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**FEDERAL REPUBLIC OF
YUGOSLAVIA****The forgotten resisters: the plight of
conscientious objectors to military
service after the conflict in Kosovo**

October 1999

SUMMARY

AI INDEX: EUR 70/111/99

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During the recent Kosovo crisis thousands of Yugoslav men of military age refused to participate in the conflict on the grounds of their conscientiously held convictions or beliefs. Evading conscription or deserting their units, many fled the Federal Republic of Yugoslavia (FRY), forsaking jobs, homes and family relationships in their homeland. Others who remained in the FRY or returned in the aftermath of the conflict now face trial by military courts and lengthy terms of imprisonment. The number of such cases currently before the FRY military courts may be at least 23,000 according to information received by Amnesty International.

Throughout the conflict in Kosovo, the leaders of NATO member states made repeated calls to those serving in the Yugoslav military to disobey and resist their leadership. Yet now that the conflict has ended, the men who -- often at great personal risk -- heeded these calls and the promptings of their own religious, political or philosophical beliefs, find themselves without any assurance of long-term security in the countries to which they have fled and the prospect of lengthy prison sentences if returned to the FRY. Meanwhile, the governments who issued the calls to resistance appear to take little or no interest in the plight of these men, who have become the "forgotten resisters".

In September 1999 Amnesty International interviewed a number of Yugoslav conscientious objectors in Hungary, the country in which many of these men have sought refuge. This report presents the outcome of that research, recounting the experiences of several of the men and revealing the disappointing response to their plight of the Hungarian authorities and international agencies, who frequently fail to recognize these resisters as *bona fide* refugees in need of urgent attention and guarantees of protection. In the view of Amnesty International, any claim to be a refugee put forward by such individuals is based upon a

well-founded fear of persecution on grounds of religious belief or political opinion, and they should be granted asylum.

In this report Amnesty International calls on national and international authorities to make strenuous efforts to resolve the plight of these men. The report makes clear the international standards that should guarantee these men adequate international protection, and makes a series of recommendations:

- to the FRY government, *inter alia*, to immediately suspend all judicial proceedings against conscientious objectors to military service, and release all imprisoned conscientious objectors;
- to the Hungarian and other national governments, *inter alia*, to ensure that conscientious objectors who fled the FRY in order to avoid military service during the Kosovo conflict are not returned to the FRY but are given effective and durable protection;
- and to the international community -- particularly NATO member states -- to uphold their international responsibilities and to cooperate with national authorities -- in Hungary and elsewhere -- to ensure that Yugoslav conscientious objectors are granted effective and durable protection, including by facilitating resettlement to third countries where necessary and appropriate.

KEYWORDS: CONSCIENTIOUS OBJECTORS1 / ARMED CONFLICT / SECOND GOVERNMENTS / RELIGIOUS GROUPS - CHRISTIAN / FEAR OF REFOULEMENT / REFUGEES / HUNGARY

This report summarizes a 16-page document (7,963 words), *FEDERAL REPUBLIC OF YUGOSLAVIA - The forgotten resisters: the plight of conscientious objectors to military service after the conflict in Kosovo* (AI Index: EUR 70/111/99) issued by Amnesty International in October 1999. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email: <http://www.amnesty.org/news/emailnws.htm>

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FEDERAL REPUBLIC OF YUGOSLAVIA

The forgotten resisters



The plight of conscientious objectors to military service after the conflict in Kosovo

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FEDERAL REPUBLIC OF YUGOSLAVIA

The forgotten resisters: the plight of conscientious objectors to military service after the conflict in Kosovo

"In recent weeks, Serbian police and the army, under direct orders of Slobodan Milošević, have emptied villages and towns in Kosovo, burning or destroying thousands of houses... Hundreds of thousands are fleeing to avoid becoming victims of Milošević's pogrom...Don't let wrongly directed patriotism land you with his crimes."

- text of a NATO leaflet air-dropped in the Belgrade area, April 1999

During the recent conflict in Kosovo, numerous media reports described how millions of leaflets bearing a range of texts were being dropped by NATO aircraft over various parts of the Federal Republic of Yugoslavia - including Kosovo province. In April, one such leaflet air-dropped over Kosovo carried a NATO logo and the message: "More than 13,000 members of the Yugoslav army have already defected. Stay here and leave your bones or run away as soon as you can...the choice is yours."

Warning of the imminent use of NATO Apache helicopters against Yugoslav forces in the region, another NATO leaflet air-dropped in May again stated that "over 13,000 Yugoslavian [sic] service members have already left the armed forces because they can no longer follow illegal orders in Milošević's war against civilians in Kosovo. Leave your unit and your equipment and get out of Kosovo now. If you choose to stay, NATO will relentlessly attack you from every direction. The choice is yours." A further leaflet air-dropped in June was said to have explicitly encouraged Serbian soldiers and policemen to disobey orders given by their officers - emphasizing that senior army and police officers were "potential candidates for The Hague tribunal" (referring to the International Criminal Tribunal for the former Yugoslavia).

