution stipulates: "compulsory military service of citizens is general". The Compulsory Military Service Act (Official Gazette of the SFRY, No. 36/80) regulates compulsory military service in more detail. It represents an integral part of the rights and duties of Yugoslav citizens to defend their country, protect its freedom, independence, sovereignty, territorial integrity and the social system of the SFRY established by the Constitution. It is carried out both in peace and in war by all Yugoslav citizens who are generally fit for work and under conditions stipulated in this Act.

The Constitution of the SFRY also provides for equal rights and duties of all citizens, regardless of their nationality, race, sex, language, religion, education or social position and makes them all equal before the law.

It is, no doubt, evident from the aforementioned that compulsory military service in the armed forces under specific conditions should be fulfilled by all citizens of the SFRY. In its course, they are prepared, trained and organized in order to be able to conduct an armed struggle, perform other duties in the armed forces and participate in other forms of total national resistance against the enemy in the event of an aggression or any other danger for the country, regardless of all differences, including religious convictions of individuals.

According to the Criminal Code of the SFRY, the refusal to carry out or a violation of the legal obligations concerning compulsory military service are sanctioned as criminal acts and infraction of the law, regardless of the reasons offered in connection with the refusal.