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A3-0411/93

REPORT

of the Committee on Civil Liberties and Internal Affairs

on conscientious objection in the Member States of the
Community

Rapporteurs: Mr J.M. BANDRES MOLET
Mrs R. BINDI

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PE 206.246/fin.
Or. IT

- * Consultation procedure
simple majority
- **I Cooperation procedure (first reading)
simple majority
- **II Cooperation procedure (second reading)
simple majority to approve the common position
absolute majority of Parliament's component Members to reject or amend the common position
- *** Assent procedure
absolute majority of Parliament's component Members to give assent
except for simple majority under Articles 8a, 105, 106, 130d and 228 EC

- ***I Codecision procedure (first reading)
simple majority
- ***II Codecision procedure (second reading)
simple majority to approve the common position
absolute majority of Parliament's component Members either to adopt a declaration of intent
to reject the common position, or to amend or confirm the rejection of the common position
- ***III Codecision procedure (third reading)
simple majority to approve the joint text
absolute majority of Parliament's component Members to reject the Council text

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At the sitting of 10 April 1992 the President of the European Parliament announced that he had forwarded the motion for a resolution by Mr Kostopoulos on recognition of the right of conscientious objection to military service and alternative arrangements for non-military or social service pursuant to Rule 45 of the Rules of Procedure to the Committee on Civil Liberties and Internal Affairs as the committee responsible and to the Committee on Legal Affairs and Citizens' Rights for its opinion.

At its meeting of 26 May 1992 the Committee on Civil Liberties and Internal Affairs decided to draw up a report and appointed Mr Bandres Molet and Mrs Bindi rapporteurs.

At its meetings of 16 July, 4 November and 24 September 1992 and 5 November 1993 the committee decided to include in its report the following motions for resolutions which had been referred to it:

- B3-0623/92; authors: Mr von Wechmar and others; subject: persecution of conscientious objectors and of ethnic minorities in Greece; announced in plenary sitting: 9 July 1992; responsible: Committee on Civil Liberties and Internal Affairs;
- B3-0459/92; author: Mr Sisó Cruellas; subject: performance of military service by young people who reside in a Member State of which they are not nationals; announced in plenary sitting: 9 July 1992; responsible: Committee on Civil Liberties and Internal Affairs;
- Petition No. 34/92 on authorization for Jehovah's Witness to teach;
- Petition No. 184/93 on conscientious objectors, Jehovah's Witnesses;
- Petition No. 451/93 on indication of religion on Greek identity cards and religious discrimination in Greece.

At its meetings of 2 December 1992 and 27 January, 17 March, 12 October and 2 December 1993 the committee considered the draft report.

At the last meeting it adopted the resolution by 9 votes to 5.

The following were present for the vote: Turner, chairman; Salisch, vice-chairman; Bandres Molet and Bindi, rapporteurs; van den Brink, Cooney, Imbeni, Jarzembowski, Lambrias, Marck (for Lafuente Lopez), Mebrak-Zaïdi, Piermont, Roth and Van Outrive.

The Committee on Legal Affairs and Citizens' Rights decided on 17 June 1992 not to deliver an opinion.

The report was tabled on 3 December 1993.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

A
MOTION FOR A RESOLUTION

Resolution on conscientious objection in the Member States of the Community

The European Parliament,

- having regard to the motions for resolutions by:
 - (a) Mr Kostopoulos on recognition of the right of conscientious objection to military service and alternative arrangements for non-military or social service (B3-0248/91),
 - (b) Mr von Wechmar and others on persecution of conscientious objectors and of ethnic minorities in Greece (B3-0623/92),
 - (c) Mr Sisó Cruellas on the performance of military service by young people who reside in a Member State of which they are not nationals (B3-0459/92),
- having regard to its resolutions of 7 February 1983 on conscientious objection¹ and 13 October 1989 on conscientious objection and alternative civilian service²,
- having regard to its resolutions of 21 January 1993³ and 11 March 1993⁴,
- having regard to its resolution of 22 March 1993⁵,
- having regard to written questions Nos. 1241/90, 1242/90, 1389/90, 2295/90, 2645/90, 2646/90, 2898/90, 2905/90, 2908/90, 130/91, 694/91 and 1449/91,
- having regard to petitions Nos. 34/92, 161/92, 184/93 and 343/93,
- having regard to resolution 1989/59 of the United Nations Commission on Human Rights,
- having regard to Recommendation R(87)8 of the Committee of Ministers of the Council of Europe,
- having regard to Articles F 100, 7, 8a and 48(2) of the EEC Treaty,
- having regard to Rule 45 of its Rules of Procedure,
- having regard to the report by the Committee on Civil Liberties and Internal Affairs (A3-0411/93),

