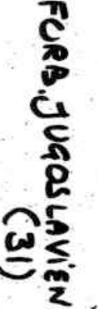


POUR LES REFUGIES



HIGH COMMISSIONER

Talephone : +46 () 457 4860 Direct Una : 46 (0)0 457 48 ()? Fei: 46 (0)6 457 48 ()7 final : nilssan@inher.ch



glingagatur 14. 6th itser 113 4% procesholm Simedian

23 September 1986

In: FRY: Draft Evaders

de 10.4.01

Belgrade on 12 August 1998, and UNHCR Position Paper on the Treatment of Deserters from FRY Army (VJ), issued by the Protection Section of UNHCR attachments Guidelines for Determining Refugee Status of Draft Evaders and Reference is made to our letter dated 28 August 1998, ROBNC 0530/98, with the Asylum-seakers from Kosovo in Countries of Asylum", dated 25 August 1998.

deserters should be considered in accordance with the later document and relevant provisions of the UNHCR Handbook on Procedures and Criteria Determining Refugee Status. UNHCR Position Paper on the Treatment of Asylum-seekers from Kosovo in background information should be disregarded. Following the and Deserters from FRY army that the first document, Guidelines for Determining Refugee Status of Draft Evaders Countries of Asylum, dated 25 August 1998, the situation of draft evaders and We have recently been informed by the Former Yugoslavia Liaison Office In Geneva 3 which was shared with you purely issuance of the

We apologise for any inconvenience this may have caused

Yours sincerely

Kallu

Kellu Kalumiya ...
Regional Representative for the Baltic and Nordic Countries

Ms. Hanne Munk
Counsellor
Danish Immigration Service
Ryesgade 53
DK-2100 Copenhagen O
Denmark

cc: Mr. Svend Waever, Ministry of Foreign Affairs

)	3		5

NATIONS UNIES

POUR LES REFUGIES



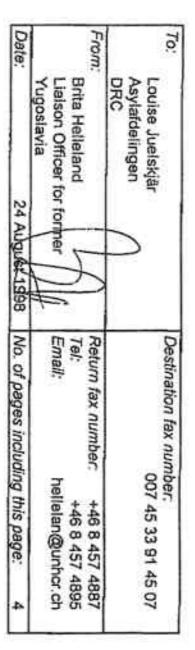
UNITED NATIONS

HIGH COMMISSIONER FOR REFUGEES

Yng!lagagatan 14, 6th floor 113 47 Stockholm Sweden

FURBIUSONALISM (31)

FACSIMILE MESSAGE



File code: 10.4.01

Other code: ROBNC 0527/98

Subject: FR Yugoslavia; Draft Evaders

Belgrade, Please find attached Guidelines for Determining Refugee Status of Draft Evaders and Deserters from the FRY Army (VJ), issued by the Protection Section of UNHCR

Best regard

3015

Guidelines for Determining Refugee Status of

Draft Evaders and Deserters from the FRY Army (VI)

The Case of Sandzak Muslims and Kosovo Albanians

Conscription practice

authorities as doubtful, certainly constitutes the fundamental reason for this of Kosovo Albanians and Sandzak Muslims, perceived by military than Serbs and persons from other ethnic groups (e.g. Romas). The loyalty army, as required for all Yugoslav citizens, though probably at a lower rate lesser extent. As for Sandzak Muslims, they have been called to serve in the that only a small number of Kosovo Albanians have been called up to serve in the army. This applies also to ethnic-Albanians from Montenegro, but to a General practice of Yugoslav military authorities since 1989 shows

rebels and Serb security forces rules out completely the conscription of on the particular situation of ethnic Albanians from areas other than Kosovo. Kosovo Albanians. However, at the time of writing, we have no information Presently, the on-going non-declared war between Kosovo Albanian

increase the number of Sandzak Muslims in its ranks army into these villages marked the beginning of the kosovization of Sandzak". In these circumstances, it is unlikely that the VJ may want to elements into villages of Tutin municipality (Sandzak) where refugees from status of Bosniaks and the Sandzak". The SDA was joined by the Bosniak obligatory military service since the Yugoslav state has not resolved the stated that "the VJ does not have the right to request Moslems to do their called on them not to respond to VJ's draft notices. Calling for peace, he Sulejman Ugljanin, leader of the Democratic Action Party for Sandzak Democratic Party (BDS) in its protest consequent to the entry of VJ Kosovo were housed. Their announcement mentioned that "the entry of the (SDA) and President of Sandzak's Muslim National Council, repeatedly Regarding Sandzak Muslims, during the month of July 1998,

army. Until recently this was a means to exert pressure on Kosovo barracks or offices, even though they will finally not be asked to serve in the Sandzak Muslims may receive call ups or summons to show up at military those occasions. Albanians and induce them to leave the country. Harassment could occur on Notwithstanding, it cannot be excluded that Kosovo Albanians and

Sanctions

respectively. The maximum sentences are foreseen for draft evaders and evaders and deserters may be convicted up to 10 and 15 years imprisonment deserters who leave the Federal Republic of Yugoslavia and stay abroad their military service. Sentences can be reduced if indictees show up voluntarily to do or complete Articles 214 and 217 of the Yugoslav Penal Code foresee that draft

suspended. Only a few of them were ever imprisoned and rarely for more Army were usually sentenced to small fines or their sentences were In the years immediately preceding the entry into force of the Yugoslav Amnesty Law of June 1996, draft evaders from the Yugoslav than three months.

imprisonment, usually from three months to one year. As for deserters, approximately one third of cases were sentenced to

seem to be more exposed to punishment or to more severe punishment than Scrbs, Montenegrins or Romas. Kosovo Albanians, and to a lesser extent Sandzak Muslims, did not

return to the police, was subsequently beaten up by the military police though not arrested. We are not aware of the fate of the other "returnees" that an ethnic-Slovak deserter was sentenced to serve in the army for the remaining part of his regular military service. This having been said, and irrespective of the nationality of each case, it is not yet possible to draw returned to their places of origin, of whom one, who recently reported his informed that a few Montenegrin Muslims deserted. Some of them later have described the army or have tried to evade the draft. We were also beginning of the conflict in Kosovo (end of February 1998) several Serbs draft evaders and deserters. general conclusions on the military authorities' present policy regarding We also learned that the sentence of a Serb draft evader was suspended and NGOs active in the field of human rights inform that since the

Eligibility guidelines

elements of the general background in which the eligibility claims of country unfold and more information is available, attempts to provide basic conflict in Kosovo, in which civilians are directly targeted, and which Yugoslav draft evaders and deserters are assessed. The brutality of the The above information, to be regularly updated as events in the

results in horrendous violations of human rights and international humanitarian law, should obviously be considered as a fundamental element

refugees include the following: paragraphs 167-174. Situations in which deserters and draft evaders can be Handbook on Procedures and Criteria for Determining Refugee Status, desertion and draft evasion should be that described in the UNHCR In this context, UNHCR's position on conscientious objection,

nationality, membership of a particular social group or political opinion; - where participation in military action would have been contrary to a where the type of military action with which the person concerned does not person's genuine political, religious or moral convictions; punishment for a military offence on account of his race, religion, where a person can show that he would suffer disproportionately severe wish to be associated was contrary to basic rules of human conduct

beginning of the conflict in Kosovo, by means of desertion or draft evasion, avoided having to participate in the fighting and thereby being a possible accomplice to violations of human rights and international humanitarian law, deserve international protection. In our view, UNHCR's position should be that persons who since the

Protection Section UNHCR Belgrade 12 August 1998