In addition to the massive leaflet drops, citizens of the Federal Republic of Yugoslavia were also routinely urged by political leaders from the NATO countries to actively refuse to give their support to their government's military strategy for retaining control of Kosovo province. In a video address to the Serbian people broadcast by satellite to the region just after the start of the conflict in March, United States President Clinton sought to assure his target audience that NATO's operations in the region were not directed against them - but against President Milošević alone. "He could have kept Kosovo in Serbia and given you peace. But instead, he has jeopardized Kosovo's future and brought

you more war. Right now he's forcing your sons to keep fighting a senseless conflict that you did not ask for and that he could have prevented...I call on all Serbs and all people of good will to join with us in seeking an end to this needless and avoidable conflict."

United States Secretary of State Madeleine Albright similarly called on the Serbian people to stand up and oppose their government's policy in a radio message broadcast by Voice of America, Radio Free Europe and others in April. "I believe your leaders are not telling you the truth about what is going on," said Madeleine Albright. "We do not want to harm the Serb people. But our nations cannot stand by while thousands of innocent people are killed or driven into exile. That is what the Serbs are doing in Kosovo. Your state media will not tell you this. But the world knows it is the truth." She also pledged that the United States would continue to issue such information broadcasts to the Serbian people, "...allowing them to make better informed decisions that will help shape their own future."

At the end of the conflict in June, British Prime Minister Tony Blair reiterated this call for the Serbian people to take individual responsibility for their government's actions in an interview at the Group of Eight (G8) Summit in Cologne in June. "The more we see what has happened in Kosovo, the more we see that the Serbian people have got a responsibility to make Milošević be culpable for these crimes. They cannot walk away from these crimes." Similarly, President Clinton again said in late June that the Serbian people would "...have to come to grips with what Mr Milošević ordered in Kosovo. They're going to have to get out of denial...and then they're going to have to decide whether they support his leadership or not, whether they think it's okay that all those tens of thousands of people were killed."

Since these repeated invocations to resistance and opposition were issued to the Serbian people - and more specifically, to those serving in the Yugoslav armed forces, little attention has been paid to the fate of those ordinary citizens who took such words to heart. While the media have focussed on developments concerning the political opposition to President Milošević's continued rule over the country, scarcely a word has been published or broadcast in the months since the peace agreement in June about the estimated thousands of men of military age who chose to risk everything to remain true to their consciences or convictions and refused to participate in the internationally condemned conflict in Kosovo. These are individuals who took immensely difficult decisions that have now "shaped their own future" in ways and with consequences that Madeleine Albright could not have envisaged. These are individuals who had answered clearly President Clinton's challenge to decide "whether it's okay that all those tens of thousands of people were killed" long before he issued it in Washington.

In the light of these injunctions made by NATO leaders, it might be presumed that the plight of conscientious objectors to military service and those who deserted from the Yugoslav armed forces on account of their religious belief or political opinion would now be of great concern to these same governments who openly advocated disobedience and resistance. The need to provide adequate protection to those who chose to leave their country rather than participate in the conflict in Kosovo ought to have been an obvious priority. Men of military age, sometimes accompanied by their wives and children, who sacrificed houses and jobs and family relationships in Yugoslavia in order to avoid military service in support of the Kosovo campaign took a course of action which now leaves them painfully exposed. Living in spartan conditions in refugee reception centres or in inadequate private accommodation in neighbouring Hungary, they find themselves without any assurance of long-term security and the prospect of lengthy prison sentences if returned to Yugoslavia. But instead of strenuous efforts to recognize and address the situation in which those who refused to perform military duties now find themselves, the governments who dropped the leaflets urging desertion and who counselled opposition and an ethic of personal responsibility appear to take little interest in the uncertain future facing such men and their families. They are the forgotten resisters.

Amnesty International is aware of numerous cases of individuals who took the decision to leave the Federal Republic of Yugoslavia before or during the recent Kosovo crisis and NATO operation in order to avoid conscription into the armed forces on the grounds of conscientiously held convictions or beliefs. Others who have come to the attention of Amnesty International were already serving in the Yugoslav Army and left their units during the conflict also on the grounds of conscientiously held convictions or beliefs. Amnesty International is concerned that should these individuals be returned to the Federal Republic of Yugoslavia, they could be arrested and imprisoned because of this course of action. The organization would then regard them as prisoners of conscience. In the view of Amnesty International, any claim to be a refugee put forward by such individuals is based upon a well-founded fear of persecution on account of religious belief or political opinion.