¹ OJ No. C 68, 14.3.1983

² OJ No. C 291, 20.11.1989

³ OJ No. C 42, 15.2.1993

⁴ OJ No. C 115, 26.4.1993

⁵ OJ No. C 150, 31.5.1993, p. 267

- A. deploring the lack of response to its resolutions of 1983 and 1989 referred to above, especially the possibility of refusing for reasons of conscience to fulfil an obligation to perform military service,
- B. stating once again that the protection of human rights and fundamental freedoms is one of the European Community's main duties, as is stipulated *inter alia* in the Preamble to the Maastricht Treaty,
- C. whereas conscientious objection to military service is inherent to the concept of freedom of thought, conscience and religion, as recognized in Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms,
- D. whereas the United Nations Commission on Human Rights confirmed this interpretation on 20 July 1993 in its general comments on Article 18 of the International Covenant on Civil and Political Rights,
- E. reiterating the fact that the right of conscientious objection is a principle recognized under the law of all Member States in which military service is compulsory, with the exception of Greece, which is the only country where unarmed military service exists, but that the provisions governing this right vary widely between Member States which, as far as young people are concerned, acts as an obstacle to European integration,
- F. having regard to its resolutions on European citizenship¹ in which it stated *inter alia* that the status of European citizenship implies that the human rights and fundamental freedoms of all citizens must be protected and that discrimination against citizens on the basis of the Member State to which they belong cannot be tolerated under any circumstances,
 - 1. Considers conscientious objection to be a real subjective right, as recognized by resolution 89/59 of the United Nations Commission on Human Rights, closely connected with the exercise of individual freedoms and, therefore, that community service may take the form of either military or civilian service;
 - 2. Believes that 'conscientious objector' should be taken to mean someone who, faced with an obligation to perform military service, refuses to do so on religious, ethical or philosophical grounds or for reasons of conscience and calls on all Member States to adopt this definition;
 - 3. Subscribes to the basic principles defined by the Committee of Ministers of the Council of Europe in its recommendation R(87)8 on conscientious objection to compulsory military service and considers that this recommendation is a minimum basis for provisions concerning civilian service which should link all the Member States of the Council of Europe;
 - 4. Points out that conscientious objection is an issue of international importance, as is demonstrated by the resolution adopted by the United Nations Commission on Human Rights in 1989, the Recommendation adopted by the Committee of Ministers of the Council of Europe in 1987 and its resolution of 1989, all of which include the right of conscientious

¹ OJ No. C 183, 15.7.1991 and OJ No. C 326, 16.12.1991

objection to military service among the various rights and stipulate that alternative civilian service must not be punitive in nature;

5. Notes that the disparity in the arrangements in force in each Member State in respect of military service obstructs the full implementation of freedom of movement in the Community, which requires the abolition of all forms of discrimination between European citizens on the grounds of nationality;
6. Is convinced that the right of conscientious objection derives from the human rights and fundamental freedoms which the European Community undertakes to respect pursuant to Article F(2) of the Treaty and, therefore, that the harmonization of legislation in this field falls within the competence of the European Community;
7. Calls on the Member States to study, as a matter of common interest, the experience of those which have abolished compulsory military service, in favour of fully professional armed services, accepting that all citizens of a Member State should enjoy the same rights and fulfil the same obligations;
8. Calls therefore on the Commission to submit as soon as possible
 - a proposal for the harmonization of legislation and minimum guarantees of the protection of the right of conscientious objection, such as those laid down in paragraph 49 of its resolution of 11 March 1993¹ on respect for human rights in the European Community, with a view to eliminating the current discrimination between Member States,
 - a proposal for the establishment of a European civilian service open to both conscientious objectors and volunteers from the Member States,
 - an exchange programme allowing those engaged in alternative civilian service to choose to perform it in another Member State or in a developing country as part of a cooperation programme;
9. Considers that this service should also be able to be performed with organizations in other Member States, without the need for reciprocity and even when there is no conscription in the country concerned;
10. Calls on the Member States to ensure that compulsory military service and civilian service performed at institutions which do not come under the supervision of the Defence Ministry are of the same length, pursuant to paragraph 51 of its resolution of 11 March 1993 on respect for human rights in the EC;
11. Believes furthermore that conscientious objectors performing civilian service must enjoy the same rights as conscripts engaged in armed military service, both in social terms - in respect of access to vocational training, for example - and in terms of pay;
12. Condemns those states where objectors are imprisoned, as asserted by Amnesty International, and calls on the Greek Government in particular to take the necessary steps as a matter of urgency to conform to the principles laid down in this resolution;
13. Emphasizes that freedom of religious belief is firmly established as one of the basic individual rights set out in the Universal Declaration of Human

¹OJ No. C115, 26.4.1993, p. 178

Rights and the European Convention on Human Rights and restates therefore the views set out in its resolutions of 21 January 1993 and 22 April 1993 on the compulsory declaration of religion on identity cards;

