

**ISSUE PAPER**

**MEXICO: MILITARY SERVICE**

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**MAP**

See original

Source: *Mexico: A Country Guide* 1992, p. xvi.

## GLOSSARY

|            |   |
|------------|---|
| CONADE     | Comisión Nacional del Deporte (National Sports Commission)  |
| Conscripts | All men who participate in National Military Service (Servicio Militar Nacional: SMN) are either “placed” (must undergo weekly training for one year) or “on availability” (are not selected for or are excused from training, but are theoretically on call for a year). In this paper, only those who are placed are referred to as conscripts. |
| INEA       | Instituto Nacional para la Educación de los Adultos (National Institute for Adult Education)  |
| INEGI      | Instituto Nacional de Estadística, Geografía e Informática (National Institute for Statistics, Geography and Information Science)   |
| Private    | The lowest rank in the Mexican army and air force is <i>soldado</i> , which literally means “soldier.” It has been translated as “private” in order to avoid confusion with the word “soldier” in its usual meaning in English.   |
| Remiss     | In Spanish, <i>remiso</i> . The term used by SEDENA to refer to men who either failed to register for military service during the year in which they turned 18, or who, having done so, failed to report for duty the following January. Men in this category routinely do their military service in subsequent years.                            |
| SEDENA     | Secretaría de la Defensa Nacional (Secretariat of National Defence). SEDENA is responsible for the Mexican army and air force. The navy has its own secretariat ( <i>Europa 1998 1998</i> , 2308).  |
| SEP        | Secretaría de Educación Pública (Secretariat of Public Education)   |
| SMN        | Servicio Militar Nacional (National Military Service). The one-year program of weekly training and education for men who registered and were selected for military service in the year in which they turned 18.   |

## **1. INTRODUCTION**

The purpose of this paper is to provide technical and legal information on matters related to military service in Mexico. An effort has been made to provide the reader with information on the nature of the conscription process in Mexico, training received by conscripts, military identity cards, voluntary enlistment and re-enlistment in the armed forces, evasion of conscription and desertion. It will also discuss the services that conscripts render.

Conscripts in the National Military Service (Servicio Militar Nacional: SMN) are considered to be technically a part of the army and air force (SEDENA 23 Aug. 1999e); however, unlike the training received by professional contract soldiers (SEDENA 23 Aug. 1999b), SMN training is largely non-military in nature, with a rudimentary military component (see subsection 2.4). Many conscripts either receive or impart literacy and basic education while performing their SMN, due to an agreement signed in October 1996 between Mexico's Secretariat of National Defence (Secretaría de la Defensa Nacional: SEDENA) and the Secretariat of Public Education (Secretaría de Educación Pública: SEP) (*La Jornada* 10 Oct. 1996) (see subsection 2.4).

Thus SMN conscripts are not part of the Mexican armed forces in any practical sense. Although called "national military service," conscription is essentially a national public education and public works program run by SEDENA, with the participation of other government departments, in which a selected group of young men are obliged to participate for six hours a week. Those who become soldiers, pilots, ground crew and sailors in Mexico's armed forces are volunteers (*Mexico: A Country Guide* 1992, 55; *La Jornada* 19 Feb. 1999) who serve on the basis of contracts (see section 4).

## **2. OBLIGATORY MILITARY SERVICE**

### **2.1 The Conscription Process: Registration**

Mexico's Military Service Law states that all Mexican men should register for military service in the year in which they turn 18 years of age, and begin their one year of active military

service, if applicable, in January of the following year (Mexico 11 Sept. 1940, Art. 4). The number of registrants for military service who must perform active duty is determined on an annual basis by the Secretariat of National Defence (Mexico 11 Sept. 1940, Art. 14). Accordingly, for example, Mexican men born in 1981 must register for military service in 1999, specifically between 2 January and 15 October (SEDENA 6 Aug. 1999). Registration (*alistamiento*) can be done at municipal recruiting boards (*juntas municipales*), recruiting offices (*delegaciones de reclutamiento*), or, in Mexico City, at local government offices (*delegaciones políticas*) (ibid.; see also Mexico 11 Sept. 1940, Art. 11). If the registrant lives outside the country, he must report to the nearest Mexican consulate to register between January and September (ibid.; ibid. 1999b, 37).