Amnesty International believes 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 on Human Rights. It has been recognized as such in resolutions and recommendations adopted by the United Nations Commission on Human Rights, the Council of Europe and the European Parliament.

These bodies have all urged governments to guarantee that individuals objecting to compulsory military service because of their conscientiously held beliefs are given the

opportunity to perform an alternative service. They have stated explicitly in a number of resolutions that this alternative service should be of a genuinely civilian character and of a length which cannot be considered to be a punishment. They have recommended that individuals be permitted to register as conscientious objectors at any point in time before their conscription, after call-up papers have been issued, or during military service.

Amnesty International considers as a conscientious objector any person liable to conscription for military service or registration for conscription to military service who refuses to perform armed service or any other direct or indirect participation in wars or armed conflicts for reasons of conscience or profound conviction. Their profound conviction may arise from religious, ethical, moral, humanitarian, philosophical, political or similar motives.

In the case of conscientious objectors to military service from the Federal Republic of Yugoslavia - including those serving soldiers who deserted from their units on account of their religious beliefs or political opinions, Amnesty International would seek to draw the attention of the government concerned to the 1998 resolution of the United Nations Commission on Human Rights which

“Encourages States, subject to the circumstances of the individual case meeting the other requirements of the definition of a refugee as set out in the 1951 Convention relating to the Status of Refugees, to consider granting asylum to those conscientious objectors compelled to leave their country of origin because they fear persecution owing to their refusal to perform military service when there is no provision or no adequate provision, for conscientious objection to military service.”
(CHR Resolution 1998/77; operative paragraph 7)

Since the introduction of the 1994 Law on the Army of Yugoslavia (which contains provisions concerning the right to conscientious objection to military service), Amnesty International has repeatedly expressed its concern about the lack of access to an alternative service of a genuinely civilian character and non-punitive length in the Federal Republic of Yugoslavia and has urged the Yugoslav authorities to bring the country's legislation on the right to conscientious objection to military service into line with international recommendations. During this period, Amnesty International has adopted as prisoners of conscience a number of individual conscientious objectors who have been imprisoned after refusing to perform military service and who have been denied access to a genuinely civilian alternative service.

Amnesty International also believes that in the context of the operations of the Yugoslav Army in Kosovo, the well-documented violations of international humanitarian law perpetrated by members of Yugoslav forces in the province should in itself provide

sufficient grounds for refusing to serve in the armed forces for reasons of conscience. Detailed information about such violations can be found in numerous Amnesty International reports - many of them included in a two volume compilation, **Kosovo - A Decade of Unheeded Warnings: Amnesty International's Concerns in Kosovo, May 1989 to March 1999** (AI Index: EUR 70/39/99 and EUR 70/40/99). The organization shares the conclusion reached by the Rapporteur to the Council of Europe Parliamentary Assembly with regard to deserters and draft resisters from the republics of the former Yugoslavia at an earlier stage of the conflicts in the region that "refusal to take part in a fratricidal war condemned by the international community because of serious violations of international humanitarian law in the former Yugoslavia should be considered as grounds for granting asylum" (CE Doc. 7102, 10 June 1994).

This view is also supported by the Office of the United Nations High Commissioner for Refugees (UNHCR) Handbook on Procedures and Criteria for Determining Refugee Status (1979), which states that "Where...the type of military action, with which an individual does not wish to be associated, is condemned by the international community as contrary to basic rules of human conduct, punishment for desertion or draft-evasion could, in the light of all other requirements of the definition, in itself be regarded as persecution." (Chapter V, Section B, paragraph 171) This Handbook provides the authoritative interpretation of the 1951 Refugee Convention.

The international consensus on the nature of the conflict in Kosovo (both before and after the start of the NATO operation in March 1999) is reflected in United Nations General Assembly Resolution 53/164 of 9 December 1998, which "strongly condemns the overwhelming number of human rights violations committed by the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro), including summary executions, indiscriminate and widespread attacks on civilians, indiscriminate and widespread destruction of property, mass forced displacement of civilians, the taking of civilian hostages, torture and other cruel, inhuman or degrading treatment, in breach of international humanitarian law including article 3 common to the Geneva Conventions of 12 August 1949 and Additional Protocol II to the Conventions, relating to the victims of non-international armed conflicts..." (paragraph 8)

The 1999 United Nations Commission on Human Rights Resolution 1999/2 of 13 April on the situation of human rights in Kosovo likewise "condemns strongly the widespread and systematic practice of ethnic cleansing perpetrated by the Belgrade and Serbian authorities against the Kosovars..." (paragraph 1) - and "calls upon the international community and the International Criminal Tribunal for the former Yugoslavia to bring to justice the perpetrators of international war crimes and crimes against humanity, in

particular those responsible for acts of ethnic cleansing and identity elimination in Kosovo." (paragraph 3)

Current situation of conscientious objectors to military service in the Federal Republic of Yugoslavia

According to the Yugoslav Lawyers Committee for Human Rights, with the proclamation of a "state of war" in the Federal Republic of Yugoslavia on 25 March 1999, a number of special provisions of the Yugoslav Criminal Code and the Law on the Army came into force. These included a sentence of one to 10 years' imprisonment for not responding to a call-up for recruitment or reserve duty (punishable by a fine or one year's imprisonment during peace time); a sentence of at least five years for avoiding call-up by going into hiding (three months to five years' imprisonment during peace time); and a sentence of five to 20 years for leaving the country or remaining abroad in order to avoid call-up (one to 10 years during peace time).