14. Calls for the right of conscientious objection and the right to civilian service to be incorporated in a protocol to the European Convention on Human Rights;
15. Calls on the Member States of the European Union which do not have (or no longer have) conscription and military and civilian service nevertheless to guarantee the fundamental right of conscientious objection;
16. Considers that this fundamental right of conscientious objection also relates to tax contributions and calls therefore on the Member States to draw up a reply to the conscientious objections of people who are forced to support the military system through the national budget;
17. Instructs the Commission to ask the Member States of the European Union and the countries which have applied for Community membership to comply with the principles laid down in its resolutions of 9 February 1983, 13 October 1989 and 11 March 1993 on respect for human rights in the EC and in this resolution;
18. Instructs its Committee on Civil Liberties to draw up an annual report on the application by the Member States of its resolutions on conscientious objection and civilian service, and to involve the European Bureau for Conscientious Objection;
19. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States and the countries which have applied for Community membership.

B
EXPLANATORY STATEMENT

I. - BACKGROUND

The right of conscientious objection to military service and the obligation to undertake alternative civilian service, which is based on the right to freedom of thought, conscience and religion, as recognized in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the European Convention on Human Rights and Fundamental Freedoms, are principles which form part of the legislation of eleven of the Member States of the Community where military service is still compulsory, with the exception of Greece, where the only alternative allowed is military service without weapons.

The Council of Europe has been actively concerned with conscientious objection since the mid-1960s following a request from Amnesty International. The most important Council of Europe texts include Resolution 816(1977) and Recommendation 87(8). The first recommends the Committee of Ministers, inter alia, to include the right of conscientious objection to military service in the European Convention on Human Rights. The second specifically requests that conscientious objection be subject to common principles in all European countries.

Moreover, in 1989 the UN Commission on Human Rights adopted a very important resolution recognizing that conscientious objection represents a legitimate exercise of the right to freedom of thought, conscience and religion.

II. THE RIGHT OF OBJECTION

Conscientious objection to military service involves a conflict of principles between the authorities and the objector. The former believe that the common good or the general interest entitles them to impose military obligations on their citizens. Faced with this claim, some young people cite their right, on conscience grounds, not to perform military service on behalf of the community.

Here there arises a conflict between two views of the relationship between the State and the individual. One view is that service in the armed forces is normal and desirable, and that civilian service, which is officially described as 'alternative', is exceptional and secondary. The other view, according to which conscientious objectors are the forerunners of a world without war, is that civilian service may be an appropriate way of building such a world of peace and equality. Most Member States, being more inclined to hold the first rather than the second of these views, have introduced regulations restricting and limiting the right to conscientious objection to military service and sometimes seriously discriminate against those who choose non-military service. Such discrimination in respect of vocational training, the search for work, social security and political and trade union rights seriously affects young people in particular. At the same time, the forms of service objectors are obliged to carry are not always directed towards real social change - towards improving the living standards of the least favoured sections of the population and protecting the environment - and are often no more than mere substitutes for military service. Objectors' organizations and other non-governmental bodies have also pointed to the inadequacy of the pay and rights afforded to objectors performing this type of service.

Full recognition of the right of objection (free of any restrictions or discriminatory measures), the introduction of truly alternative forms of service for objectors and the protection of the social rights of objectors engaged in civilian service could, in the future, lead to a situation in which exercising the right of objection would be seen as a positive contribution to the defence of the community from a civilian standpoint.

In any case, the differences in Member States' legislation in this area seriously jeopardize the process of European integration.

III. - POSITION OF THE COMMUNITY INSTITUTIONS

The right to conscientious objection is recognized as a principle laid down in the laws of all EEC Member States in which military service is compulsory, but the provisions governing it vary a great deal from one country to another.

Parliament has already on several occasions dealt with the topic of conscientious objection: it has adopted two resolutions, on 7 February 1983¹ and on 13 October 1989² and has put many written and oral questions to the Council and the Commission.

In the resolution of 7 February 1983 contained in the Macciocchi report, Parliament stated that: (a) the right to freedom of conscience was a fundamental right and the refusal to carry out military service or the decision to withdraw from it on grounds of conscience represented the exercise of such a right; (b) no court or commission could penetrate the conscience of an individual and a declaration by the latter should be enough to secure the status of objector; and (c) civilian service should not be regarded as a sanction and should not exceed the period of normal military service. The resolution asked states to endeavour to approximate their legislation in this area.

In the resolution of 13 October 1989 in the Schmidbauer report, which was adopted during the current legislative period, Parliament again considered conscientious objection but also gave detailed consideration to civilian service as an alternative to military service. The resolution repeatedly emphasized the need to put both services, civilian and military, on an equal footing as two equally honourable and legitimate options and called for conscripts to be entitled to exercise the right of objection at any time, even after they have embarked on military service. The resolution represented a major step towards the establishment of a European Civilian Service.

