

SLOVAK REPUBLIC
Possible prisoner of conscience : Timotej NOVOTNÝ

AMNESTY INTERNATIONAL'S CONCERN:

Amnesty International is concerned that 22-year-old Timotej Novotný from Beňovce has been charged under Article 269, paragraph 1, of the Slovak Penal Code for refusing to perform military service on grounds of conscience, and that, if he is convicted for this offence, he may be imprisoned. Timotej Novotný was already convicted for the same offence in January 1995 and subsequently spent a year in prison. At present he is free, awaiting trial, but if he is convicted and imprisoned again, Amnesty International will call for his immediate and unconditional release. Amnesty International is appealing to the Slovak authorities to discontinue criminal proceedings against Timotej Novotný and for him to be allowed to carry out alternative civilian service.

Amnesty International is further concerned that the Slovak Law on Civilian Service, adopted in 1995, contains certain provisions which are at variance with internationally recognized principles regarding conscientious objection to military service. In particular, Amnesty International is concerned about the provision which restricts the time within which conscientious objectors can submit declarations refusing military service. According to Article 2, paragraph 2, of this law, conscripts can submit a written declaration refusing military service only within 30 days after the decision of the conscription board has come into force. Any declaration submitted after this time or declarations submitted during a state of defence alert will not be taken into consideration. This way, people who develop a conscientious objection to military service between conscription and call-up - a time which could be of several months' or even years' duration - or after call-up, are effectively denied the right to alternative service.

Amnesty International is also concerned about another provision in the same law. Article 1, paragraph 8, extends the duration of civilian service from one and a half times to twice the length of military service (which lasts one year). Amnesty International considers such extended length of civilian service to be punitive.

BACKGROUND:

Timotej Novotný was declared fit to perform military service in May 1992. In February 1993, he obtained a deferment of his military service until 30 July 1994 to complete his secondary school education and he was informed that he would be called up before 1 October 1994. On 6 September 1994 he was called up to start his military service on 4 October 1994. Timotej Novotný declared on 7 September 1994 that his religious beliefs did not allow him to carry arms and that therefore he refused to carry out his military service. On 11 January 1995 the Prešov District Military Court sentenced him to one year's imprisonment under Article 269, paragraph 1 of the Slovak Penal Code (failure to commence military service). Timotej Novotný stated that he did not know at the time that he could only apply for alternative civilian service up to 30 days after he had been declared fit, and therefore had missed his chance to object to military service lawfully. The court however, did not accept this as

his defence. Timotej Novotný served half of his sentence in Prešov prison from March until the end of September 1995.

On 6 December 1996 Timotej Novotný received another call-up order which told him that he should report for military service on 2 January 1997. He refused to do this stating that his reasons for not being able to carry arms remained the same. On 5 January 1997 he was charged again with failing to start military service, under Article 269, paragraph 1, of the Slovak Penal Code. Timotej Novotný's lawyer filed a complaint against the indictment, arguing that it was unlawful to try someone twice for the same crime. The Prešov Military Prosecutor rejected his complaint on 18 March 1997, stating that the *ne bis in idem* principle was not applicable to this case as Timotej Novotný had been called up in 1996 to report to a different military unit than in 1994 and thereby each time had committed a different crime¹. At present, Timotej Novotný is free, awaiting his trial.

¹ The same argument was used by the Slovak Supreme Court in May 1996 in the case of conscientious objector Miloš Lipinský, who was charged twice for refusing to do his military service, and is currently awaiting his second trial.