Regarding the situation of conscientious objectors, draft evaders and deserters in the Federal Republic of Yugoslavia after the peace agreement in June, the Yugoslav Lawyers Committee for Human Rights issued a statement on 24 June stating that conditions in the country were not safe for the return of those conscripts, objectors or deserters who managed to flee the country or otherwise avoid military duty. The Committee also reports that the authorities are making use of a residence registration provision to bring charges against men of conscription age who remained abroad during the official "state of war" in the Federal Republic of Yugoslavia and who did not register for possible conscription with the nearest Yugoslav Embassy.

According to Amnesty International sources from Serbia, neither the civil nor the military authorities there are currently making public information on the precise number and identity of imprisoned conscientious objectors, draft evaders or deserters. Trials are apparently held in closed sessions, and information about verdicts and sentences is not generally released by the courts. Amnesty International has learned that a notable exception to this secrecy was in the city of Kragujevac, where up until 26 April, the district Chief Military Prosecutor appeared regularly on the local television station to announce the names of those individuals who had been convicted for draft evasion. Before the broadcasts ended in late April, more than 300 verdicts - followed up with sentences of up to seven years' imprisonment - were already said to have been delivered.

Reports of the arrest, prosecution, sentencing and imprisonment of conscientious objectors, draft evaders and deserters continue to be received by Amnesty International - even though the "state of war" in the Federal Republic of Yugoslavia has officially been ended. Estimates of the number of such cases currently before military courts in the Federal

Republic of Yugoslavia begin at 4,000 and extend as high as 30,000. A former head of the Legal Department of the Yugoslav Army Supreme Command put the number of cases at 23,000, according to information received by Amnesty International in July. The Montenegrin Helsinki Committee has estimated that proceedings have been brought against 14,000 individuals in that republic alone. According to a press report from July, Colonel Ratko Korlat, President of the Belgrade Military Court, has stated that his court is dealing with 2,400 cases - with an additional 1,900 cases under investigation.

At least several hundred conscientious objectors, draft evaders and deserters are already said to have been imprisoned in the Federal Republic of Yugoslavia - most of them serving a sentence of at least five years' imprisonment. Many of the imprisoned conscientious objectors, draft evaders, and deserters are reportedly held in prisons at Zabela -Požarevac, Sremska Mitrovica, and Niš. In September, in an interview broadcast on the local television station in Leskovac, three Yugoslav Army generals were reported to have reiterated the intention of the authorities to press ahead with this course of action - stating that any individual who had refused to serve in the army during the NATO operation would face certain prosecution. General Negosav Nikolić, commander of the Niš Corps, was quoted as saying that "all those who have made mistakes will be held accountable." General Nebojša Pavković, commander of the Yugoslav Army's Third Army Group, added that "the deserters would be justly punished."

While information about individual cases of prosecution and imprisonment is scarce, details of a number of convictions have occasionally appeared in the press or been transmitted to Amnesty International by other sources. In June, a court in Niš reportedly sentenced three Yugoslav Army conscripts to four years and 10 months imprisonment each for failing to report for duty. Also in June, the Yugoslav Third Army's Court reportedly sentenced one reservist to a four-year term of imprisonment for desertion from his unit in Kosovo - while another five men were sentenced to one year each for desertion. However, the latter group were apparently returned to their units immediately after the sentences were handed down. On 20 June, a court martial in Niš was said to have sentenced a further five reservists to three years' imprisonment each for having deserted from their unit in Kosovo. The same report indicated that 19 reservists had received sentences of one to four years for desertion at a court martial in Užice on 19 June. No information is available on the specific grounds for these reported desertions.

In July, Amnesty International sources also reported on the case of Goran Žižić, from Leskovac. After completing his military service some years ago, Goran Žižić became a committed pacifist on the basis of his religious convictions. After receiving a call-up notice during the NATO action, he requested that he be permitted to perform an alternative service in a civilian institution. This request was denied, and he was sentenced to two

years' imprisonment in a military jail in Niš. At the same time, Amnesty International learned of the case of N. Vukadinov, a member of the pacifist Nazarene religious community from Vojvodina. He requested only to be permitted to perform an unarmed service in the army after receiving his call-up notice. A military court in Novi Sad reportedly sentenced him to five years' imprisonment - a sentence which he is now serving in Sremska Mitrovica prison.