However, Parliament's repeated requests for a Community solution to the problem of conscientious objection have not yet elicited a favourable response from the Commission or the Council. This is one of the basic reasons for this report, which will deal, in particular, with recognition of the right of conscientious objection to the performance of military duties.

In reply to the above-mentioned questions from Parliament, the Commission has always claimed that the problem lay outside its responsibilities and that therefore it had no right to make proposals in connection with it. However, in

¹ OJ No. C 68, 14.3.1983, p. 14

² OJ No. C 291, 20.11.1989, p. 122

a debate in the House on a People's Europe in November 1985, Commissioner Ripa di Meana said he believed that conscientious objection should be considered at European level and undertook to do what he could to get the Commission to look into it.

In its replies to the questions put to it, the Council has always stated that the problem of the status of conscientious objectors - in Member States and countries applying for membership - fell outside its responsibilities.

We believe that this situation is no longer acceptable, given the goal of political union.

As Parliament has already stated in its resolutions on citizenship of the Union¹, the definition of European citizenship implies, among other things, that

'- the human rights and fundamental freedoms of all persons must be respected and guaranteed, *inter alia* in the courts; social, economic, political and cultural rights must be recognized and properly protected,

- the banning of all discrimination on grounds of race, creed, political and trade union views, sex, nationality or any other personal situation'.

In addition, paragraph 2 of Article F of the draft treaty on the union specifies that 'The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States as general principles of Community law'.

IV. - EUROPEAN CIVILIAN SERVICE FOR OBJECTORS

Although military service and the corresponding right of conscientious objection are a matter for the Member States, this does not mean that the civilian service which must be performed by objectors from countries in which military service is still compulsory must necessarily be performed inside those countries.

Once a state has granted a young person the status of conscientious objector, that person is obliged to perform civilian as opposed to military service.

The great differences between the various national regulations on the length of civilian service, the conditions for performing it, the recognition of rights, appeals and procedures, etc., are responsible for discrimination between young people of different countries. The situation is clearer if we recognize that in some member countries, military service is voluntary and therefore the citizens of those countries enjoy a more favourable status than young people in other states.

We believe that civilian service should not involve discrimination but, on the contrary, should assist European development and encourage the integration of young people in a Europe without frontiers.

¹ OJ No. C 183, 15.7.1991 and OJ No. C 326, 16.12.1991

All Member States which recognize it define civilian service as a service to the community, but national regulations are varied and sometimes differ. In all Member States there are a large number of institutions and bodies, public and private, which take on objectors to enable them to perform their civilian service. Few countries accept the possibility that civilian service may be performed outside their borders. And in such cases the administrative barriers are sometimes difficult to overcome. Since we consider that the establishment of a European civilian service would enable young people from different countries to meet and make contact while carrying out cooperative activities for the community designed to overcome social inequality and discrimination, to achieve a balanced environment, the integration of marginalized or less-favoured sections of the population and the development of a more tolerant, egalitarian and peaceful society, we believe that the Commission should consider and implement a Community initiative along these lines. We know that the major European youth organizations (Youth Forum of the European Communities, the CENYC and the EBCO) have shown great interest in such a measure.

The Community has developed programmes for the exchange of young students through the ERASMUS programme. The idea has also been extended to the business sector with the COMETT programme. Such experiments, which have been particularly valuable in encouraging contacts and exchanges between European young people, could serve as a basis for further experimentation in the area with which we are dealing.

The implementation of such a measure would require the establishment of a Community Office for European Civilian Service, which would coordinate activities in different states. The host state would decide which bodies and institutions could employ the Community objectors. In line with Parliament's resolutions on the issue, the length of service and the conditions under which it was performed would have to be standardized in order to avoid any kind of inequality.

The European Economic Community and particularly the European Parliament should take a definitive step towards devising and introducing a European Civilian Service.

V. LEGAL BASIS FOR A EUROPEAN CIVILIAN SERVICE

With the European Single Act the Community set itself the goal of achieving the internal market at the beginning of 1993: an area without frontiers in which the free movement of persons would play a fundamental role. This basic principle has been strengthened by the Treaty on Political Union and in particular the second part of the second title dealing with citizenship of the Union.

The very idea of European citizenship, in fact, involves protecting the human rights and fundamental freedoms of all citizens, and discrimination against European citizens on the basis of the Member State to which they belong cannot be tolerated.

At a strictly Community level, we reiterate our belief that, whereas in the past, when Parliament's two resolutions on the right of conscientious objection were adopted, it was debatable whether or not the problem was the Community's responsibility and whether or not the Treaty should be broadly interpreted,

because of current developments in Community law the right of conscientious objection must soon be standardized at European level.

