

SLOVAK REPUBLIC
Possible prisoner of conscience : Miloš LIPINSKÝ

AMNESTY INTERNATIONAL'S CONCERN:

Amnesty International is concerned that Miloš Lipinský has been sentenced to 14 months' imprisonment for having refused to carry out military service. Although at present he is free, pending a retrial, Amnesty International fears that this sentence may be carried out in which case it would consider Miloš Lipinský to be a prisoner of conscience and ask for his immediate and unconditional release.

Amnesty International is further concerned that the Slovak Law on Civil 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 term 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 to twice the length of military service (which lasts one year). Amnesty International considers such extended length of civilian service to be punitive.

BACKGROUND:

On 26 August 1993, 19-year-old Miloš Lipinský from Gíraltovec, a small town in eastern Slovakia, received his call-up papers from the District Military Administration in Bardejov, ordering him to start military service on 5 October. Miloš Lipinský returned the call-up papers with a written statement saying that he refused to start military service now or in the future on grounds of his religious beliefs. On 4 November 1994 the District Military Court in Prešov convicted him for evading military service under Article 269 of the Slovak Penal Code and sentenced him to 14 months' imprisonment suspended for two years. The court argued that Miloš Lipinský should have made his objections to military service known within the 30-day period

after he was drafted into the army in 1992. Miloš Lipinský appealed against the sentence the same month but his appeal was rejected by the Trenčín Higher Military Court and the sentence remained in force.

He was again called up by the Bardejov District Military Administration on 28 February 1995 and ordered to start his military service on 3 April 1995. Again, he returned his call-up papers and said that he still refused to carry out military service on conscientious grounds as he had done in 1993. On 1 August 1995, the Prešov District Military Prosecutor started criminal proceedings against Miloš Lipinský for evading military service. However, the Prešov District Military Court stopped proceedings two weeks later, arguing that a previous sentence, convicting Miloš Lipinský of the same offence was still in force. The court considered the offence and the intention on both occasions to be identical. The Prosecutor appealed this decision to the Trenčín Higher Military Court and, when this court rejected his appeal, to the Prosecutor General of the Slovak Republic. On 21 May 1996 the Slovak Supreme Court quashed both the decision of the Prešov District Military Court and of the Trenčín Higher Military Court and sent the case for re-trial to the Prešov District Military Court. No final decision has been taken to date.

In a letter to the Prešov court, Miloš Lipinský's lawyer noted that the Slovak law on Civil Service could in cases like these lead to men being prosecuted permanently until the age of 60, just because at the age of 18 they failed to register their conscientious objection within the legal deadline of 30 days. Amnesty International shares this concern. Under its mandate, Amnesty International considers a person to be a prisoner of conscience if he is refusing to do his military service on grounds of conscience and if he did not have the right to claim conscientious objection on these grounds after conscription into the armed forces. Amnesty International and urges the Slovak authorities to send the above-mentioned provisions in the Law on Civil Service to the Slovak Constitutional Court in order to bring them in line with internationally recognized principles.