



Algeria – Researched and compiled by the Refugee Documentation Centre of Ireland on 9 June 2017

Re: Is there any information on the punishment likely to be visited on an army deserter in 1996 (or as close as possible to that year) and now? Is there any information on what happens or the risk to army deserters returning to the country? What were conditions like for recruits conscripted to the army in the mid nineties?

A document published by War Resisters International in 1998, in a section titled “Draft evasion and desertion” (subsection headed “penalties”), states:

“Draft evasion and desertion are punishable under the 1971 Military Penal Code (Code de Justice Militaire (CJM)).

According to art. 40 of the Military Code, a state of emergency is equivalent to a state of war. Algeria has been in state of emergency since 9 February 1992. This means that since 1992 the punishments as applicable in wartime prevail.]

Concerning penalties for draft evasion and desertion, no distinction is drawn between conscripts and professional soldiers. For officers the penalties are heavier.

Draft evasion and refusal to perform military service (insoumission) is punishable by 3 months' to 5 years' imprisonment in peacetime. In wartime the penalty is from 2 to 10 years' imprisonment, and the convicted individual may lose all rights mentioned in art. 8 of the penal code. Officers may be dismissed. Insoumis are those called up who have not reported to the military within 30 days of a call-up notice.

The penalties for desertion are prescribed in arts. 255 to 270, depending on whether the deserter fled within the country, went abroad, or deserted to the enemy, and whether the deserter was alone or in a group.

Desertion within the country is punishable by 6 months' to 5 years' imprisonment in peacetime; 2 to 10 years' in wartime (art. 256). If more than two men desert together this is considered desertion with conspiracy and punishable by one to 6 years' imprisonment in peacetime; 5 to 15 years' in wartime (art. 257).

Desertion abroad is punishable by 2 to 10 years' imprisonment in peacetime; 10 to 20 years' in wartime (art. 258-264). In aggravated circumstances - for instance in case of desertion with conspiracy, desertion of officers, or if the deserters carried arms or ammunition - the penalty may be up to life imprisonment.

If deserters flee to an armed group or to the enemy the maximum punishment is execution (arts. 266 to 269).

Those who incite others to desert may be punished by 6 months' to 5 years' imprisonment in peacetime; 5 to 10 years' in wartime (art. 271).

Those who hide deserters or try to keep them away from prosecution may be punished by two months' to two years' imprisonment (art. 272).

Self-mutilation (in order to be unable to serve) is punishable by one to 5 years' imprisonment in peacetime; 5 to 10 years' in wartime (art. 273)." (War Resisters International (30 June 1998) *Algeria*)

A 1995 Immigration and Refugee Board of Canada (IRB) response to a request for information on the penalties for draft evasion and desertion from the Algerian army states:

"A representative of the Middle East Watch in Washington, DC provided the following information on the above subjects during a telephone interview on 24 August 1995.

The Algerian government does not consider the current situation to be a state of war or civil war as it might imply that the government is not in control of the country. The government describes the current anti-government military activities of Islamic groups as acts of 'terrorism.'

Ignoring a recall notice for military service would put an individual "at risk" since the government might suspect the individual to be a sympathizer or supporter of anti-government Islamic groups.

Although unaware of specific punishments for draft-evaders and deserters, the representative added that the punishment would depend on where these individuals live, i.e., whether or not they live in areas which are affected by anti-government activities." (Immigration and Refugee Board of Canada (1 August 1995) *Algeria: Information on the current penalties for draft evasion and desertion, including whether the punishment is different in war time and whether the Algerian government considers the current civil war to be war time, and on whether ignoring a recall notice would be interpreted as desertion or draft evasion*)

A response issued by the IRB in 1999, in a section headed "Further Considerations", states:

"In 1994, the French newspaper Libération reported that the Algerian press had published in December 1994 a notice from the high commission for national service stating that draft evaders would be arrested, brought before military tribunals and enlisted without delay. The same source reported that conscripts made up half the members of the national people's army (Armée nationale populaire-ANP) and were [translation] 'on the front lines in the fight against armed Islamist groups'.

