



## Resolution 1042 (1994)<sup>1</sup>

# Deserters and draft resisters from the republics of the former Yugoslavia

Parliamentary Assembly

1. The Assembly recalls its [Resolution 984 \(1992\)](#) on the crisis in the former Yugoslavia, its [Resolution 1019 \(1994\)](#) on the humanitarian situation and needs of the refugees, displaced persons and other vulnerable groups in the countries of the former Yugoslavia and its [Recommendation 1218 \(1993\)](#) on establishing an international court to try serious violations of international humanitarian law.
2. It refers to the European Parliament resolution on deserters from the armed forces of states in the former Yugoslavia adopted on 28 October 1993.
3. It restates its hope that a lasting negotiated solution will be found which will put an end to the conflict in Bosnia-Herzegovina.
4. It reiterates its deep concern for the fate of the millions of displaced persons as a result of the conflict.
5. It notes that the numbers of men who have left the former Yugoslavia because they refuse to take part in the fighting are estimated to be at least 100 000.
6. It is concerned to learn that thousands of men, including very young men, who are refugees or displaced in Serbia, Montenegro, Croatia and in Bosnia-Herzegovina itself, have been forcibly drafted to fight in Bosnia-Herzegovina.
7. It recalls its [Recommendation 816 \(1977\)](#) on the right of conscientious objection to military service, which it regards as a human right.
8. It deplores the fact that Croatia, which has special guest status with the Assembly, and the Federal Republic of Yugoslavia do not recognise this right in practice and severely punish men refusing to take part in military operations which have been condemned by the international community as serious violations of humanitarian law, particularly "ethnic cleansing".
9. It notes that tens of thousands of deserters and draft resisters have taken refuge in member states, which have generally granted them protection on a temporary basis.
10. It is concerned to learn that several countries have announced their intention to deport deserters and draft resisters to their countries of origin, and that some have even done so already.
11. It considers that a very prudent approach should be adopted in deciding when the country of origin of the deserters and refugees has become sufficiently "safe" for them to return, or whether or not they run the risk of being recruited for operations of ethnic cleansing.
12. It is aware that deserters and draft resisters will play an important role in re-establishing democracy once the war is over.

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1. Assembly debate on 1 July 1994 (23rd Sitting) (see [Doc. 7102](#), report of the Committee on Legal Affairs and Human Rights, Rapporteur: Mr Franck; and [Doc. 7117](#), opinion of the Committee on Migration, Refugees and Demography, rapporteur: Mr Brito). Text adopted by the Assembly on 1 July 1994 (23rd Sitting).



13. Consequently, the Assembly invites the member states:
  - a. to bear in mind, when examining requests for protection from deserters and draft resisters from the former Yugoslavia, the serious risks of persecution these persons would run if they returned;
  - b. to examine all applications for asylum submitted by deserters and draft resisters from the former Yugoslavia with reference to the United Nations Convention relating to the Status of Refugees and the recommendations of the Office of the United Nations High Commissioner for Refugees as set out in the Handbook on procedures and criteria for determining refugee status;
  - c. to refrain from deporting, or even from threatening to deport, deserters and draft resisters from the former Yugoslavia until such time as an amnesty has been declared and they can return home in complete safety;
  - d. to consider each case involving the return of deserters and draft resisters in the light of Article 3 of the European Convention on Human Rights, which states that "no one shall be subjected to torture or inhuman or degrading treatment or punishment".
14. Furthermore, the Assembly:
  - 14.1. calls on Croatia to establish a conscientious objector status enabling the individuals concerned to carry out a genuinely civilian alternative to military service, and to declare an amnesty for deserters and draft resisters;
  - 14.2. agrees to take account of the Croatian authorities' attitude to these matters when considering this country's application for membership of the Council of Europe;
  - 14.3. calls on the authorities of Serbia and Montenegro to recognise in practice the right to conscientious objection to military service and to declare an amnesty for deserters and draft resisters
  - 14.4. agrees to take account of the Croatian authorities' attitude to these matters when considering this country's application for membership of the Council of Europe;
  - 14.5. calls on the authorities of Serbia, Montenegro, Croatia and Bosnia-Herzegovina to give protection to all people fleeing the fighting and, in particular, to refrain from drafting them against their will.