

Office for Immigration and Nationality (OIN)
Subject: Case of ZT
No 1.

I have processed the asylum application of Mr. ZT, FRY citizen and took the following

Decision

I reject to recognise the applicant as a refugee, however, I recognise him as a person authorised to stay.

This decision applies to the wife and minor children:

There is no appeal possibility against this decision.
The above mentioned place of residence is permitted.

The Court can be requested to revise the decision with reference to law infringement **within five days** upon communication of the decision. The request should be addressed to the Municipal Court and submitted to the competent Branch Office of OIN in Budapest.

Reasoning

The applicant stated that he arrived in Hungary in May 1999 legally with his own passport, but he sent back his passport upon request to the person assisting him. Following this he applied for asylum together with his family members.

During the interview he referred to the following: they had been celebrating the birthday of his daughter in April 1999. The guests standing in front of his shop were discussing politics to which he joined, too.

Next day he was taken to the police, was interrogated and beaten. He was released at that time, however, he received later a call to the army, therefore, he went into hiding. In May, the military police arrested him and transported to the prison in X., but he escaped.

Subsequently, he left for Hungary with the help of his acquaintance and for his request he sent back his passport to him.

According to the Geneva Convention: a refugee is a person who owing to well-founded fear of being persecuted in his/her country of origin for reasons of race, religion, nationality or membership of a particular social group, or political opinion, is staying outside of his/her country of origin and is unable or owing to such fear, is unwilling to avail himself of the protection of that country.

The applicant received military call-in right after his interrogation at the police, which he refused to fulfill. He was released from the police.

The internal situation of the country is known, the majority of the local population became endangered, however, this is not personal persecution.

The applicant refused the military service, but not on the basis of his religious or political conviction. In his country there was a war, significant part of the country's inhabitants in drafting age was called to serve in the army.

Compared to other citizens he would not have had to suffer disproportionate punishment due to his race, religion or ethnic origin.

In our views, the applicant could not substantiate personal persecution, therefore, in his case international protection is not justified.

However, it is officially known that those Yugoslav citizens, who were staying abroad during the state of war introduced as of March 1999, and were not in possession of a permission to work or residence permit to study in that country, or not reported their stay to the competent Yugoslav consul in the country concerned, are considered similarly as deserters, they might face imprisonment upon return.

The applicant, on the basis of the above and on the basis of the ban enshrined in Section 32(1) of the Aliens Act (1993:LXXXVI.) cannot be expelled from the country.

Applicant identified himself and his citizenship with Identity card No.XXX .

No reasons for exclusion have been found with regard to the recognition as person authorized to stay.

Reconsideration of the status will take place in November 2000.

The representative of UNHCR did not participate in the procedure.

My decision is based on the following provisions:

- Sections 16, 32, 39, 40 Act No. CXXXIX of 1997
- Sections 2, 9, 30(1) f, 32(2), 33, 34, 35 of Government Decree No. 24/1998 (II.18)

Budapest, 25 November 1999.

Head of Department