It is clear that the differences in regulations on conscientious objection have an impact on rights for which the Community is responsible, since they affect both freedom of movement and the principle of non-discrimination and create different categories of objectors who are citizens within the same legal area.

Mobility for conscientious objectors as a result of the establishment of a European Civilian Service is legally based, by analogy, on Articles 48 and 50 of the Treaty of Rome.

The free movement of workers is one of the basic principles of the Community and Article 48(2) bans any discrimination based on nationality. Objectors are not paid workers but they are the providers of a social service.

Article 50 reminds states that they must encourage the exchange of young workers within the framework of a joint programme. Again by analogy, this would suggest that Member States in which military service is still compulsory should suitably harmonize their regulations on alternative civilian service in line with the proposals adopted by the European Parliament.

VI. - SITUATION WITH REGARD TO CIVILIAN SERVICE IN DIFFERENT COUNTRIES

In most Community Member States, the regulations governing the right of conscientious objection have not yet been brought into line with the recommendations made by Parliament and other European bodies. Greece stands out in this respect since it is the only Community Member State with no specific laws to protect objectors and provide an alternative to military service.

The right to refuse military service at any time on the grounds of conscience, which is the first of the recommendations set out in Parliament's resolution of 1989, is still not recognized. This places people declaring themselves to be conscientious objectors once their military service has started in a very serious legal position and may even lead to imprisonment.

No information on how those wishing to object should proceed is furnished along with the call-up papers (second paragraph of the resolution referred to above).

The procedure for the recognition of objectors provided for under the law of many Member States is far more complex than the simple declaration setting out the individual's motives which Parliament recommends.

Showing scant regard for Parliament's resolutions of 1983 and 1989, the length of alternative service continues to exceed that of military service (in some countries it is twice as long).

The social benefits accorded to objectors bear no comparison to those available to soldiers in the reserves, since most national regulations make no provision for basic benefits such as accommodation or subsistence allowances or health benefits for objectors.

In practice, this leads to a lack of respect for - or outright infringement of - the basic right of objection in some Member States such as Greece, giving rise to an apparently paradoxical situation in which a constitutional state has

prisoners of conscience simply because it has restricted the scope for and impact of applications for objector status.

Institutions whose role is to protect the interests of the citizen, such as the Ombudsman, associations working for conscientious objectors, such as the EBCO, and non-governmental human rights organizations have all highlighted this situation, repeatedly calling on governments and the public authorities in general to implement without restriction some of the European Parliament's proposals.

The European institutions must therefore become more active in this area and take appropriate steps to ensure that the necessary legislative adjustments are progressively implemented in respect of:

1. Recognition of the right
2. Length of service
3. Objection during service
4. Characteristics of service

SPAIN

1. - Recognition of the right

Spanish legislation requires the objector to cite grounds of conscience based exclusively on religious, ethical, moral, humanitarian or philosophical convictions in order for official recognition to be given. This is sometimes indicated by silence on the part of the authorities.

The National Conscientious Objection Council (NCOC) deals with all applications and decides whether or not to recognize a conscientious objection and grant the corresponding exemption from military service. It may require the applicant to give a more detailed oral explanation of the grounds for objection or furnish additional documents or may even ask for a statement from a third party.

The large number of recognized objectors and the Spanish authorities' inability to cope with the demand has led to serious discrimination, which has clearly been detrimental to the interests of many objectors. The waiting period, which lasts from the time of call-up until the beginning of civilian service, is indefinite and results in considerable legal uncertainties. This is the period in young people's lives in which they begin their first job or complete their studies.

This has prompted many objectors to apply to the Supreme Court in cases where the waiting period has extended well beyond the bounds of what is reasonable - often to well over one year.

The necessary information on how those wishing to object should proceed is not provided with the call-up papers and youth organizations or social bodies have been obliged to step in to provide this information.

One of the reasons for the congestion at the National Conscientious Objection Council (NCOC) and the collapse of the OPSOC is the centralization of both bodies, with their responsibilities being considered to be the exclusive preserve of central government.

2. - Length of service

The law currently prescribes a period of nine months for military service. Social service, on the other hand, continues for 13 months. This has met with broadly-based opposition from objectors, some of whom have started to disobey, saying that they will only carry out alternative social service for the same amount of time as those on military service.

3. - Objection during service

The law rules out the possibility of an objection during service by stating that the right of objection may be exercised until the person in question begins his military service and, once that has been completed, as long as he remains in the reserves.

This did not prevent 23 objectors from declaring themselves as such after having started their military service in 1992, although their requests were turned down.

