

## KONTEKST:

Potrebno utvrditi obavezu služenja vojnog roka i kažnjavanje u slučajevima dezerterstva u Alžiru, u cilju analize i donošenja odluke u konkretnom slučaju, a povodom zahteva za azil lica poreklom iz Alžira, prema izjavi iznetoj na zahtevu za azil i usmenoj raspravi;

## PITANJE: Obavezno služenje vojnog roka i kažnjavanje u slučajevima dezerterstva u Alžiru

## ODGOVOR:

Služenje vojnog roka je u Alžiru obavezno za sve muškarce starije od 19 godina.<sup>1 2</sup> Žene u Alžiru su isključene od učešća u oružanim snagama.<sup>3</sup>

Obavezni vojni rok u Alžiru traje 18 meseci,<sup>4 5</sup> od čega je 6 meseci predviđeno za osnovnu obuku, a 12 meseci za služenje u civilnim ustanovama, mada ima izveštaja koji potvrđuju da regruti služe vojni rok i u alžirskim vojnim kopnenim snagama.<sup>6</sup>

Po završetku redovne vojne službe vojnici moraju ostati dostupni Ministarstvu odbrane Alžira u narednih pet godina i mogu biti pozvani u bilo kom trenutku, a posle toga oni postaju deo rezervnih snaga narednih 20 godina.<sup>7 8</sup>

Obaveza služanja vojnog roka utiče na slobodu kretanja u Alžiru. Muškarci koji su u uzrastu za služenje vojnog roka ne mogu napustiti zemlju bez saglasnosti Vlade Alžira.<sup>9 10 11</sup> Takođe, za putovanje u inostranstvo zahteva se posedovanje "vojne karte".<sup>12 13</sup> "Vojna karta"

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<sup>1</sup> Immigration and Refugee Board of Canada: Algeria - Obligations regarding military service and the reserve; the possibility of obtaining an exemption of stay, including the procedures that must be followed (2006 - September 2012), 22 October 2012 - [http://www.ecoi.net/local\\_link/231336/339820\\_en.html](http://www.ecoi.net/local_link/231336/339820_en.html), pristupljeno 4. decembra 2012.

<sup>2</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 45

<sup>3</sup> Immigration and Refugee Board of Canada: Algeria - Obligations regarding military service and the reserve; the possibility of obtaining an exemption of stay, including the procedures that must be followed (2006 - September 2012), 22 October 2012 - [http://www.ecoi.net/local\\_link/231336/339820\\_en.html](http://www.ecoi.net/local_link/231336/339820_en.html), pristupljeno 4. decembra 2012.

<sup>4</sup> Immigration and Refugee Board of Canada: Algeria - Obligations regarding military service and the reserve; the possibility of obtaining an exemption of stay, including the procedures that must be followed (2006 - September 2012), 22 October 2012 - [http://www.ecoi.net/local\\_link/231336/339820\\_en.html](http://www.ecoi.net/local_link/231336/339820_en.html), pristupljeno 4. decembra 2012.

<sup>5</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 45

<sup>6</sup> Immigration and Refugee Board of Canada: Algeria - Obligations regarding military service and the reserve; the possibility of obtaining an exemption of stay, including the procedures that must be followed (2006 - September 2012), 22 October 2012 - [http://www.ecoi.net/local\\_link/231336/339820\\_en.html](http://www.ecoi.net/local_link/231336/339820_en.html), pristupljeno 4. decembra 2012.

<sup>7</sup> Immigration and Refugee Board of Canada: Algeria - Obligations regarding military service and the reserve; the possibility of obtaining an exemption of stay, including the procedures that must be followed (2006 - September 2012), 22 October 2012 - [http://www.ecoi.net/local\\_link/231336/339820\\_en.html](http://www.ecoi.net/local_link/231336/339820_en.html), pristupljeno 4. decembra 2012.

<sup>8</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 46

<sup>9</sup> Freedom House: Freedom in the World 2013, Algeria/Political rights and civil liberties - <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=country&docid=5139c26128&skip=0&coi=DZA>

<sup>10</sup> UK Border Agency: Algeria Country of Origin Information report, 3 November 2011 - [http://www.ecoi.net/file\\_upload/90\\_1320762880\\_algeriacoir-ukbawebsite-11-11-3.pdf](http://www.ecoi.net/file_upload/90_1320762880_algeriacoir-ukbawebsite-11-11-3.pdf), str 33 i 46

<sup>11</sup> United States Department of State, 2012 Country Reports on Human Rights Practices - Algeria, 19 April 2013/Freedom of movement, internally displaced persons, protection of refugees, and stateless persons - <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=country&docid=517e6e716&skip=0&coi=DZA>

<sup>12</sup> Magharebia: Algeria reforms military service policy, 8.mart 2011 - [http://magharebia.com/cocoon/awi/xhtml1/en\\_GB/features/awi/features/2011/03/08/feature-02](http://magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2011/03/08/feature-02), pristupljeno 10. maja 2013.