Similarly, an unnamed Jehovah's Witness doing agricultural work on a military base at Karadjordjevo was allegedly sentenced to five years' imprisonment immediately after having refused to perform military tasks. Amnesty International is aware of two other Nazarenes and a group of several other Jehovah's Witnesses said to be detained in Novi Sad after having been sentenced to up to five years' imprisonment for refusing to bear arms. The organization has also been told of another group of Jehovah's Witnesses said to have been sentenced to imprisonment in Smederevo. Amnesty International considers all of those referred to in the above two paragraphs to be prisoners of conscience, and is calling for their immediate and unconditional release.

Amnesty International interviews conscientious objectors to military service from the Federal Republic of Yugoslavia in Hungary

Those Yugoslav citizens who left the country in order to avoid call-up to the military clearly risk long prison sentences on their return. Again, estimates of the number of individuals presently in this situation run into the thousands. According to one Amnesty International source, of the more than 1,000 Yugoslav citizens remaining in refugee reception centres in Hungary in July, an estimated one third were conscientious objectors or draft evaders.

Amnesty International has recently interviewed more than 20 individual conscientious objectors, draft evaders and deserters from the Federal Republic of Yugoslavia now living in Hungary - either in refugee camps or in private accommodation at various locations around the country. Among those interviewed were members of the Seventh Day Adventist Church, opposition political activists, individuals of mixed ethnic or religious background, ethnic Hungarians, and Roma.

The stories told by those interviewed by Amnesty International in Hungary reveal a pattern of consistent neglect by the international community of a group of men clearly in need of urgent attention and guarantees of protection. Without exception, these men spoke of a disturbing lack of information available to them concerning their status as conscientious objectors to military service who had fled the Federal Republic of Yugoslavia on account of their religious beliefs or political opinions. At best, their contacts with various national and international agencies from whom they had sought assistance had been almost

uniformly disappointing. For example, not one of those interviewed appeared to have been given any satisfactory understanding by such contacts of the precise language contained in the UNHCR Handbook regarding conscientious objectors, draft evaders and deserters in a situation of internationally condemned conflict. In several cases, those whom Amnesty International would regard as individuals with a well-founded fear of persecution based on religious belief or political opinion had been flatly denied recognition as such. The details of some of the more compelling cases related to Amnesty International are included below. The real names of these men are known to Amnesty International, but pseudonyms have been used here for reasons of security.

The case of 'Aleksa'

Aleksa is an electrician from Serbia. He is a member of the Seventh Day Adventist Church, whose members are willing to perform unarmed military service - but who refuse on the basis of their faith to take part in armed conflict or to carry out orders to kill. In an interview with Amnesty International, Aleksa stated that he and the Adventists believe that "people are all God's children. Differences in ethnicity do not concern us." Aleksa was mobilized into the Yugoslav Army in mid-March and engaged in digging trenches and building fortifications. His unit was part of a reserve force expected to supplement units serving in Kosovo and to repel any possible ground attack on Serbia by NATO forces.

When Aleksa learned that his unit was to be sent to Kosovo in late May, he crossed the border into Bulgaria - wearing his uniform. In a written statement given to Amnesty International, Aleksa has said that "I did not want to fight and take the lives of others for a war that I believed to be totally unnecessary because of our president's wrong political motives...I am a Seventh Day Adventist, and I respect all human beings, no matter what their nationality or religion. I believe that God teaches that all men are equal." The Bulgarian police in the town to which he fled kept Aleksa's uniform and took a statement, photographs and fingerprints. He was granted temporary protection in Bulgaria for three months. He stayed with friends there for two months, until he was told by them that an expected change in the Bulgarian regulations concerning refugees and asylum seekers might result in his being sent back to Serbia.

In late July, Aleksa travelled to Hungary, and has received shelter from the Adventist community there. While he is seeking protection in Hungary, Aleksa's primary wish is to join his family in Australia - where his mother, two sisters, grandparents, and other relations are living. The family have offered to support him financially, as has the large community of Serbian Adventists in Australia. "I cannot return to Yugoslavia because I will be put in prison for 10 to 20 years," Aleksa has written. "I cannot return to my country as a deserter, because my life would be in danger."

The case of 'Viktor'

Viktor is a young carpenter and farm worker of ethnic Hungarian background from Vojvodina, a province of the Federal Republic of Yugoslavia. He is also a member of the Seventh Day Adventist Church. In an interview with Amnesty International, Viktor stated explicitly that his faith forbade him to take the life of another person - and that it was for this reason that he chose to cross the border into Hungary in January of this year. Although the military authorities in his town had offered assurance that no one of ethnic Hungarian background would be sent to serve in Kosovo, Viktor's brother had been sent to Kosovo during 1998 after an initial three months' service in Belgrade.

