

Senjien - Houteneers (21)

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DESERTERS / DRAFT EVADERS

10/12-03

A. The following paragraphs (1 and 2) are extracts from the Military Law, Official Gazette FRY no.67 October 1993 (articles 291; 340):

1. Recruiting shall be performed in a calendar year in which the conscript turns 18. A conscript may, upon personal request, be recruited in a calendar year in which he turns 17. The President of the Republic may, during the state of war, order recruitment of all conscripts who turn 17.

Conscript who have been found able or with limited ability for military service shall be sent to complete their military service upon turning 21. A conscript who enrolled at the university or college shall be drafted upon graduation and upon turning 27 at the latest.

A conscript who as found not to have fulfilled military service and has not been drafted until the end of a calendar year when he had turned 27, will be sent to do his military service until the calendar year when he turns 35 at the latest. The decision thereon shall be passed by the competent military and territorial body.

2. A conscript who does not honour the notification of the competent military and territorial body at the time and place set out in an individual or general notification - for registration into military records, recruitment, military service, medical and other examinations, for military manoeuvre or other training in reserve forces which is considered military manoeuvre shall be fined from 900 to 9.000 CSD or a sentence of prison term up to 60 days.

3. Draft evasion is also covered by Articles 214-217 in Chapter 20 of the Federal Criminal Code (Offences Against the Armed Forces of the Federal Republic of Yugoslavia). Article 226 provides that any penalties under 214 are substantially increased when the offence is committed after a state of war has been declared or when there is an imminent threat of war.

4. The possible penalties for draft evaders/deserters are as follows (Articles 214,217 and 226 of the Criminal Code):

- failure to answer a recruitment call in peacetime: max. 1 year
- idem during war or threat of war: 1 to 10 years
- hiding inside the country with the intent to evade recruitment in peacetime : 3 months to 5 years
- idem during war or threat of war : 5 years - 20 years
- going or staying abroad with the intent to evade recruitment in peacetime: 1 - 10 years
- idem during war or threat of war 5 years - 20 years
- desertion and not returning within 30 days in peacetime : 6 months to 5 years
- idem during war or threat of war: 5 years to 20 years
- desertion and leaving the country in peacetime : minimum 1 year
- idem during war or threat of war: 5 years - 20 years

5. Please note that the Military Code and the Yugoslav Penal Code - both deal with the draft evasion. The difference in application relates to how and when in the process

the draftee evades the draft - before he receives the draft notice or after he receives the notice but fails to report for duty. (This is a complicated legal issue.)

6. Whether a draft evasion would be qualified as a misdemeanour (one set of laws would apply) or a criminal act (another set of laws would apply), depends on the authorised body which initiates the process. It would appear from the legal practice that the authorised bodies show tendencies to evaluate the "danger to the society" in application of the various laws to draft evasion in each particular case. As such, it is difficult to generalise the matter.