predstavlja potvrdu o odsluženoj vojnoj obavezi, i osim za putovanje u inostranstvo može se zahtevati i pri zapošljavanju.<sup>14 15</sup>

Jamel Marouf posvedočio da nije mogao godinama da dobije posao u javnom sektoru, zbog toga što nije odlučio vojni rok i nije imao "vojnu kartu".<sup>16</sup> Svedočenja navode i da oni koji nisu regulisali vojnu obavezu ne mogu polagati post-diplomske ispite na fakultetu u Alžiru.<sup>17</sup>

U martu 2011. godine u Alžiru je doneta odluka da su svi muškarci stariji od 30 godina izuzeti od ove obaveze ukoliko do tada nisu odlučili vojni rok.<sup>18 19 20</sup>

Pre donošenja ove odluke na hiljade muškarca koji su napustili Alžir nisu godinama bili u mogućnosti da se vrate u svoju zemlju iz straha da bi bili pozvani na služenje vojnog vođa.<sup>21 22</sup>

Svaki građanin Alžira koji je pozvan da ispuni svoju obavezu služenja vojnog roka, a ne prijavi se na naznačenu lokaciju u roku od 30 dana od poziva, smatraće se da izbegava vojnu obavezu.<sup>23 24</sup>

U Alžiru ne postoji zakonska odredba o prigovoru savesti. Za ono lice koje se pozove na prigovor savesti, takođe će se smatrati da izbegava vojnu obavezu.<sup>25</sup>

Svako ko se bude smatrao krivim za izbegavanje vojne obaveze za vreme mira, može biti kažnjen zatvorom od tri meseca do pet godina.<sup>26 27</sup> Za vreme rata kazna zatvora za isto delo iznosi od dve do deset godina.<sup>28 29</sup>

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<sup>13</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 47

<sup>14</sup> Magharebia: Algeria reforms military service policy, 8.mart 2011 - [http://magharebia.com/cocoon/awi/xhtml1/en\\_GB/features/awi/features/2011/03/08/feature-02](http://magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2011/03/08/feature-02), 10. maja 2013.

<sup>15</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 47

<sup>16</sup> Magharebia: Algeria reforms military service policy, 8.mart 2011 - [http://magharebia.com/cocoon/awi/xhtml1/en\\_GB/features/awi/features/2011/03/08/feature-02](http://magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2011/03/08/feature-02), 10. maja 2013.

<sup>17</sup> Magharebia: Algeria reforms military service policy, 8.mart 2011 - [http://magharebia.com/cocoon/awi/xhtml1/en\\_GB/features/awi/features/2011/03/08/feature-02](http://magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2011/03/08/feature-02), pristupljeno 10. maja 2013.

<sup>18</sup> Immigration and Refugee Board of Canada: Algeria - Obligations regarding military service and the reserve; the possibility of obtaining an exemption of stay, including the procedures that must be followed (2006 - September 2012), 22 October 2012 - [http://www.ecoi.net/local\\_link/231336/339820\\_en.html](http://www.ecoi.net/local_link/231336/339820_en.html), pristupljeno 4. decembra 2012.

<sup>19</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 47

<sup>20</sup> Magharebia: Algeria reforms military service policy, 8.mart 2011 - [http://magharebia.com/cocoon/awi/xhtml1/en\\_GB/features/awi/features/2011/03/08/feature-02](http://magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2011/03/08/feature-02), pristupljeno 10. maja 2013.

<sup>21</sup> Magharebia: Algeria reforms military service policy, 8.mart 2011 - [http://magharebia.com/cocoon/awi/xhtml1/en\\_GB/features/awi/features/2011/03/08/feature-02](http://magharebia.com/cocoon/awi/xhtml1/en_GB/features/awi/features/2011/03/08/feature-02), pristupljeno 10. maja 2013.

<sup>22</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 47

<sup>23</sup> Immigration and Refugee Board of Canada: Algeria - Actions taken by the military in case of desertion; whether deserters are being ordered to report by the gendarmerie; time allowed to respond to such orders, if applicable; whether the reason for desertion appears on the order to report; the current situation of deserters (2006- September 2012), 16 October 2012 - [http://www.ecoi.net/local\\_link/231333/339816\\_en.html](http://www.ecoi.net/local_link/231333/339816_en.html), pristupljeno 4. decembra 2012.

<sup>24</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 48

<sup>25</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 48

<sup>26</sup> Immigration and Refugee Board of Canada: Algeria - Actions taken by the military in case of desertion; whether deserters are being ordered to report by the gendarmerie; time allowed to respond to such orders, if applicable; whether the reason for desertion appears on the order to report; the current situation of deserters (2006- September 2012), 16 October 2012 - [http://www.ecoi.net/local\\_link/231333/339816\\_en.html](http://www.ecoi.net/local_link/231333/339816_en.html), pristupljeno 4. decembra 2012.