4. - Characteristics of civilian service

Under the law, the system of alternative social service has a similar structure to military service and is not seen as a truly alternative civilian service, despite the fact that the recognition of conscientious objection involves performing activities of public interest which do not involve the use of arms or attachment to military institutions. Under the law, priority is given to civilian service being performed in government organizations. No joint programme has been undertaken with another EC Member State.

The Ombudsman and equivalent regional figures have echoed criticisms by objectors' associations, such as the AOC, pointing to the deficiencies in the current legislation, such as the fact that no funds are provided to pay for objectors' travel, the lack of health cover, the lack of accommodation and subsistence allowances and so on.

The Catalan and Basque Parliaments and a large number of organizations and social groups have come out against the current legislation in Spain, calling for a new deal. The government's refusal to countenance any such changes has led many objectors to consider practising various forms of civil disobedience to the law.

PORTUGAL

1. - Recognition of the right

A written application is legally required explaining in detail the reasons for the objection. The Office of the Department of Conscientious Objectors deals with the application and applications may be submitted from the time of call-up until not later than 30 days before enlistment.

2. - Length of service

Under the law, the duration of civilian service is the same as that for military service, i.e. normally four months, although recognized objectors must undergo a three-month period of prior training.

3. - Objection during service

4. - Characteristics of civilian service

Social service is by nature exclusively civilian and is not connected with or subject to military or militarized institutions. Civilian service is devised and adapted in the light of the skills and vocational interests of the objectors. The law expressly allows for service involving cooperation, subject to the explicit agreement of the conscientious objector, so that it may be performed in territories under Portuguese administration and countries where Portuguese is the official language, and for movement within the EEC.

GERMANY

1. - Recognition of the right

The German Basic Law declares that no one may be compelled to perform armed military service against his conscience. Individuals may seek the status of conscientious objector simply by referring to this constitutional principle.

2. - Length of service

Military service lasts 12 months. Civilian service lasts 15 months.

3. - Objection during service

An application for the status of conscientious objector may be made at any time.

4. - Characteristics of civilian service

Civilian service generally involves welfare work in the service of the community. Provision is made for service abroad lasting slightly longer, 18 months, and development assistance work lasting two years is also accepted as a social service.

DENMARK

1. - Recognition of the right

The status of conscientious objector is granted to young people who are opposed to compulsory military service for genuine reasons of conscience. Religious, philosophical and even political grounds are generally accepted. Applications must be made in writing to the recruitment commission eight days before the date of enlistment.

2. - Length of service

Depending on the circumstances, military and civilian service lasts between four and 12 months. Civilian service usually lasts two months longer than military service.

3. - Objection during service

Danish legislation does not cover this eventuality.

4. - Characteristics of civilian service

Conscientious objectors may choose the activity to be performed, whether in social or cultural bodies, etc. Development assistance work, which is strictly voluntary, lasts at least two years and is open to anyone who has the necessary qualifications.

UNITED KINGDOM AND IRELAND

There is no compulsory military service in these two countries. However, individuals may volunteer to serve for a minimum of three years.

Soldiers may be demobilized while serving if they object on conscience grounds to the army's role.

BELGIUM

Military service is compulsory.

Length of military service

In 1992: 10 months (8 months for service performed in Germany).
From 1993: 8 months.

The Belgian Government recently announced its decision to abolish compulsory military service from the time of the 1994 call-up and this is currently being debated and studied by the military authorities and the Belgian Parliament. As part of this proposal, service performed in Germany will probably be reduced to 6 months in 1993. The abolition of compulsory military service and its replacement by a professional army would involve revoking legislation governing the status of conscientious objectors (which would then have no raison d'être) and possibly modifying it for a transitional period.

Alternative service for objectors

- In the army: 10 months (the same duration as for active military service).
- Outside the army: from 14 to 18 months (duration of military service plus 4 or 8 months depending on the nature of the alternative service).

In Belgium the duration of the service performed by conscientious objectors is determined by the length of service laid down for conscripts performing their service in Belgium: 4 months over and above the normal duration for conscientious objectors working in civil defence or in bodies responsible for public health or welfare and 8 months extra for objectors assigned to bodies carrying out social and cultural duties. Alternative service may also be performed in a developing country or a development cooperation organization (current duration: 22 months).

Legal basis

- Royal Decree of 30 April 1991 determining the duration of active service for conscripts.
- Acts of 20 February 1980, amended on 22 December 1989.

GREECE

Length of military service

From 15 to 23 months.

Alternative service for objectors: from 30 to 46 months. (This involves non-armed military service.)

Greek law in fact makes no provision for alternative civilian service. Conscription and conscientious objection are governed by Act No. 1763, adopted in March 1988. Objectors who have cited religious or philosophical grounds are allowed to perform non-armed military service lasting twice as long as the normal military service.