Fearing the outbreak of further conflict in Kosovo, Viktor decided to apply for protection in Hungary. In his application, he made clear that his aversion to killing was grounded in his religious convictions. The Hungarian authorities turned down his request in March before the start of the NATO operation - reportedly stating incorrectly that Yugoslav Federal forces were not involved in conflict situations in Kosovo; only the Serbian police. He has since appealed the decision, and is awaiting a response from the authorities. Viktor told Amnesty International that subsequently his family have been harassed back home in Vojvodina as a result of his absence from the country - and that on one occasion, his father was allegedly beaten by the police in the market place of their town. Viktor also claimed that the father of two other men who had refused military service known to him from his town had been taken from the family home by military police and beaten. Like Aleksa, Viktor's wish now is to go to Australia to join an aunt living there.

The case of 'Ferenc'

Ferenc is a factory worker and Yugoslav citizen of ethnic Hungarian background from Vojvodina. In an interview with Amnesty International, Ferenc stated that he crossed the border illegally into Hungary on foot in late April specifically because he wished to avoid call-up into the Yugoslav Army and the possibility that he might be sent to kill people in Kosovo. Caught by Hungarian border guards, he was taken immediately to the guards' office in Szeged - where he was interviewed and expressed his wish to apply for refugee status in Hungary. Ferenc stated that his long-term plan was to go to Germany, to join an uncle living there. He was then held in Kiskunhalas Prison for three days - reportedly in a large hall with about 200 other persons - where soldiers standing guard over the detainees would allegedly routinely kick them in order to wake them in the morning. (This allegation was also made by another refugee objector interviewed by Amnesty International who had been detained in the same room.) While his application for refugee status was being processed, Ferenc was held in the Refugee Reception Centre at Békéscsaba.

According to Ferenc, a call-up notice was delivered to his family home in mid-May, and charges brought against him for draft evasion immediately thereafter. Since that time, he alleges that the police have repeatedly questioned his parents about his whereabouts and have threatened them. The Municipal Court in his town has also notified his parents that he should report to them in order to face the charge of avoiding military service. Ferenc says that his mother was taken to the police station in July for questioning about her son.

Ferenc's application for refugee status was denied by the Hungarian Office of Refugees and Migration Affairs at the end of July. Amnesty International has obtained a copy of the document outlining the reasons for decision in denying Ferenc refugee status. The document makes plain that in an interview with a section head of the Office of Refugees and Migration Affairs in early May, Ferenc informed the official that "he had been brought up to live a respectable life and could not shoot a fellow human being. Though over 21, he had never served in the army and three years' earlier, when he had answered a call-up notice, he had not been selected. Now he did not want to kill people." The letter goes on to state that Ferenc also mistrusted assertions that had been made that ethnic Hungarians from Vojvodina would be required only to serve in their own province - and would not be sent to fight in Kosovo. He is said to have told the official that "as long as the present regime held power it could not be trusted."

In his rejection of Ferenc's application as lacking "...adequate evidence of persecution within the meaning of the Geneva Convention", the official cites only those paragraphs of Chapter V, Sections B of the UNHCR Handbook concerning "deserters and persons avoiding military service" which state that "fear of prosecution and punishment for desertion or draft-evasion does not in itself constitute well-founded fear of persecution...." (paragraph 167) The official allows that the Handbook also states that an individual "...may also be considered a refugee if his desertion or evasion of military service is concomitant with other relevant motives for leaving or remaining outside his country, or if he otherwise has reasons...to fear persecution." But he then goes on to express his view that "in this case the additional reasons put forward by the applicant do not justify his fear of persecution." Nowhere in this assessment does the official appear to consider sufficiently the implications for this case of paragraph 171 of the UNHCR Handbook on the special status of deserters or draft-evaders in a situation of internationally condemned conflict (see page 4 of this report).

Furthermore, writing from the post-conflict perspective of July, the official states that Ferenc "...was unable to show that his military service would have been necessarily carried out in Kosovo." He cites public statements made during the conflict by ethnic Hungarian political leaders in Vojvodina that Vojvodina Hungarians would only be

required to serve in their own province. He states that as the Yugoslav Army forces were stationed all over the country, "...it is by no means certain that the applicant, had he been called up, would have been posted to Kosovo, especially as he would not yet have done his basic training as a new recruit... In accordance with the Kosovo Peace Agreement, the Yugoslav Army had withdrawn from Kosovo by 20 June 1999... hence the applicant would not, as a reservist, have had to participate in killing or genocide."

