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AUSTRIA : CONSCIENTIOUS OBJECTOR FACES POSSIBLE IMPRISONMENT

Amnesty International today informed the Austrian authorities that if Andreas Gruber is imprisoned for refusing to perform military service on grounds of conscience, the organization will adopt him as a prisoner of conscience.

“The Austrian authorities should not deny Andreas Gruber’s right to refuse to perform military service on the basis of conscience. If he is detained we will demand his immediate and unconditional release,” the human rights organization said today.

On 2 December 1996 Andreas Gruber failed to report for military service in Salzburg and went into hiding. If he reappears, he faces possible arrest and imprisonment. According to Section 7 (1) of the Austrian Military Penal Code, anyone who is found guilty of failing to comply with a call-up order for military service can be sentenced to three month’s imprisonment or a fine. In case someone does not report for military service within 30 days, he can be sentenced to up to one year’s imprisonment (Section 7 (2)).

In March 1985, when he was declared fit to perform his military service, Andreas Gruber said that he wished to perform alternative service instead, but failed to put this request in writing. In October 1985 he applied for, and was granted, postponement of his military service until May 1995 for study reasons. The period of postponement was twice extended until October 1995. Finally, in June 1995 he was called up to commence his military service on 2 October 1995.

Andreas Gruber’s employer at this point submitted a request for him to be exempted from military service. The call up order was suspended until 31 December 1997. In June 1996, Andreas Gruber’s employer informed the Defence Ministry that he had resigned from his job and therefore the grounds for his exemption from military service were no longer valid.

In September 1996 Andreas Gruber was called up to commence his military service on 2 December. He wrote to the Austrian President on 13 October and asked to be exempted from carrying out his military service as his moral convictions did not allow him to serve in the Austrian army. His request was turned down by the Defence Ministry in November. The authorities argued that someone can be released from a call-up order only when this would be in the public interest and that this was not the case with Andreas Gruber’s request.

In October 1996, Amnesty International criticized the draft amendment to the Austrian Alternative Service Law, which is currently under consideration by the Internal Affairs Committee of the Austrian Parliament, on the grounds that it continues to place restrictions on the time period within which applications for alternative service can be submitted.

Amnesty International believes that conscientious objectors should have the right to claim conscientious objector status at any time. The organization considers conscientious objectors who are denied the right to do so, and who are imprisoned as a consequence, to be prisoners of conscience.

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