In practice, however, the conscription authorities, the Ministry of Defence and the military courts have not granted exemption from military service to several Jehovah's Witness ministers, despite the fact that this has been a legally recognized religion in Greece for many years. The ministers have been given prison sentences, as have other Jehovah's Witnesses sentenced on the grounds of conscientious objection.

In July 1988 the government announced that it was about to submit a bill making provision for alternative civilian service for conscientious objectors, although twice as long as ordinary military service. The bill has yet to be brought before the Greek Parliament.

Legal basis

- Act No. 1/63/88 of 24 March 1988, Article 5, Ministerial Decision 421-4/1.103859 of 6 March 1991.

ITALY

Length of military service: 12 months.

Alternative service for objectors: 12 months. A proposal to modify the status of conscientious objectors (which was already adopted by the Italian Parliament in the previous legislature, but was sent back to Parliament by the President of the Republic) will soon be debated again by Parliament. The bill (Chamber of Deputies, Bill No. 3, XIth legislature) provides that the duration of alternative service should be the same as that for military service plus a three-month training period.

Legal basis

- Act No. 191 of 31 May 1975, subsequently amended on a number of occasions, on conscription.

- Judgment of the Constitutional Court No. 470 of 31 July 1989 (Official Gazette No. 32 of 9.8.1989).

FRANCE

Length of military service: 10 months

Alternative service for objectors: recognized conscientious objectors must perform alternative service lasting 20 months (twice as long as military service). The alternative service is organized and run by the Ministry for Social Affairs.

Legal basis

- Act No. 92/9 of 4 January 1992 amending national service regulations.

NETHERLANDS

Length of military service: from 12 to 15 months

Alternative service for objectors: 16 months

Legal basis

- Act No. 43 of 4 March 1992 (amended).

- Act on conscientious objection to military service (Act No. 370 of 27 September 1962, amended).

LUXEMBOURG

No compulsory military service.

VII. WOMEN AND MILITARY SERVICE: SITUATION IN THE MEMBER STATES

It must be said at the outset that military service is not compulsory for women in any Member State but that it may be performed on a voluntary basis in most of them. Currently, therefore, the problem of conscientious objection to military service does not exist for women.

Without getting bogged down in detail, the situation in the Member States is as follows: in Belgium, France, the Netherlands and Denmark provision is made for voluntary military service. In the Federal Republic of Germany, under Article 12a of the Constitution women may not, under any circumstances, be employed in the armed services but may, in a crisis, be called on to perform civilian service in military hospitals. On the other hand, women may work for the Ministry of Defence. In Italy there is no legislation which makes provision for service by women in the armed forces. In Luxembourg, Spain and Greece, women may join the armed forces as volunteers but maternity leave is not granted. In the United Kingdom women may join the armed forces on a voluntary basis and since 1949 there has been a women's service in the navy, army and air force. In Portugal, under a 1961 Act a nursing corps was set up and this forms part of the army and air force. Currently, as part of legislation on military service, Parliament is considering a clause which would lay down conditions for the admission of women volunteers.

MOTION FOR A RESOLUTION

pursuant to Rule 63 of the Rules of Procedure

by **Mr KOSTOPOULOS**

on recognition of the right of conscientious objection to military service and alternative arrangements for non-military or social service

The European Parliament,

- A. whereas the right of conscientious objection to military service has been recognized throughout Europe as a basic human right in accordance with a number of resolutions adopted by the UN Committee on Human Rights of 5.3.87, Amnesty International, the European Parliament, the Council of Europe and recently by the CSCE,
- B. whereas Greece is the only country in the EC which, despite international agreements, has still not recognized the right to conscientious objection and currently has 277 detainees in Avlona military prison,
- C. whereas these detainees, who may be imprisoned for up to four years, are subject to delays in obtaining transfers to open prisons where it is possible for them to gain remission,
 - 1. Condemns the Greek Government's infringement of Community law by its failure to implement legislation on recognition of the right to conscientious objection and the fact that conscientious objectors are imprisoned;
 - 2. Calls for the introduction of a legislative framework so that a period of non-military or social service longer than or twice as long as normal military service may be carried out either in military units and services in posts where the use of and training with weapons is not necessary or in non-profit making public services or international organizations providing services for charitable institutions and individuals with special needs.

