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SLOVAK REPUBLIC

Conscientious objector Milan Kobilka

a possible prisoner of conscience

Amnesty International's concerns:

Amnesty International is concerned that 20-year-old Milan Kobilka, a conscientious objector to military service, has been charged under Article 269, paragraph 1, of the Slovak Penal Code for refusing to perform military service. If convicted, he faces a term of between one and five years in prison. Although he has expressed his willingness to perform alternative civilian service, this has not been allowed. If he is imprisoned as a result of conviction on the criminal charges now being prepared against him Amnesty International will consider Milan Kobilka to be a prisoner of conscience. Amnesty International appeals to the Slovak authorities to discontinue criminal proceedings against Milan Kobilka and to allow him to take up his right to perform alternative civilian service.

Background on the case of Milan Kobilka:

Milan Kobilka was declared fit to do military service by the District Military Authority in Bánovce nad Bebravou in June 1997 at the age of 18. He reportedly intended to refuse to perform military service, due to his personal credo that he does not want to be forced to learn how to use weapons, nor to harm or kill anyone. He was apparently unaware of the alternative civilian

service option available under the Law on Civilian Service (Law No. 207/1995), and reportedly was not informed about it. In Spring 1998 his fitness for military service was confirmed by a medical check-up. At this point he was apparently first informed of the civilian service option, yet he was also told that a 30-day deadline, within which the law stipulated that he could apply for it, had long passed. In March 1999 he was summoned to collect his call-up documents, but refused to do so. This was repeated two weeks later. Milan Kobilka was called up again in June 1999, and again refused to collect and sign the call-up documents. On 23 July 1999 he was summoned to Bánovce nad Bebravou district police station and was interviewed on suspicion of committing a criminal offence under Article 269 of the Criminal Code in refusing his military call-up. He is reported to have stated that his refusal to do military service was for reasons of conscientious objection. He claimed that he had a right under international and Slovak law to perform alternative civilian service. Milan Kobilka's declaration of his objection on grounds of conscience was minuted. On 21 September 1999 he received a letter from the Prosecutor's office, notifying him that criminal proceedings were being initiated against him, and summoning him to the Prosecutor's office for interrogation. Following an interrogation on 30 November 1999 it was confirmed that criminal proceedings would continue, and on 21 January of this year Milan Kobilka was officially charged under Article 269, paragraph 1, of the Slovak Penal Code for refusing to perform military service.

Amnesty International wrote to the Slovak authorities in December 1999 and received a reply in January 2000, in which they confirmed that criminal proceedings have been initiated against Milan Kobilka. In the letter it is stated that there is no obligation upon state organs to inform prospective conscripts about the possibility of alternative service, because of the irrefutable legal assumption that from the moment a law comes into force everyone is informed about its content, in published compilations of laws.

Slovak national law on conscientious objection:

The Slovak Law on Military Service (*Branný Zákon*) stipulates that male citizens are liable for military service from the age of 17 until 60. The length of compulsory military service is 12 months. The 1995 Law on Civilian Service (Law No. 207/1995) set the length of civilian service at 24 months, double that of military service. Amnesty International has previously raised its concerns about the apparently punitive duration of alternative civilian service, and other provisions of the law which deviate from internationally recognized principles concerning conscientious objection¹.

In particular, Amnesty International is concerned about the provision (Article 2, paragraph 2) of the law which restricts the period when conscripts can submit a written declaration refusing military service. This period has been limited to within 30 days after the decision of the conscription board has come into force. Any declaration submitted after this time will not be considered. As in the case of Milan Kobilka, this time limit can disqualify men who, prior to conscription at the age of 17 or 18, may either be entirely unaware of the 1995 Law on Civilian Service, or, even if aware in general terms of their right to perform alternative civilian service, can nevertheless be caught out by the strict time limit. The risk of falling foul of the 30-day deadline is exacerbated by the Slovak authorities' stated position that there is no obligation upon the military authorities to provide information to prospective conscripts either about the right or the procedure for applying to perform alternative civilian service.

The time limit also effectively disqualifies people who develop a conscientious objection to military service between conscription and call-up, or after call-up. Amnesty International believes that a person's conscientiously-held beliefs may change over time and that therefore people should have the right to claim conscientious objector status at any time.

¹ See *Slovak Republic: Restrictions on the right to conscientious objection* (AI Index: EUR 72/11/97), published in April 1997.

International standards on conscientious objection:

The right to conscientious objection is a basic component of the right to freedom of thought, conscience and religion - as articulated in the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms. It has been recognized as such in resolutions and recommendations adopted by the United Nations Commission on Human Rights, the United Nations Human Rights Committee, the Council of Europe and the European Parliament.

Recommendation No. R (87) 8 of the Committee of Ministers to Member States of the Council of Europe Regarding Conscientious Objection to Compulsory Military Service of 9 April 1987 recommends that "[a]lternative service shall not be of a punitive nature. Its duration shall, in comparison to that of military service, remain within reasonable limits" (§10). The Recommendation emphasizes that "...persons liable to conscription shall be informed in advance of their rights. For this purpose, the state shall provide them with all relevant information directly or allow private organisations concerned to furnish that information." The 1990 Copenhagen Document of the OSCE likewise instructs OSCE-participating states to "...make available to the public information on this issue."

A 13 October 1989 Resolution of the European Parliament, a body the Slovak Republic aspires to join, "calls for call-up papers to be accompanied, where this is not already the case, by a statement on the legal position with regard to conscientious objection." On 11 March 1993 the European Parliament adopted a resolution on respect for human rights in the European Community. In the section on conscientious objection, it called upon the Member States to guarantee that "conscientious objection status can be applied for at any time, including military service...". The importance of access to "sufficient information" about the right to conscientious objection was reiterated in this resolution.

The UN Human Rights Commission's 1995 Resolution "affirms the importance of the availability of information about the right to conscientious objection to military service, and the means of acquiring conscientious objector status, to all relevant persons affected by military service." The 1995 Resolution also requests that the UN Secretary-General "...include the right of conscientious objection to military service in the public information activities of the United Nations, including the United Nations Decade for Human Rights Education."