The question here is how Ferenc - or indeed anyone - at the stage of the conflict when he took his decision to flee into Hungary (late April) could have been certain that the war would not become a prolonged military engagement requiring the additional allocation of reserve troops from other regions of Yugoslavia - particularly in the wake of a ground invasion by NATO forces as was much-debated at the time? The official's post-conflict conclusion - made in July - that Ferenc "...was unable to make a plausible case for having to leave his homeland on racial, religious, ethnic, or political grounds, or because of justified fear of persecution, or for remaining outside his country of origin because of a justified fear of persecution..." appears to Amnesty International to be wholly inadequate given the statements made by the applicant. Finally, the official at no time addresses the very basic issue of the lack of access to an alternative service of a genuinely civilian character and non-punitive length in the Federal Republic of Yugoslavia.

The document from the Office of Refugees and Migration Affairs states that "there is no appeal against my decision." Ferenc remains in a refugee reception centre in Hungary - awaiting what would seem to be almost certain eventual forced return to Yugoslavia.

The case of "Damir"

Damir is a photographer from Serbia - whose mother was Croatian and whose father was Albanian. A committed Seventh Day Adventist and Christian pacifist, Damir told Amnesty International "I'm an American, Chinese, German, international. I want to be where I belong - that is peace." When Damir was called up on 30 March, he immediately told the authorities that he would refuse to carry a weapon. The commander of the local fire brigade - with whom Damir had worked as a fireman in the past - contacted the military authorities and offered to take on his former colleague as a member of his brigade. He proposed this as a kind of alternative service which would help Damir to avoid a court martial. Damir told Amnesty International that he was subsequently made to feel extremely uncomfortable by the other members of the brigade - where colleagues were said to have intimidated him with remarks about his mixed background and his pacifism. He reported that he was often told by colleagues that it was people like him from mixed marriages that were responsible for the NATO bombing campaign, and that people like him who were refusing to take up arms should be executed. He was also accused by his colleagues of taking photographs of strategically important military/industrial facilities and passing the

information on to NATO. On one night in early April, when the brigade was attempting to put out a fire at a petrol storage facility which had been hit by NATO bombs, Damir alleged that his colleagues tried to arrange for his entrapment inside the burning structure. Damir told Amnesty International that neighbours had also threatened to murder him because of his Albanian background.

In spite of his service throughout the conflict, Damir still feared that the military courts would not accept his work in the fire brigade as an alternative to military service. In August, after the lifting of the "state of war" border controls, Damir obtained a passport and crossed legally into Hungary. He has applied for protection in Hungary and, at the time of his meeting with Amnesty International, was awaiting an interview with the Hungarian authorities. He has been told by friends in Serbia that the military authorities are seeking to prosecute him. Like the other Adventists interviewed, Damir told Amnesty International that his "biggest wish is to go to Australia."

The case of 'Milan'

Milan is a shopkeeper from Serbia who voiced his opposition to the war in Kosovo in comments made in conversation with others outside his shop in early April. Milan told Amnesty International that he had complained aloud that President Milošević "...is always pushing us into wars," and that as a result of his policies the Serbs were "becoming a genocidal people." According to Milan, these remarks were clearly reported directly to the local police - and on the following day, he claims that he was taken to the police station for what was described as an "informative interrogation." In order to forestall trouble, he told the police that he had been a bit drunk on the previous day as it had been his daughter's birthday. According to Milan, he was slapped across the face by a police officer, and told that he should be careful about making such serious remarks in a time of war. He was told he was being released because he had no criminal record.

A day or two later (Milan cannot remember the exact date), a call-up notice was delivered to the door of his house. His wife refused to accept and sign the notice - which was left pinned to the door. In order to avoid being called up, Milan then went into hiding with a friend for the next 20 days. At the beginning of May, the military police discovered his hiding place and took him to a municipal prison - where he was detained along with three other men who had refused to do military service. Milan was kept there for approximately one week, without any contact with his family, before being boarded on to a truck with other civilians and some soldiers. While the truck was waiting in front of the police station, Milan managed to jump off the vehicle and escape into hiding with another friend. During this time, the military police allegedly had called at his own home and searched the house in "an aggressive manner." A few days later, Milan was able to drive

a car with registration plates from another town across the border into Hungary. He claimed to have bribed the border guards to allow him through. Milan's wife and small children are also with him in Hungary.

Not wanting to have his children staying in a refugee reception centre, Milan has struggled to keep his family in inadequate private accommodation on the little money they have. He told Amnesty International that he had applied for protection in Hungary, but that he was generally unclear about his options as a refugee. Milan has sought economic assistance for his family from various Hungarian humanitarian organizations, but has received only modest help. At the time of his interview with Amnesty International, Milan and his family were about to be moved out of the accommodation in which they had been staying - and were uncertain about where they would be able to go next.

