

LIBANON

(32) 30/4-01

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Dato 25-04-01
Ref.

Vedr. asylansøgninger fra tidligere SLA-medlemmer fra Libanon

Til orientering vedlægges et UNHCR positionspapir af 19. april d.å. vedrørende situationen for tidligere SLA-medlemmer i Libanon og spørgsmålet om behov for beskyttelse under enten Flygtningekonventionen eller artikel 3 i Den Europæiske Menneskerettighedskonvention af asylansøgere med denne baggrund.

Ligeledes vedlægges UNHCR's supplerende skrivelse af 25. april d.å., der er et svar på et spørgsmål fra undertegnede vedrørende forståelsen af punkt 4 i førstnævnte skrivelse.

Med venlig hilsen


Nina Lassen
Asylafdelingen

Email: Nina.Lassen@drc.dk
Direkte nummer: 33735270

LIBANON (32)

30/4'01

Fra: Brian Gorlick <GORLICK@unhcr.ch>
Til: <Nina.Lassen@drc.dk>
Dato: 19-04-01 16:21
Emne: Request for information / Re: ex-SLA asylum seekers in Denmark

19 April 01

Ms Nina Lassen
Danish Refugee Council
Copenhagen

Dear Nina,

In November of last year you requested information concerning UNHCR's views on ex-SLA members who were seeking asylum in Denmark. I recall as well that we had sent you some preliminary information on this, but most recently we have received the attached from UNHCR Headquarters in Geneva which may be of use.

We very much regret the delay in responding to you. You may wish to share this information with government counterparts as you see fit. However, given the sensitive nature of the views expressed we should kindly ask that it be treated as appropriate. Thank you for your attention and regards.

Brian Gorlick
UNHCR Stockholm.

CC: <DAVIN@unhcr.ch>, <LINDEN@unhcr.ch>, <SWESTINT@unhcr.ch>

Assessment of refugee claims of individuals affiliated to the South Lebanese Army

1. Members of the South Lebanese Army (SLA) should be subjected to individual refugee status determination (RSD) procedures.
2. SLA Members who had joined this militia may have a well-founded fear of persecution and thus fulfil the inclusion criteria for reasons of real or imputed political opinion. The SLA was seen as a main support for Israel in southern Lebanon during the Israeli occupation. The inclusion criteria may also be fulfilled by some members for lack of fair trial, as guilt and innocence blurred in summary trials in Lebanon during last year.
3. Human rights reports have documented serious abuses which included witness descriptions of a prison run by the SLA until May 2000 as "reminiscent of the Nazi era", and it should be recalled that SLA members may have committed torture and murder. In Khiam Prison in southern Lebanon, people were "incarcerated without charge or trial" while torture included electric shocks to genitals, suspension from ceilings and severe kicking or beatings. In view of the above, caution should hence be exercised when assessing claims of SLA members. For some cases, it may be appropriate to consider whether the Article 1 F(a) and (b) ("Exclusion clauses") of the 1951 Refugee Convention should be applied.
4. - However, asylum applicants cannot be returned to Lebanon where summary trials have been commonplace in Lebanon. Inhuman and degrading treatment may also occur in violation of article 3 of UN Convention against Torture, as well as article 3 of European Convention on Human Rights. Death sentences were even handed down *in absentia* against a few high ranking SLA officers in 1997 and November 2000. In June 2000, a former SLA reportedly died in prison in southern Lebanon.
5. Attention may also be drawn to the need to comply with Article 146 of the 1949 IV Geneva Convention with a view to bringing to trial those persons - among former SLA militiamen - who have committed grave breaches of the above-mentioned Convention and who may be present in the Nordic countries. In this connection it should be noted that in February 2001, the German Federal High Court decided that German Courts have the right to apply the principle of universal jurisdiction against non-German citizens who have committed crimes against humanity not on German soil. The background was that The Hague War Crimes Tribunal had earlier requested the German authorities not to extradite a suspect considering the limited capacities of the international court. The person was subsequently sentenced to a long prison term. His lawyer challenged the decision by a German court, arguing that a non-German citizen can not be tried for a crime not committed in Germany. However, as mentioned above the Federal High Court decided that indeed German courts have the competency to prosecute war criminals.

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6. It is also noted that Israel, as a signatory to the 1951 Refugee Convention, reportedly pledged in May 2000 legal and material assistance to former SLA members, including the grant of residency and citizenship for those who wished to remain in Israel.

UNHCR Headquarters
11 April 2001

Fra: Brian Gorlick <GORLICK@unhcr.ch>
Til: <Nina.Lassen@drc.dk>
Dato: 25-04-01 14:43
Emne: Vedr.: Request for information / Re: ex-SLA asylumseekersinDenmark -Reply

25 April 2001

Dear Nina,

The request for information which we sent to you concerning the ex-SLA asylum seekers on 19 April 2001 by email, at paragraph 4, means, that if an asylum seeker is for example excluded from refugee status, then they may still be properly considered for subsidiary/complementary protection under articles 3 of the CAT and/or the ECHR.

Otherwise, if an asylum seeker has been rejected for refugee status after having been considered in a full and fair determination procedure (for example, the applicant was deemed not credible) or for other subsidiary protection status, then in such cases it would normally be acceptable for an asylum country to return the individual to his or her country or place of origin. In this context, in paragraph 1 of our comments we indicated that SLA members should have access to individual refugee status determination procedures.

I hope this helps answers your query. Please be advised that the original text I sent you was prepared by the relevant Bureau at UNHCR Headquarters in Geneva and was in turn communicated by our Stockholm Office, and indeed the clarification to your most recent question was also made in consultation with our Headquarters, only today.

Please contact our Office should you have any further questions on this matter. With regards,

Brian Gorlick
UNHCR Stockholm.

CC: <davin@unhcr.ch>, <linden@unhcr.ch>

