

Flygtningenævnets baggrundsmateriale

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| Bilagsnr.: | 157 |
| Land: | Algeriet |
| Kilde: | Immigration and Refugee Board of Canada |
| Titel: | Algeria: Obligations regarding military service and the reserve; the possibility of obtaining an exemption or stay, including the procedures that must be followed (2006 - September 2012) |
| Udgivet: | 22. oktober 2012 |
| Optaget på baggrundsmaterialet: | 20. maj 2014 |



Immigration and
Refugee Board of Canada

Commission de l'immigration
et du statut de réfugié du Canada

Algeria: Obligations regarding military service and the reserve; the possibility of obtaining an exemption or stay, including the procedures that must be followed (2006-September 2012)

Publisher [Immigration and Refugee Board of Canada](#)

Publication Date 22 October 2012

Citation / Document Symbol DZA104204.E

Related Document [Algérie : information sur les obligations relatives au service militaire et à la réserve; la possibilité d'obtenir une exemption ou un sursis, y compris les procédures à suivre \(2006-septembre 2012\)](#)

Cite as Immigration and Refugee Board of Canada, *Algeria: Obligations regarding military service and the reserve; the possibility of obtaining an exemption or stay, including the procedures that must be followed (2006-September 2012)*, 22 October 2012, DZA104204.E, available at: <http://www.refworld.org/docid/50aa10bd2.html> [accessed 19 May 2014]

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1. Obligations Regarding Military Service

The National Service Code (*Code du service national*) of 1974 indicates that military service is obligatory for all men over 19 years of age (Algeria 1974a, Art. 1). The website of the Ministry of National Defence indicates that since 31 December 2011, all men over 30 years of age are exempted from this obligation and are eligible for regularization (ibid. n.d.a). According to a 2012 report by Child Soldiers International, an international human rights organization that "seek[s] to end the military recruitment and the use in hostilities, in any capacity, of any person under the age of 18" (Child Soldiers International n.d.), those who are 17 years of age can enlist in the Algerian army (ibid. 2012, 53). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

A document prepared by Conscience and Peace Tax International (CPTI), a non-profit organization with special consultative status with the UN that seeks the recognition of the right to conscientious objection to paying for armaments and war through taxes (CPTI n.d.), indicates that females are "completely debarred from any participation in the armed forces" (ibid. July 2007).

The National Service Code indicates that the duration of military service is two years (Algeria 1974a, Art. 3). However, the Algerian government indicates that in 2002, it was reduced to 18 months (ibid. n.d.b). Other sources also indicate that the duration of military service is 18 months (Child Soldiers International 2008, 44; US 11 Sept. 2012), and comprises basic training for 6 months and 12 months in civil projects (US 11 Sept. 2012). The website of the Ministry of Youth and Sports indicates that the initial six-month period consists of [translation] "shooting, mental and physical training, and simulation exercises in cases such as torture and sudden attacks" (Algeria n.d.b). The National Service Charter (*Charte du service national*) indicates that after the military training period, recruits perform activities in the economic, administrative, social, cultural or national defence fields (ibid. 1974b, 1015). However, the website of the Ministry of Youth and Sports indicates that in the 12-month period following the six-month military training, recruits are serving in the military land forces (ibid. n.d.b). In addition, the CPTI expressed the opinion that it is "unlikely that since the declaration of a state of emergency in 1992 any conscripts have in practice been allocated to civilian duties" (July 2007). Furthermore, a research response by the Refugee Review Tribunal (RRT) of Australia indicates that "in the past [the twelve months of service] have included economic, administrative, social, and civil projects besides actual military duties" (Australia 17 Jan. 2008).

The National Service Code states the following regarding the registration of potential recruits:

[translation]

Art. 43. - One month prior to the start of the registration period, the walis [governors] shall notify their citizens, in the press, over the radio, and via posters, of all such information as may be necessary to assist young people called to register.

Art. 44. - The citizens concerned are required to register with the people's community assembly for their place of domicile or residence.

Art. 45. - Every year, the chairperson of the people's community assembly shall, between January 1 and March 1, tabulate the names of all citizens born or residing in the community who register and who will reach 18 years of age in the current year.

Art. 47. - Citizens living abroad are registered by diplomatic or consular missions.

Art. 49. - All individuals registered in the national service shall provide a certificate of registration issued either by the people's community assembly or by the consulates.

