

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 muškarcije starije od 19 godina.^{1 2} Žene su isključene od učešća u oružanim snagama.³

Obavezni vojni rok u Alžiru traje 18 meseci,^{4 5} 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 i u vojnim kopnenim snagama.⁶

Po završetku redovne 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.^{7 8}

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.^{9 10 11}

¹ 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, pristupljeno 4. decembra 2012.

² 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, str 32

³ 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, pristupljeno 4. decembra 2012.

⁴ 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, pristupljeno 4. decembra 2012.

⁵ 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, str 32

⁶ 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, pristupljeno 4. decembra 2012.

⁷ 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, pristupljeno 4. decembra 2012.

⁸ 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, str 32

⁹ Freedom House: Freedom in the World 2012, Algeria/Political rights and civil liberties - <http://www.freedomhouse.org/report/freedom-world/2012/algeria>

¹⁰ 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, str 33

¹¹ US Department of State: Country Report on Human Rights Practices for 2011 - Algeria/Freedom of movement, internally displaced persons, protection of refugees, and stateless persons, 24 May 2012 - http://www.ecoi.net/local_link/217658/324288_en.html

Takodje, pri putovanju u inostranstvo zahteva se posedovanje "vojne karte".^{12 13} "Vojna karta" predstavlja potvrdu o odsluženoj vojnoj obavezi, i osim za putovanje u inostranstvo, može se zahtevati i pri zapošljavanju.^{14 15}

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".¹⁶ Svedočenja navode i da oni koji nisu regulisali vojnu obavezu ne mogu polagati post-diplomske ispite.¹⁷

Medjutim, u martu 2011. godine u Alžiru je doneta odluka da su svi muškarci stariji od 30 godina izuzeti su od ove obaveze, ukoliko do tada nisu odlučili vojni rok.^{18 19 20}

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 voka.^{21 22}

Svaki građanin 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.^{23 24}

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.²⁵

¹² 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, pristupljeno 20. decembra 2012.

¹³ 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, str 34

¹⁴ 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, pristupljeno 20. decembra 2012.

¹⁵ 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, str 34

¹⁶ 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, pristupljeno 20. decembra 2012.

¹⁷ 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, pristupljeno 20. decembra 2012.

¹⁸ 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, pristupljeno 4. decembra 2012.

¹⁹ 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, str 34

²⁰ 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, pristupljeno 20. decembra 2012.

²¹ 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, pristupljeno 20. decembra 2012.

²² 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, str 34

²³ 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, pristupljeno 4. decembra 2012.

²⁴ 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, str 35

²⁵ 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, str 34

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

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.^{30 31}

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

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.^{33 34}

Ako vojnik dezertira u oružanu grupu ili među neprijateljske redove, maksimalna kazna je pogubljenje.³⁵

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.³⁶

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.³⁷

²⁶ 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, pristupljeno 4. decembra 2012.

²⁷ 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, str 35

²⁸ 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, pristupljeno 4. decembra 2012.

²⁹ 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, str 35

³⁰ 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, pristupljeno 4. decembra 2012.

³¹ 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, str 35

³² 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, str 35

³³ 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, pristupljeno 4. decembra 2012.

³⁴ 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, str 35

³⁵ 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, str 35

³⁶ 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, pristupljeno 4. decembra 2012.

³⁷ 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, str 36

KOMENTAR/ZAKLJUČAK:

U Alžiru nepostojanje instituta 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.