For the purposes of the registration process, registrants for military service are divided into three categories: “of the class” (*de clase*), meaning those who register in the year in which they turn 18; “remiss” (*remisos*), meaning those who register after the year in which they turn 18 or who registered the year they turned 18 but failed to report for duty the subsequent year (ibid. 6 Aug. 1999; ibid. 9 Aug. 1999b); and “anticipated” (*anticipados*), meaning those who are 16 or 17 years of age (ibid. 6 Aug. 1999). Registration is possible at ages 16 and 17 with permission of the Secretariat of National Defence and the registrant’s father or guardian (ibid.). This is known as “early incorporation” (*anticipo de incorporación*) (ibid.). As a rule Mexican men are not prosecuted for failing to register for military service during the year in which they turn 18 (Benítez Manaut 21 Sept. 1999).

Although registration for national military service is universal for men, most men are not actually conscripted (Benítez Manaut 21 Sept. 1999; see also Response to Information Request MEX30345.E of 30 October 1998, available at Regional Documentation Centres, in the REFINFO database and on the IRB Website at < [www.irb.gc.ca](http://www.irb.gc.ca) >). The Mexican press reported that in May 1996 there were 41,755 conscripts in Mexico (*La Jornada* 6 May 1996); 38,961 conscripts completed their military service in 1997 (SEP n.d.a). The International Institute for Strategic Studies estimated that as of August 1997 personnel in the Mexican armed forces (army, air force and navy) numbered 175,000, including approximately 60,000 conscripts (*The Military Balance 1997/98* 1997, 221). The Mexican government’s statistics department reports that in



1997 there were 4,970,642 males aged 15 to 19 in Mexico (INEGI 10 Feb. 1999). An estimated 1,077,800 males reached military age in 1998 (United States CIA 1998).

### **2.1.1 Exemptions, Deferments and Travel**

Permission for a deferment of military service (*aplazamiento*) may be obtained for students, for Mexicans living outside the country, for those who are on trial or serving a sentence in the year in which they turn 18, and for those who will be responsible for supporting a family during the five years following the age of registration for military service (Mexico 11 Sept. 1940, Art. 26). Registrants wishing to obtain a deferment on one of those grounds must provide supporting documentation and pay a fee of 85 pesos<sup>1</sup> (SEDENA 23 Aug. 1999a). Those who have received a deferment are excused from participating in the SMN lottery (see subsection 2.3) (SEDENA 9 Aug. 1999d).

A registrant may be excused from military service on the following grounds: physical or mental incapacity, membership in the clergy, moral impediments, being the son of foreigners, being a Mexican citizen holding citizenship in another country, being a native-born Mexican over 40 years of age, and being a naturalized Mexican citizen over 25 years of age (*ibid.* 23 Aug. 1999a).

Registrants may also obtain permission to leave the country, and to do so they must inform SEDENA where they will be going (country and city) and when they will be out of the country, and they must pay a fee of 85 pesos (*ibid.*). Regulations covering 1999 stipulate that a conscript who was recruited in 1999 can leave the country only with the permission of the recruiting office of his local military zone, and the period of absence cannot exceed seven weeks, and must end by 1 December 1999 (*ibid.* 1999b, 28).