Art. 78. - Conscripts are classified, based on documentation provided by selection and orientation centres, as fit or unfit for national service.

Persons classified as permanently unfit are released from their military obligations. (Algeria 1974a)

The website of the Embassy of Algeria in Ottawa indicates that Algerians who reside in Canada and who reach 18 years of age must contact the consulates in Ottawa or Montreal for registration for military service purposes (ibid. n.d.c). According to the research response by the Refugee Review Tribunal of Australia, approximately 375,000 men reach their military service age each

year (Australia 17 Jan. 2008). The CPTI cites a *Military Balance* report prepared by the International Institute of Strategic Studies which indicates that, based on estimations from 1997 to 2006, "the armed forces have the capacity to deal with only about 75,000 conscripts at a time" (CPTI July 2007). According to CPTI,

it is clear that a very large number simply fail to perform military service without receiving a formal exemption. The situation of such persons depends very much on how far the recruitment process has gone in their individual case. The majority however have benefited from a sequence of amnesties, inviting them to "regularize their military situation", enabling them without service, and without penalty, to receive the "carte de dispense" [exemption card] which is presented to those who are exempted from military service (ibid.).

Australia's Refugee Review Tribunal also indicates that National Service exemptions have been granted in the form of amnesties since 1989; however, it also indicates that precise information in this regard is limited (Australia 17 Jan. 2008).

Concerning conscientious objectors who did not register for military service, CPTI indicates that they would

suffer disadvantages akin to those which the European Court of Human Rights has (with regard to Turkey) recently described as a form of "civil death" [or clandestine life (Council of Europe 24 Jan. 2006)]. If non-registration had already led to charges of *insoumission*, the option of "regularizing" [their] military status would not be available. (July 2007)

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. For further information on the treatment of draft evaders and deserters, please see Response to Information Request DZA104203 of 29 October 2012.

2. Obligations Regarding the Reserve

Sources indicate that, after the 18 months of compulsory military service, reservists must provide 6 months of additional service and remain as reservists up to the age of 50 (Australia 17 Jan. 2008; Child Soldiers International 2008, 44). A *Country of Origin Information Report* on Algeria by the UK Border Agency cites a *Jane's Sentinel Country Risk Assessment* report for Algeria, updated on 4 May 2011, which indicates that, "[o]nce compulsory service has been completed, soldiers must remain available to the Ministry of Defence for five years and may be recalled at any time, after which they become part of the reserve forces for a further 20 years" (UK 3 Nov. 2011, Sec. 9.02). Article 1 of Edict No. 76-110 of 9 December 1976 indicates that military service obligations for Algerian citizens last 27 years and are distributed as follows: 2 years in the national service, 5 years of availability, 10 years as first reserve, and 10 years as second reserve (Algeria 1976, Art. 1). More recent legislation on military service obligations could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Exemptions and Stays

Exemptions from the national service are stipulated in the following articles of the National Service Code:

[translation]

Art. 76. - Total and permanent incapacity shall be the result of injury, malformation, mutilation, serious progressive disease, functional disorder, and irreversible physical conditions impeding normal performance in terms of professional duties.

Art. 93. - An exemption from national service obligation may be granted by the regional commissions in peacetime upon request to a citizen who provides evidence that he is:

1. the sole supporter of an ascendant;
2. the sole supporter of a collateral relative who is a minor or disabled; or
3. the son of a chahid.

Provisions 1) and 2) do not apply to students. (Algeria 1974a)

Chahid refers to "martyrs" of the war of independence (Australia 17 Jan. 2008; CPTI July 2007). According to the CPTI, the exemptions indicated in Articles 76 and 93 are applied in practice (July 2007).

The Embassy of Algeria in Ottawa website indicates the following requirements for those who request an exemption from military service:

For medical reasons: the applicant should prepare a complete medical file and should be subject to exams by a medical commission for ability to the military service

For social reasons: Algerian nationals who are regularly registered can request exemption from the military service, if they are:

- having dependents from ascendants or disabled collateral or early aged people,
- To be over 27 years and exerting a salary activity.

