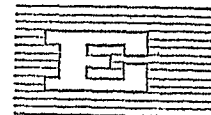
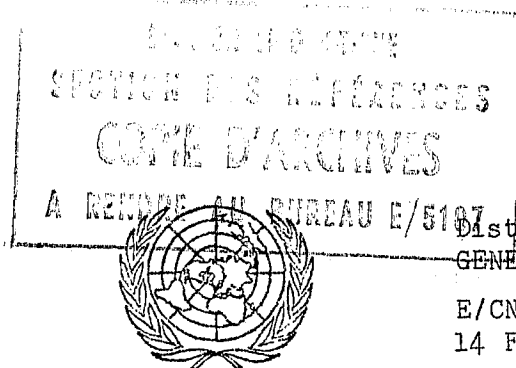


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THE ROLE OF YOUTH IN THE PROMOTION AND PROTECTION OF
HUMAN RIGHTS, INCLUDING THE QUESTION OF CONSCIENTIOUS
OBJECTION TO MILITARY SERVICE

Report by the Secretary-General

Addendum

I. REPLIES FROM GOVERNMENTS (continued)

AUSTRIA

[Original: English]

[11 February 1985]

The Austrian Government welcomes the fact that the United Nations are examining the issue of conscientious objection to military service and hopes that it will be possible to arrive at in-depth discussions of the related questions within the framework of the forthcoming meeting of the Commission on Human Rights. The Government is of the opinion that the report prepared by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities provides a perfect basis for new impulses in respect of a further discussion desired by Austria.

The objective of the discussion will not be to condemn certain States but to arrive at an acceptable solution of the pending problems. Recommendations on the introduction of conscientious objection to military service are to concern measures which are in the interest of persons who are actually thrown into deep inner conflicts due to military service.

As Austria has already taken decisive measures for solving the problem of conscientious objection to military service, the following explanations describe the situation prevailing in Austria.

Since the entry into effect on 1 January 1975 of the "Zivildienstgesetz für Wehrpflichtige" (Alternative Service Act) - general conscription was reintroduced in 1955 - there has been the possibility in Austria to apply for release from military service for reasons of conscience. This request has to be granted if the conscript rejects armed force against other people for serious, credible reasons of conscience and would thus be thrown into deep inner conflicts if he had to render normal military service.

So far, there has been a 10 day deadline for filing such an application, starting from the delivery of the call-up order. The 1984 amendment to the Alternative Service Act, which has already been passed by the Austrian National Council and became effective on 1 December 1984, provides for an extension of this deadline to two weeks. After elapse of this deadline, the right to apply for release from military service is suspended until after discharge from basic military training. Then, it is again possible to make use of this right until receipt of a second call-up order. If the application for release from military service has finally been rejected by the Alternative Service Commission or Upper Alternative Service Commission, the draftee may file such an application again only after one year.

Already in his application the conscript has to give a detailed explanation of the major reasons and must declare his willingness to render alternative service and to fulfill the duties of alternative service carefully. Acceptable reasons of conscience are predominantly those based on religious, humanitarian or ethical grounds. However, it is possible to obtain release from military service only if the conscript rejects armed force - excluding cases of self-defence or assistance in cases of emergency - unconditionally and generally and not only in specific cases or in connection with his own person.

The applications are decided upon by the Alternative Service Commission, Federal Ministry of the Interior, the members of which are not bound by instructions in the execution of their office. Decisions of the Alternative Service Commission are taken in "senates". The chairmen of the individual senates must be members of the judiciary. A senate furthermore includes a legally qualified official of the Federal Ministry of the Interior in the capacity of a rapporteur. Two other members of the senate are appointed upon recommendation of youth organizations safeguarding the interests of Austria's youth. Finally, each senate has one member from the Austrian Federal Economic Chamber and one member from the Austrian Conference of Chambers of Labour.

Before the Alternative Service Commission the draftee is given the opportunity to personally explain his reasons of conscience in the course of a non-public hearing and to be assisted in this hearing by a person of his confidence. In the assessment of the reasons put forward by the draftee, the Commission has to take into account in particular the conduct the applicant has shown so far.

If the application is rejected, the draftee has the possibility to appeal to the Upper Alternative Service Commission; this Commission follows the same principles as the Alternative Service Commission (not bound by instruction, composition etc.). After all remedies are exhausted, the conscript eventually has the possibility to file a complaint to the Constitutional Court if he maintains violation of a constitutionally guaranteed right.

As can be seen from the above explanations, alternative service in Austria is not meant to be "alternative" service in the literal sense (e.g. that one can choose between military and alternative service) but a substitute military service for persons with credible, serious reasons of conscience. On the other hand the duration of alternative service is not longer - like in most other European countries - than that of ordinary military service, i.e. 8 months both. There is also equal treatment of alternative and military conscripts in all other respects (payment, workload, etc.).

Alternative service is rendered in institutions which have been decreed by the State Governor at the request of the individual legal entity as appropriate facilities for alternative service. This includes public law institutions, and also non-profit legal entities having their seat or headquarters in Austria. The conscientious objector is to be called in for services in the interest of the common welfare, in particular civil national defence, and to be exposed to a workload which is similar to that rendered by military conscripts within the framework of ordinary military service. Alternative service is rendered in particular in hospitals, ambulance services, social assistance services, in the field of disaster relief and civil defence, torrent control and maintenance of waterways and waterbodies, cultivation and protection of forests, etc. Alternative service explicitly excludes activities involving the application of force against other persons as well as activities that are of direct or indirect support to the Austrian Armed Forces. Moreover, the provision that alternative service must be rendered outside the Armed Forces is laid down in the Federal Constitution and can thus be modified only by a qualified (two-thirds) majority.

As regards the number of applications for alternative military service, it has finally to be remarked that after a considerable increase in the first years after the entry into force of the Alternative Service Act it dropped in 1980 to some 4,000 applications and has remained at that level since.

Eventually, it must be noted that on the basis of the Alternative Service Act the conscripts have to be informed already within the course of the enlistment procedure in a suitable way of the right to be released from military service for reasons of conscience.

The Austrian Government is awaiting with great interest the comments by other States and agencies concerned with this issue.

In conclusion the Austrian Government would appreciate, if the Special Rapporteur could also look into the practice of recruiting women for the armed forces. Thus a contribution to the United Nations Decade for Women could be made.