Five friends from the 'Bastion of Freedom'

Amnesty International interviewed a group of five young men from a town in Serbia, who were regulars of a café which they called the 'Bastion of Freedom' - a venue where they and other opposition activists had made plans for their participation in the massive demonstrations against the government in 1996-97. All of them had made their way to Hungary via various routes in order to avoid call-up and military service. When interviewed by Amnesty International, the group were staying in crowded, inadequate private accommodation.

Making a link between their earlier opposition activities and the Kosovo conflict, one man told Amnesty International that "it is not the first time that we feel we do not want to participate in wars in Yugoslavia." The men talked of the difficulties of being an opposition activist in a small town where everybody knew them - of how they had been regularly harassed by the police, threatened with violence and told by people that "we are traitors. We are not patriots. Serbia is bleeding because of us." One of the men told Amnesty International that his uncle and grandfather had threatened to kill him if he returns to Serbia now.

Stating that Amnesty International was the first organization that had spoken with them at length about their situation, the men talked of their disappointment at having received little advice or help from any other agency or organization. "Everybody tries to fool us. Nobody tells us anything," one man said. Another talked of hearing the same words everywhere they went: "Sorry. It's not my job. I can't help you." "What have we done - it's like we have gone from one jail to the next? We are being punished for what we have done," said another.

Conclusions and recommendations

Crammed into a small room in a refugee reception centre with seven other men and remembering the security of his own flat and a job and a life back in Serbia, a young technician called Goran measures out the cost of having remained true to the principles that led him to conclude that he could under no circumstances fight in the conflict in Kosovo. "I risked my life to get here," he says, "and I am grateful for what I have - but it is not normal to stay in a room with seven other people."

Although in his application for protection in Hungary, Goran says that he stated explicitly that he opposed the war in Kosovo on principle, his application was refused and he was told that he did not have valid grounds for supporting his claim to be a refugee. Awaiting a decision on his appeal, Goran says that while a few foreign journalists had been interested in cases such as his at first - men like him are now all but forgotten. "Now it seems that everybody expects us to be sent back and doesn't care," he told Amnesty International. For Goran, his last hope is that it might be possible somehow to join his uncle in the United States - who has expressed his willingness to sponsor him.

Another of the Seventh Day Adventist objectors interviewed by Amnesty International, a craftsman from Vojvodina, talked proudly of how he had been raised very deliberately with the Christian pacifist example of his grandfather. During the Second World War, Rade's grandfather was imprisoned after refusing to serve in the Hungarian Army. His stubborn refusal eventually led to his deportation to Dachau, where he died in 1942. Now, in 1999, Rade finds himself living out his own faith through a set of choices and actions whose integrity cannot be doubted. In order that Rade, Goran and others like him are not forgotten, Amnesty International is calling on the authorities of the Federal Republic of Yugoslavia, Hungary, and the international community - especially the governments of NATO member states, to take the following measures immediately:

To the authorities of the Federal Republic of Yugoslavia:

- the immediate and unconditional release of all imprisoned conscientious objectors to military service.
- the immediate suspension of all judicial proceedings currently being brought against those charged with draft evasion or desertion who merit recognition as conscientious objectors to military service.

- the passage of legislation to bring the 1994 Law on the Army of Yugoslavia into line with international standards regarding the right to conscientious objection and the establishment of a genuinely civilian alternative service of non-punitive length.

To the Hungarian and other national authorities:

- to ensure that no individual who fled from the Federal Republic of Yugoslavia in order to avoid military service during the Kosovo conflict, on the grounds of their conscientiously held convictions or beliefs, is returned to the Federal Republic of Yugoslavia to face arrest, prosecution, or imprisonment.
- to grant effective and durable protection to all those who fled from the Federal Republic of Yugoslavia in order to avoid military service during the Kosovo conflict, on the grounds of their conscientiously held convictions or beliefs.
- to ensure that all officials at national and regional level who are dealing with such cases in the course of their duties are made properly aware of the relevant international standards concerning conscientious objection to military service generally, and in particular, the application of the 1951 Refugee Convention to cases of conscientious objectors to military service in a situation of internationally condemned conflict.

To the international community:

- again, to ensure that all officials who are dealing with such cases in the course of their duties are made properly aware of the relevant international standards concerning conscientious objection to military service generally, and in particular, the application of the 1951 Refugee Convention to cases of conscientious objectors to military service in a situation of internationally condemned conflict.
- to uphold their international responsibilities and cooperate with the Hungarian and other national authorities to ensure that those who fled from the Federal Republic of Yugoslavia in order to avoid military service during the Kosovo conflict on the grounds of their conscientiously held convictions or beliefs are granted effective and durable protection - in keeping with the well-established principle of *non-refoulement*. This could be achieved, for example, by facilitating resettlement to third countries where necessary and appropriate.