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**EXTERNAL**  
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## **BULGARIA**

### **Prisoner of conscience : conscientious objector Dian Yankov Dimitrov**

#### **AMNESTY INTERNATIONAL'S CONCERN:**

Amnesty International is concerned that Dian Yankov Dimitrov has been in prison since September 1996, serving a 10-month sentence for refusing to carry out military service. The organization is further concerned that certain provisions in the Draft Law on Alternative Service are at variance with internationally recognized principles on conscientious objection. Amnesty International is urging the Bulgarian authorities to release Dian Yankov Dimitrov immediately and unconditionally and to take the necessary steps to bring the draft legislation on alternative service in line with international human rights law.

#### **BACKGROUND:**

Dian Yankov Dimitrov is a 20-year-old Jehovah's Witness, whose religious convictions forbid him to carry arms and perform military service. On 5 September 1995, the Popovo Regional Court sentenced Dian Yankov Dimitrov to a suspended term of six months' imprisonment under Art 361, paragraph 1, of the Bulgarian Penal Code for failing to respond to a call-up order. Following a second call-up on 5 October 1995, Dian Yankov Dimitrov was tried again under the same law and sentenced on 1 February 1996 to eight months' imprisonment. On 31 July 1996 this sentence was reduced on appeal to four months' imprisonment by the Targovishte County Court. On 9 September 1996, Dian Yankov Dimitrov was imprisoned in the Belene Island Prison to serve the cumulative 10-month sentence.

Although the right to perform an alternative service is recognized by the Bulgarian Constitution (Article 59 paragraph 2), there is no law in Bulgaria which would enable conscientious objectors to duly address their requests to perform an alternative service to the competent authorities. Prosecution of conscientious objectors, like Dian Yankov Dimitrov, for evasion of military service represents a violation of their constitutional right to an alternative service.

According to information recently received by Amnesty International, the Bulgarian Government adopted a Draft Law on Alternative Service. Amnesty International is concerned that the following proposed provisions are at variance with internationally recognized principles concerning conscientious objection to military service.

Article 3 of the Draft Law states that applications for an alternative service can be based only on religious convictions. Amnesty International believes that everyone should have the right

to refuse to perform armed service for reasons of conscience or profound conviction arising from religious, ethical, moral, humanitarian, philosophical, political or similar motives. The right to refuse military service for reasons of conscience is inherent in the notion of freedom of thought, conscience and religion as recognized in a number of international human rights instruments, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The right of everyone to exercise conscientious objections to military service was recognized by the United Nations Commission on Human Rights in its Resolution 1989/59 of 8 March 1989 (reaffirmed in its Resolution 1993/84 of 10 March 1993 and hereafter referred to as CHR resolutions). It recognizes: "the right of everyone to have conscientious objections to military service as a legitimate exercise of the right of freedom of thought, conscience and religion as laid down in Article 18 of the Universal Declaration of Human Rights as well as Article 18 of the International Covenant on Civil and Political Rights", and recommends that Member States "with a system of compulsory military service, where such provision has not already been made...introduce for conscientious objectors various forms of alternative service" (§3) which is "in principle of a non-combatant or civilian character, in the public interest and not of a punitive nature" (§4).

Article 4, paragraph 1, of the Draft Law states that alternative service is to be performed only "within the armed forces and civilian defence units, in posts which do not require the use of arms." Amnesty International is concerned that such alternative service would not be considered to be of purely civilian character and under civilian control and that objectors may be imprisoned for refusing such service on grounds of conscience. In addition to the cited CHR resolutions which call for the introduction of an alternative service of a non-combatant or civilian character, 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 (hereafter referred to as 1987 Council of Europe Recommendation) states that alternative service "shall be in principle civilian and in the public interest" (§9).

Article 6 of the Draft Law sets the length of the alternative service to be twice the length of armed military service. Amnesty International believes that the length of alternative civilian service should not be such as to constitute a punishment for a person's conscientiously held conviction. The 1987 Council of Europe Recommendation emphasizes that alternative service "shall not be of a punitive nature. Its duration shall, in comparison to that of military service, remain within reasonable limits". Previously cited CHR resolutions also state that alternative service should not be of a punitive nature. In the light of Bulgaria's associated status to the European Union we would also like to draw your attention to the European Parliament's Resolution A3-0025/92, paragraph 51 (hereafter referred to as the European Parliament's Resolution), which stresses that "an alternative civilian service should be provided for, of the same length as military service, so that it is not seen as a sanction or deterrent".

The Draft Law also limits the time period for the submission of the application for alternative service to 31 March of the year in which the applicant reaches the age of 18 years. If the applicant is younger at the time of applying for alternative service, the application has to be countersigned by his parents or guardians (§9). The application is reviewed by a commission established by regional military authorities (§10). This commission is required to hear the applicant as well as his parents or guardian if the applicant is underage (§ 13). The decisions of the commissions can be appealed within a seven-day period to the Central Commission for Alternative Service (§16), which operates within the Ministry of Defence (§ 17,1). Decision on appeal should be made within a 14-day period and these decisions are final (§ 18, 5).

Amnesty International is concerned that this procedure would not be considered fair and independent, as recommended by the international standards. By imposing time limits for the submission of an application for alternative service, the law would effectively disqualify from alternative service all those people who develop conscientious objection to military service between the time provided for the submission of the application and call-up - a time which could be of several months' or even years' duration - or after call-up. The need for national legislation to recognise that a person's conscientiously-held beliefs may change over time has been recognised in Resolution 84/93 on Conscientious Objection to Military Service, adopted by the United Nations Commission on Human Rights on 10 March 1993. This Resolution calls for "minimum guarantees to ensure that...conscientious objector status can be applied for at any time...". Similarly, Paragraph 26 of the Explanatory Report to the 1987 Council of Europe Recommendation states that:

"To prescribe an absolute time-limit in the rules to which applications are subject could be considered as contrary to the very purpose of the Recommendation. If refusal to perform military service is acknowledged as being based on a conflict of conscience, it follows that this conflict might occur at any moment in a person's life."

Furthermore, the same recommendation states that: the examination of applications shall include all the necessary guarantees for a fair procedure (Principle 5) and that the appeal authority shall be separate from the military administration and composed so as to ensure its independence (Principle 7). Similarly, the European Parliament's Resolution, in paragraph 49, requires that "an effective means of appeal is made available should the conscientious objector status be refused".

Amnesty International urges the Bulgarian Government and the National Assembly to review these proposed provisions in the Draft Law on Alternative Service in order for them to adopt a law on alternative service which will be in accordance with all of the cited international principles on conscientious objection.