Amnesty International's Swiss branch concluded its report on Algerian national service legislation by stating that the current legislation established very harsh punishments for Algerian deserters and draft evaders. In addition,

according to the same source, [translation] ‘the climate that currently prevails in Algeria increases the risk of torture since deserters and draft evaders can easily be taken for supporters of Islamist movements’” (Immigration and Refugee Board of Canada (1 April 1999) *Algeria: National service*)

A report from a European Country of Origin Information published by the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), in a section titled “Targeted groups (paragraph headed “Deserters (from the army, the magistrates, and the police)”), states:

“Deserters from the Algerian army indeed do face persecution as do magistrates or police officers who leave their post. They would face torture and execution upon return. The recent publication of two testimonies of former army officers - ‘La sale guerre’ by Habib Souaïdia and Nesroulah Yous’ ‘Qui a tué à Bentalha?’ - has added to the risk of these groups. Those kinds of testimonies from e.g. former officers politically active in exile such as the ‘Movement of the Free Officers’ - are a major source of trouble for the regime as they make it increasingly difficult to reject claims that the army is committing atrocities against civilians. Deserters will thus be suspected of breaking the law of silence.” (Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD) (1 November 2001) *Algeria: 7th European Country of Origin Information Seminar, Berlin, 11-12 June 2001, Final Report*, p.37)

An IRB response published in 2012, in a section headed “Desertion Abroad”, states:

“The Military Justice Code defines desertion of the Algerian Army abroad as follows:

Art. 258: A soldier shall be declared a deserter abroad if he, in peacetime, without authorization, crosses the boundaries of the national territory or, outside this territory, abandons the unit, detachment, base or formation to which he belongs or the ship or aircraft he has boarded, for three days after the absence has been recorded.

Art. 259: A soldier shall be declared a deserter abroad if he, in peacetime, outside the national territory, at the expiration of six days after the date specified for his return from leave, mission or travel, does not report to the unit, detachment, base or formation to which he belongs or the ship or aircraft he has boarded.

Art. 260: A soldier shall be declared a deserter abroad if he is absent without leave outside the national territory at the time of departure of the ship or aircraft even if he reports to the authority before the deadline under article 258 above has expired.

Art. 261: In peacetime, in the situations referred to in articles 258 and 259 above, a soldier who does not have three months of service may not be considered a deserter until he has been absent for fifteen days.

In wartime, the deadlines set out in articles 258 and 259 above and in the preceding paragraph shall be reduced, respectively, to one day, two days and five days. (ibid.)

The Military Justice Code states the following regarding sentences imposed on individuals convicted of desertion abroad:

[translation]

Art. 262: Any soldier guilty of desertion abroad may be punished by two to ten years' imprisonment in peacetime.

If the guilty party is an officer, he may be punished by five to ten years' criminal imprisonment.

Art. 263: Any soldier who has deserted abroad in one of the following circumstances may be punished by five to ten years' imprisonment:

- 1.If the guilty party took weapons or equipment from the state;
- 2.If he deserted while on duty;
- 3.If he deserted with conspiracy.

If the guilty party is an officer, he may be punished by ten years' criminal imprisonment.

Art. 264: If the desertion abroad took place in wartime or in a territory in which a state of siege or a state of emergency has been declared, the penalty is ten to twenty years' criminal imprisonment.

If the desertion abroad took place in wartime, with conspiracy, the penalty is criminal imprisonment for life.

In the situation in (1) above, if the guilty party is an officer, the maximum penalty shall be imposed. (ibid.)