## **2.2 The Conscription Process: Military Identification Cards**

Under Mexico's Military Service Law, for the purposes of military service all men are considered to be members of the "class" of the year in which they were born (Mexico 11 Sept. 1940, Art. 13). Upon registration for military service, all Mexican men of military age receive

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<sup>1</sup> On 16 September 1999 CAN\$1=6.353292 Mexican pesos (Bloomberg Online 16 Sept. 1999).

free of charge an identity card (*cartilla de identidad militar*) (ibid., Art. 49; SEDENA 6 Aug. 1999). The card contains the following information: the “class” the bearer belongs to, his name, date and place of birth, parents’ names, civil status, occupation, literacy, level of schooling attained, home address, whether or not he has executed his military obligations and whether or not he has been excused from military service or has received a deferment, as well as a photograph and two thumbprints of the bearer and a registration number (Mexico 11 Sept. 1940, Art. 49; SEDENA 1999a, Annex D).

To receive his military identity card, a native-born Mexican man must present four 35 x 45 mm unretouched colour photographs without beard or hat, a certified copy of his birth certificate, a proof of address (such as a utility bill), and proof of highest level of schooling attained (ibid. 6 Aug. 1999). If the registrant is a naturalized Mexican citizen between 18 and 40 years of age, he must also present his naturalization card, issued by the Secretariat of Foreign Relations (Secretaría de Relaciones Exteriores) (ibid.). Native-born Mexicans who have become nationals of another country, if they acquired their other citizenship before 20 March 1998, must also present a document that proves that they have the other nationality, such as a passport, as well as a declaration of Mexican nationality by birth, issued by Mexico’s Secretariat of Foreign Relations (ibid.). Native-born Mexicans who have become nationals of another country and who have acquired their other citizenship after 20 March 1998 are not obliged to submit a declaration of Mexican nationality by birth (ibid.).

As noted above, a native-born Mexican aged 16 or 17 may also obtain a military identity card, and in order to do so he must submit the same documentation as the other classes of registrants, as well as a written request to the General Directorate of Personnel of the Secretariat of Defence or to the nearest recruiting office for the local military zone, the consent of his father or guardian, and a birth certificate certified by the civil registry (ibid.).

A lost or worn-out military identity card may be replaced by providing the registrant’s military identity number and two colour photographs 35 x 45 mm (ibid. 23 Aug. 1999a). This procedure costs 85 pesos (ibid.).

If there is a mistake in the military identity card, the registrant can have it corrected by presenting a certified copy of the birth certificate, a note from a judge if a name or date of birth

is to be changed, and four 35 x 45 mm colour photographs (*ibid.*). This procedure also costs 85 pesos (*ibid.*).

### **2.3 The Conscription Process: the Lottery**

Mexico's Military Service Law prescribes conscription by lottery (*sorteo*), unless the number of registrants for military service does not exceed the number of men required for active duty (Mexico 11 Sept. 1940, Art. 15). Men who have registered for military service over the course of a given year participate in that year's military service lottery (SEDENA 9 Aug. 1999d).

As noted above (subsection 2.1), the Military Service Law prescribes registration for military service in the second half of the year in which the registrant turns 18 years of age, and service begins in January of the following year. In conformity with this, in 1999 lots are drawn on Sundays in November, and registrants are informed by their local municipal office or recruiting office when and where to go to participate (*ibid.*). Registrants who draw a white or a blue ball are considered to be performing their SMN with the status of "placed" (*encuadrado*) and as such must undergo training: with the army or air force for those who draw a white ball, with the navy for those who draw a blue ball (*ibid.*). Registrants who draw a black ball are considered to be performing their SMN with the status of "on availability" (*en disponibilidad*) (SEDENA 9 Aug. 1999d) and are required to be available for training if called upon (Mexico 11 Sept. 1940, Art. 15).

