

**Office for Immigration and Nationality (OIN)**

Subject: Case of ZT

No 2.

In the case of the asylum application of Mr. ZT, FRY citizen, I have taken the following

**Decision**

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

The scope of the decision extends to the wife and minor children of the applicant.

There is no appeal possibility against this decision.

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

**Reasoning**

In case of the applicant, the Municipal Court obliged OIN to carry out a new procedure.

In the framework of the new procedure both the applicant and his wife were interviewed and records were taken.

The interviews took place separately, the statements were matching/concordant.

ZT arrived in Hungary on 17 May 1999, his wife and children on 18 May. According to their statements the separate arrival was necessitated by security reasons. They wanted to be sure that the husband arrives safely, then the wife came with the children. Both crossed the Yugoslav/Hungarian border legally with their own passports. Upon arrival in Budapest Z.T. handed over his passport to his acquaintance accompanying him, while his wife destroyed her passport after crossing the border.

ZT justified his application by the following: on 08 April 1999, on the birthday of his daughter, he was having some drinks with his customers in front of his shop, talking about politics and the developments of the war. Next day he was taken to the police for interrogation, then two days later he received a call to the army. Although his wife did not take over the call-in letter, it was left in front of their door. Z.T. did not fulfil the obligation, instead he was hiding at his neighbour's place, from where he was taken by the military police to a prison on 1 May. He spent 7 days in the prison, then he was about to be transported somewhere by truck, he was put on the truck standing at the courtyard of the prison and was left alone. He made use of this opportunity and jumped off the truck, walked out of the courtyard and ran away. According to the applicant, he was not hand-cuffed, the courtyard is common with the court, many persons are coming and going there, so he could escape easily. He came to his friend

at Subotica, with whom he sent a message to his wife to pack up and this is how they came to Hungary.

Z.T. stated that he did not agree with the war but (?sic!) it was condemned by the entire democratic community/public. Leaflets were distributed calling upon the people not to participate in the war. According to his opinion to join the army one needs to be motivated. He was motivated by the propaganda of the last 10 years that one had to listen to and by two slaps at the police station. Many joined the army due to fear that their neighbours will consider them uncourageous or betrayer. He had only bad options to choose, either to join the army or to leave the country. He does not know if he decided well. He believes he got the call-in order because he was talking about politics in front of his shop. To a question on whom did he explain his political views he said he discussed such topics only with friends at the pub.

The applicant left the country with a passport, the passport was not confiscated either during the police interview, or during his stay in the prison.

His escape from the prison is questionable. Without handcuffs, he and two others were escorted by a guard to the truck at the courtyard, then the guard left them alone, without guarding them at - according to his claim - an open courtyard, from where he could escape unobserved.

The applicant and his wife claimed that they were discussing the war in Kosovo with friends, the people generally and the entire democratic community condemned the war. The bombings and the war ceased shortly after the applicant left the country.

The applicant is of military age and following the discontinuation of the state of emergency on 26 June 1999 in FRY, the Belgrade government punishes draft evaders or those who escaped to avoid military service to other countries, by 2-8 years imprisonment, therefore, the recognition of the applicant as person authorized to stay is justified.

Reconsideration of the status will take place in August 2001.

The representative of UNHCR did participate in the procedure.

My decision is based on the following legislation:

- Sections 2.c); 13(1); 21; 36; 39; 40 of Act No. CXXXIX of 1997;
- Section 2 of Government Decree No. 24/1998 (II.18).

Budapest, 3 August 2000

Head of Department