Articles 265 to 270 of the Military Justice Code also indicate the prescribed prison sentences for [translation] 'desertion to an armed group' and 'desertion to the enemy or in the presence of the enemy'." (Immigration and Refugee Board of Canada (16 October 2012) *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)*)

A 1994 IRB response refers to the killing of conscripts as follows:

"According to the 9 March 1994 issue of the News Digest of the Case Management Branch of Canada Employment and Immigration, the government of Algeria, in its battle with the Islamists, is increasing the strength of the army by adding 75,000 conscripts and reservists. However, the Islamic Salvation Front (FIS) is creating pressure on new conscripts not to perform in the obligatory military service. Outside of Algiers, FIS activists have killed some conscripts to discourage other conscripts from serving in the military." (Immigration and Refugee Board of Canada (1 March 1994) *Algeria: Update to Information Request DZA16694.E on the role of conscripts and on the penalty for draft evasion*)

See also 1995 IRB response which, in a paragraph headed “Army and Police Personnel” (paragraph 4.2)

“Young army conscripts have had their throats slit by armed Islamist militants to discourage others from carrying out their obligatory military service; this has led to many desertions, sometimes of whole units. Moreover, armed Islamists have set up false checkpoints which, according to one source, ‘have cost the lives of many army and police officers. Believing they were dealing with colleagues, they had shown their identity badges, only to be decapitated ...’” (Immigration and Refugee Board of Canada (1 June 1995) *Islamism, the State and Armed Conflict*)

An Agence France Presse report published in 1999 states:

“Two people were killed and four injured in Algeria on Friday and Saturday in two attacks blamed on armed Islamists, press reports said Sunday. Two army conscripts had their throats slit Friday evening by a group of armed Islamists at a fake roadblock set up on a main road near the town of Taourirt in the Bouira region, 120 kilometers (75 miles) east of Algiers.” (Agence France Presse (24 January 1999) *Two dead, four injured in two attacks in Algeria: press*)

See also 1999 Agence France Presse report which states:

“Armed Islamic extremists have killed 14 people in a series of attacks in Algeria in recent days, newspapers reported on Thursday. Seven people were murdered overnight Wednesday while travelling on a road near Tipaza, west of Algiers, the security services said. Earlier in Tamalous, near the eastern town of Skikda, armed extremists killed five young men who had just finished their compulsory military service. The attackers also abducted four other men. Young conscripts are a frequent target for the rebel Armed Islamic Group (GIA), whose ‘rules’ forbid young people from carrying out national military service. Usually insurgents murder conscripts during their leave time or once they have returned to civilian life.” (Agence France Presse (4 March 1999) *Armed Islamic extremists murder 14 in Algeria*)

In an article published by UK newspaper The Independent a former conscript in the Algerian army describes his experiences as follows:

“In June, Reda was asked to participate in a protection force around the same village during a raid by regular troops. ‘We had to go in if there were flares sent up - but there were no flares and we went home after two hours. Next day . . . we heard that in this same village a massacre had taken place and 28 villagers had been beheaded. And that made us start thinking about who did it. I started to think that our people had been the killers.’

Two days later, Reda says, he and fellow conscripts were cleaning the barracks and searching the clothes of regular troops for cigarettes when they found a false beard and musk, a perfume worn by devout Muslims. “We asked ourselves, what were the soldiers doing with this beard?” Reda concluded that this army unit may have carried out the Sidi Moussa massacre but his alarm worsened when 26 of his fellow conscripts were driven off to another barracks at Chrea. ‘They later brought all their bodies back to us and said that they had been killed in an ambush but I am sure they were executed

because they weren't trusted any more. There had been no wounded in the 'ambush'. Maybe they talked too much. All our soldiers knew these men had been eliminated - because earlier, before they were taken away, we were told not to talk to them.'

The end of Reda's military career was not heroic. His teeth were kicked out by colleagues, he says, and he was imprisoned for a week after he was seen giving bread to prisoners. Then, ambushed while on roadblock duty on the edge of Blida, he was recognised by two armed Islamists. "They were friends of mine and they saw me in my paratroop uniform and my green beret. One of them shouted at me: 'There is plenty of time left in the year to get you. Take care of yourself and your wife and child.' I and three of the other conscripts ran away with the help of locals who gave us civilian clothes. Now I am a deserter and I am between two fires - between the terrorists and the government.'" (The Independent (3 November 1997) *Middle East: Conscript tells of Algeria's torture chambers*)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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