<sup>27</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 48

Vojnik koji dezertira u zemlji može biti kažnjen zatvorom od šest meseci do pet godina, u miru. Ako vojnik dezertira za vreme rata ili na teritoriji na kojoj je stanje opsade ili je proglašeno vanredno stanje, kazna može iznositi od dve do deset godina zatvora.<sup>30 31</sup>

Dezerterstvo u inostranstvo se kažnjava zatvorom od dve do deset godina u miru, i zatvorom od deset do dvadeset godina za vreme rata.<sup>32</sup>

Dezerterstvo više od dva lica smatra se za dezerterstvo sa zaverom, i u miru se kažnjava zatvorom od jedne do deset godina, a u ratu od pet do petnaest godina zatvora.<sup>33 34</sup>

Ako vojnik dezertira u oružanu grupu ili među neprijateljske redove maksimalna kazna je pogubljenje.<sup>35</sup>

Svako ko se oglasi krivim za skrivanje, zapošljavanje ili je naručilac zapošljavanja onoga koje se traži zbog izbegavanja vojne obaveze ili svako ko se oglasi krivim za pomaganje u izbegavanju vojne obaveze pogleže pod sistem vojnih sudova.<sup>36</sup>

Oni koji podstiču druge na dezertiranje mogu biti kažnjeni zatvorom od 6 meseci do 5 godina u miru, i od pet do deset godina zatvora za vreme rata. Oni koji kriju dezertere ili ih čuvaju od gonjenja mogu biti kažnjeni zatvorom od dva meseca do dve godine.<sup>37</sup>

#### KOMENTAR/ZAKLJUČAK:

U Alžiru nepostojanje insututa prigovora savesti dovodi do toga da je služenje vojnog roka pod oružjem obavezno. U slučaju odbijanja služenja vojnog roka, lice može biti kažnjen kaznom zatvora. Iz ovog razloga, mnogi alžirci koji borave van Alžira, ne žele da se vrate u svoju zemlju. Licima starijim od 30 godina ova situacija je olakšana, jer su oni lišeni ove obaveze. Međutim, za lica mlađja od 30 godina mogućnost da budu pozvani na služenje vojnog roka ili da u suprotnom budu kažnjeni kaznom zatvora ili i dalje je prisutna.

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<sup>28</sup> Immigration and Refugee Board of Canada: Algeria - Actions taken by the military in case of desertion; whether deserters are being ordered to report by the gendarmerie; time allowed to respond to such orders, if applicable; whether the reason for desertion appears on the order to report; the current situation of deserters (2006- September 2012), 16 October 2012 - [http://www.ecoi.net/local\\_link/231333/339816\\_en.html](http://www.ecoi.net/local_link/231333/339816_en.html), pristupljeno 4. decembra 2012.

<sup>29</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 48

<sup>30</sup> Immigration and Refugee Board of Canada: Algeria - Actions taken by the military in case of desertion; whether deserters are being ordered to report by the gendarmerie; time allowed to respond to such orders, if applicable; whether the reason for desertion appears on the order to report; the current situation of deserters (2006- September 2012), 16 October 2012 - [http://www.ecoi.net/local\\_link/231333/339816\\_en.html](http://www.ecoi.net/local_link/231333/339816_en.html), pristupljeno 4. decembra 2012.

<sup>31</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 49

<sup>32</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 49

<sup>33</sup> Immigration and Refugee Board of Canada: Algeria - Actions taken by the military in case of desertion; whether deserters are being ordered to report by the gendarmerie; time allowed to respond to such orders, if applicable; whether the reason for desertion appears on the order to report; the current situation of deserters (2006- September 2012), 16 October 2012 - [http://www.ecoi.net/local\\_link/231333/339816\\_en.html](http://www.ecoi.net/local_link/231333/339816_en.html), pristupljeno 4. decembra 2012.

<sup>34</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 49

<sup>35</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 49

<sup>36</sup> Immigration and Refugee Board of Canada: Algeria - Actions taken by the military in case of desertion; whether deserters are being ordered to report by the gendarmerie; time allowed to respond to such orders, if applicable; whether the reason for desertion appears on the order to report; the current situation of deserters (2006- September 2012), 16 October 2012 - [http://www.ecoi.net/local\\_link/231333/339816\\_en.html](http://www.ecoi.net/local_link/231333/339816_en.html), pristupljeno 4. decembra 2012.

<sup>37</sup> UK Border Agency: Algeria Country of Origin Information report, 17 January 2013 - [http://www.ecoi.net/file\\_upload/1226\\_1359360623\\_report-17jan13.pdf](http://www.ecoi.net/file_upload/1226_1359360623_report-17jan13.pdf), str 49