

£POLAND

AI Index: EUR 37/03/93

EXTERNAL

@Bogdan Kunmiak and Tomasz Jarosik - Conscientious Objectors 16 July 1993

AI CONCERN: Amnesty International is concerned that Bogdan Kunmiak and Tomasz Jarosik have both been convicted and sentenced to imprisonment of one year. While they are both currently free pending appeal, it is likely that their appeals will be turned down and that they will be imprisoned. If so, Amnesty International will consider them both to be prisoners of conscience, detained because they refused on grounds of conscience to perform military service. Although there is provision in Polish law for alternative service outside of the military, this right is not in practice available for all conscientious objectors.

BACKGROUND INFORMATION: Bogdan Kunmiak, aged 23, applied to perform alternative service but his application was rejected both by the relevant military commissions and the supreme administrative court. He was tried and sentenced to 12 months' imprisonment by the Silesian District Military Court on 19 July 1993. The court reportedly decided that his refusal to perform military service was "socially very harmful" and showed a "disrespectful attitude to the constitutional duty to protect the country."

Tomasz Jarosik, aged 22, a construction worker from Ostrow Wielkopolski, was similarly tried and sentenced to 12 months' imprisonment by the Silesian Military District Court on 28 July 1993 for avoiding his military service. Jarosik defended his refusal to serve in the army on moral grounds and his pacifist beliefs. The court reportedly "considered the defendant's resolve to stick to his decision as further aggravating the seriousness of the offence."

It appears likely that both their requests to perform alternative service because of their moral beliefs were turned down due to their being members of the Roman Catholic Church and the authorities' view that as the Roman Catholic Church does not object to the carrying out of military service, this overrides their personal convictions. Amnesty International knows of other similar recent cases in Poland where young men have been refused alternative service for the same reasons. The organization also knows of recent similar cases of conscientious objectors being sentenced to imprisonment whose sentences have been confirmed on appeal and believes that this is likely in these two cases. If Bogdan Kunmiak and Tomasz Jarosik are imprisoned for their conscientious objection, Amnesty International will consider them to be prisoners of conscience.

In Poland all men over the age of 18 are liable for conscription. The normal duration of such conscription is 24 months. In July 1988 the Polish Parliament approved changes to the military draft law to allow 36 months' alternative service for conscientious objectors in non-military institutions. In October 1990 military service was reduced to 18 months and alternative service was likewise reduced to 27 months. In January 1991 military service was reduced to one year. It is not known what effect this

had on alternative service but it is probable that it was reduced correspondingly to 18 months.

According to the conscientious objectors' organization "Objektor", which has branches in several Polish cities, about 4,000 people apply annually for alternative service. Most of the requests are granted although sometimes, especially in small towns, attempts are made to intimidate conscientious objectors, or their applications are turned down.

Information regarding Conscientious Objection

Amnesty International's guidelines concerning conscientious objection to military service state:

"1. A conscientious objector is understood to be a person liable to conscription for military service, or to register for conscription for military service (even where there is no military service) who, for reasons of conscience or profound conviction arising from religious, ethical, moral, humanitarian, philosophical, political or similar motives, refuses to perform armed service or any other direct or indirect participation in wars or armed conflicts.

.....

2. Where a person is detained/imprisoned because he or she claims that he or she on the grounds of conscience described in paragraph 1 above objects to military service, or to registering for conscription to military service, Amnesty International will consider him or her a prisoner of conscience, if his or her imprisonment/detention is a consequence of one of the following reasons:

(...)

c) The recognition of conscientious objection is so restricted that only some and not all of the above-mentioned grounds of conscience or profound conviction are acceptable."

Amnesty International considers Bogdan Kumniak's and Tomasz Jarosik's reasons for refusing to serve in the military to fall within the guidelines detailed above. If they are imprisoned, Amnesty International will consider them both to be prisoners of conscience and is calling on the Polish authorities not to imprison them.