MOTION FOR A RESOLUTION

pursuant to Rule 63 of the Rules of Procedure

by the members von WECHMAR, de VRIES, COX, NORDMANN, DE GUCHT and PIMENTA

on behalf of the LDR Group

on the persecution of conscientious objectors and of ethnic minorities in Greece

The European Parliament,

- A. Concerned by the denial in Greece of the right to conscientious objection to military service;
- B. Concerned by the discrimination against the Turkish minority in Western Thrace in such matters as employment by the State, the granting of buildings permits and by interference in their choice of religious leaders;
 1. Calls on the Greek Government to respect the right to conscientious objection to military service of its citizens;
 2. Calls on the Greek Government to release those imprisoned for having refused military service, in particular Giannis Smaragdis, suffering from Hodgkin's disease in a prison some hours from the nearest hospital, and Anastasios Georgiades, a religious minister of the congregation of Jehovah's Christian Witnesses, imprisoned because his denomination is not a 'recognised' religion, although two other pastors of the same sect have been released and excused from military service as ministers of religion;
 3. Calls on the Greek Government and Parliament to abolish Article 19 of the Citizenship Code which is used to deprive non-ethnic Greeks, who have travelled abroad, of their citizenship by administrative decree, with no hearing and no right of appeal, if the Greek authorities decide that the person concerned did not intend to return to Greece;
 4. Instructs its competent Committee to study the respect of human rights in Greece.

MOTION FOR A RESOLUTION

pursuant to Rule 63 of the Rules of Procedure

by **Mr SISO CRUELLAS**

on the performance of military service by young people who reside in a Member State of which they are not nationals

The European Parliament,

- A. whereas after 1993 there will be an increasing number of young people living in Member States of which they are not nationals, who will be expected to perform military service,
 - B. whereas when these young people have to interrupt their work or studies they are likely to be put at a disadvantage, possibly even losing their jobs and social security rights in their country of residence,
 - C. whereas those who suffer the greatest disadvantage are emigrants' children who have opted to keep their parents' nationality,
 - D. whereas the laws governing military service are at present different in each Member State,
1. Calls on the Commission and Council to take the necessary steps to prevent any form of discrimination between young people as regards the performance of military service.

- Petition No. 34/92 by Mrs B. PILAFTSOGLU (French) on authorization for Jehovah's Witness to teach

The petitioner states that she has been teaching biology in various schools in France for about seven years. In 1990, in response to her application, the Greek education authorities authorized her to teach French in Greek preparatory schools. In 1991 she applied to the Drama educational authorities to teach biology and French at a preparatory school. The petitioner complains that she was required to state her religion in her application. As a result on 13 November 1991 the local education authorities then asked the national Minister of Education and Religion whether they could authorize a Jehovah's Witness to teach. On 23 December 1991 the petitioner had still not received a reply to her application for a post for which she was previously considered to be qualified. She also complains that the Ministry representative expressed doubt as to whether the students and parents concerned knew that the teacher would be a Jehovah's Witness.

INFORMATION: - from consideration of Petition No. 576/91 by Mr TZENOS on a similar question, it emerged that legal precedents had already been established by the Greek Council of State on non-discrimination against Jehovah's Witnesses for the purposes of recruitment as teachers in state schools.

- Petition No. 184/93 by Mr M. THEONAS (Greek) on behalf of 290 conscientious objectors, who are Jehovah's Witnesses, being held in the army prisons of Sindos and Avlona and the rural prisons of Kassandra and Kassavetia

The petitioners maintain that, despite protests by the European Parliament, the Council of Europe, Amnesty International and other bodies, the Greek authorities have failed to take any measures concerning the question of conscientious objection by Jehovah's Witnesses.

The Greek Minister of National Defence maintains as the contrary that there is no constitutional basis for amending the law concerning this matter. However, the Minister is failing to take account of legal opinions to the contrary.

The petitioners request the European Parliament to intervene to secure their release.

INFORMATION:

- The petitioners have given their agreement for the contents of the petition to be made public and considered in a public meeting.
- At its meeting of 7 and 8 January 1993 the Committee on Petitions wants more consideration of the measures to be taken on the Parliament resolution and the Schmidbauer report on conscientious objection. The Committee on Petitions noted that the Committee on Civil Liberties and Internal Affairs is drawing up a report on the same subject. Concerning the position adopted by the Greek authorities, see answer from the Greek Minister of National Defence to the chairman of the Committee on Petitions, PE 203.688.

- Petition No. 451/93, by Drs Kavakas and Terzakis, of Greek nationality, on behalf of the Christian Medical and Dental Association, on the indication of religion on Greek identity cards and religious discrimination in Greece

The petitioners object, on the grounds of religious discrimination, to the intention of the Greek government to include the compulsory mention of religion on the new European personal identity cards. The petitioners represent an inter-denominational organisation and express the wish that the same regulations should be applied to Greece as to all the other Member States in this respect.

INFORMATION:

- During the debate on human rights which took place in the European Parliament on 22 April 1993, when it adopted a resolution on the compulsory mention of religion on Greek identity cards, Mr Vanni d'Archirafi, member of the Commission, replied that 'the European Community cannot lay down jurisdiction on this which is incumbent upon member States, and it will be the same when the Treaty of Maastricht is ratified'.

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The petitioners have not given their assent to the publication and public examination of this petition.