In this regard, they should prepare a file to be forwarded to the Ministry of National Defense for examination, which should include the following documents:

- A handwritten letter addressed to the Ministry of National Defense undercover of Mr. the Ambassador of Algeria in Canada, or under of Mr. the Consul General of Algeria in Montreal
- An individual record of civil status,
- Two recent and same print photographs,
- A family record of civil status (for those who are married)
- The act of divorce or separation if need be (extract of the judgment),
- Certificate of termination of studies,
- Copy of obtained diplomas,
- Three recent salary statements and/or attestation or contract of work or any other document proving that you exert a professional activity
- A certificate of non salary activity or any other proof of invalidity or inability to work,
- Family record of civil status for the parents,
- Death certificate of the father if need be,
- Family record for the married brothers,
- Proof of the brothers' situation vis-à-vis of the military service. (Algeria n.d.c)

According to the Algerian Ministry of Youth and Sports website, other criteria that exempt Algerian citizens from National Service duties are a height less than 1.60 meters and a body mass index over 30 for foot soldiers (ibid. n.d.b). The Algerian Ministry of Youth and Sports website

also indicates that it is possible to be exempted from military service for other reasons such as being the family provider or due to limited capacity of barracks (ibid.). Information on the granting of these exemptions could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Concerning provisional exemptions, the National Service Code stipulates the following:

[translation]

Art. 90. - Upon their request, a postponed enlistment may be granted to citizens who have a brother who is a volunteer soldier or a conscript in the national service and who has not yet finished his term of service, and those who present a socially significant reason.

Art. 91. - The postponement of enlistment ends with the release of the conscript, the completion of two (2) years' service by the brother who is a volunteer soldier or a conscript, or when the circumstances justifying the postponement cease to exist.

Art. 97. - A deferment may be granted by the recruitment office upon request to citizens who wish to continue their studies upon application to the selection and orientation centre.

The deferment is valid until the first day of October following the date of enlistment in the class to which the individuals concerned belong.

Art. 98. - The deferment may be renewed until the student reaches the age of 27.

If that limit is reached, the ministerial commission established in article 36 of this Code has the sole authority to renew the deferment of military service for students who have provided evidence that their studies were delayed for valid social reasons of interest: prolonged illness, death of the head of the family. (Algeria 1974a)

The Embassy of Algeria in Ottawa website indicates the following requirements for those who request a provisional exemption for having a brother in the national service or for pursuing studies:

A file submitted to the consular section should include the following documents:

A handwritten letter addressed to the Ministry of National Defense, undercover Mr. Ambassador of Algeria in Canada or undercover Mr. the Consul General of Algeria in Montreal, accompanied according to the case with the following document:

- Provisional exemption for studies: A school certificate or the certificate of enrollment
- Provisional exemption due to a brother who is called up: An enlistment certificate of the brother in the framework of the military service. (Algeria n.d.c)

According to the CPTI, approximately 40 percent of those eligible for National Service duties are exempted (July 2007). The US Department of State indicates in its *Country Reports on Human Rights Practices for 2011* for Algeria that

[t]he government did not permit young men eligible for the draft but who had not yet completed their military service to leave the country without special authorization, although the government granted such authorization to students and persons with special family circumstances. (US 24 May 2012, 13)

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Oral sources: Attempts to contact representatives from the following organizations and agencies were unsuccessful: Algeria — Embassy in Ottawa, Embassy in Washington, General Consulate in Montreal, General Consulate in New York, Popular National Assembly; Algeria Watch; Human Rights Watch; professor of political science, University of Michigan. Professors at Fordham University, Tufts University, and California State University could not provide information for this Response. An official from the Embassy of Canada in Algeria could not provide information within the time constraints of this Response.

Internet sites, including: African Court on Human and People's Rights; African News Agency; African Press Organization; Algeria — Consulate in London, Embassy in Oslo, Embassy in Ottawa, *Journal officiel de la république algérienne démocratique et populaire*, Ministry of National Defence, Ministry of Youth and Sports, National Gendarmerie; Amnesty International; Country of Return Information Project; eoi.net; *El Watan* [Algiers]; *L'Expression*; Factiva; *Le Figaro*; Freedom House; Global Security.org; Grioo.com; Human Rights Watch; InfoSud Belgique; International Federation for Human Rights; International Institute for Strategic Studies; International Organization for Migrations; Ireland — Refugee Documentation Centre; Jane's Defense and Security; *Jeune Afrique*; *Jeune Indépendant* [Algiers]; *La Nouvelle République* [Algiers]; Organisation internationale de la francophonie; Réseau des médias francophones; United Nations — Integrated Regional Information Networks, Refworld.

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