The lottery is conducted in public in the presence of the members of the local municipal recruitment committee and military inspectors (*ibid.*). The men who comprise the local "contingent" (i.e. men who have registered for military service and are participating in the lottery) have the right to choose from among themselves three men who will represent the entire contingent as witnesses at the lottery draw (*ibid.*). Each member of the municipal recruitment committee and each of the three representatives of the contingent will receive a copy of the list of names of the members of the contingent (*ibid.*). A covered box is filled with balls corresponding in number to the number of members of the local contingent (*ibid.*). The president of the recruitment committee names the contingent members whose names appear on the list, and as he does so a ball corresponding to the contingent member being named is pulled out of the box (*ibid.*). In this way a list of conscripts is compiled (*ibid.*; SEDENA 9 Aug. 1999d).

Registrants who are “of the class” but have not completed their basic education (*educación básica*—see subsection 2.4 for the legal definition) are considered to have drawn a white ball (*ibid.* 1999b, 9). Excluded from the lottery are Mexicans who perform their SMN in the First Military Service Company in Mexico City (see subsection 2.4), those who have voluntarily joined the armed forces, those who are over 40 years of age, naturalized Mexican citizens over 25 years of age, and Mexicans who have another nationality (*ibid.*, 10). Those who live in a community classified as “remote” (*lejana*) are excluded from the lottery and serve on availability (see subsection 2.4) (*ibid.*); Mennonites also serve on availability (*ibid.*, 20).

Once the lots have been drawn, the results are published at the local registration office, and registrants must then present their military identity cards to be stamped with a legend indicating the colour of the ball they drew in the lottery (*ibid.* 9 Aug. 1999d).

## 2.4 Recruitment and After

After men of military age have undergone the processes of registration and the lottery, they undergo the recruitment process (*reclutamiento*) the following January (*ibid.*; Mexico 11 Sept. 1940, Art. 4). Accordingly, on weekends in January 2000, those who registered for military service in 1999 will submit their military identity cards to the military authorities (SEDENA 9 Aug. 1999b). “Remiss” registrants who registered in years previous to 1999 but failed to submit their military identity cards the following January will also be required to submit their cards in January 2000 (*ibid.*). In addition, registrants submitting their military identity cards must present a photocopy of proof of highest level of schooling attained and a certified photocopy of their birth certificate and a photocopy of their population registry code (*clave única de registro de la población: CURP*)<sup>2</sup>, if they have one (*ibid.*). Upon submitting his military identity card, the registrant is given a receipt indicating his military zone, the record number (*número de folio*), the name and location of the place where the registrant submitted his military identity card, the

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<sup>2</sup> A document posted on the Internet by the Mexican Social Security Institute (Instituto Mexicano del Seguro Social: IMSS) states that the CURP is a code consisting of 18 letters and digits assigned on the following basis: four letters based on the first letter and first vowel of the bearer’s paternal family name, the first letter of the bearer’s maternal family name and the first letter of the bearer’s first given name; six numbers for the year, month and day of birth; one letter, H for man or M for woman; a two-letter code for the bearer’s state of birth, or DF if the bearer was born in the Federal District (Mexico City); the three first internal consonants of the bearer’s first family name, second family name and first given name; a letter or number assigned by the Secretariat of the Interior (Secretaría de Gobernación); and a number assigned by the Secretariat of the Interior (IMSS 23 Feb. 1999).

registrant's form of service (placed or on availability), and the name, class and registration number of the registrant (ibid. 1999a, Annex K). At this point, those who are placed are given instructions on when to report to an army, air force or navy training centre to begin their training (ibid. 1999b, 17).

When a man has completed his term of duty as placed or on availability, a special page called the "discharge form" (*hoja de liberación*) is attached to his military identity card, which is then given back to him (ibid. 1999a, Annex K; ibid. 9 Aug. 1999a). The discharge form bears the date of 31 December of the year in which he completed his duty, signed by the Director-General of the Directorate General of National Military Service and a stamp (*visa*), signed by the Deputy Director-General (*Subdirector General*) of National Military Service (SEDENA 1999b, 31, 32). The reserve to which the bearer belongs is indicated on the back of the form (ibid.). Registrants receive their military identity cards with the discharge form attached at military identity card distribution points (*puestos de entrega de cartillas*) during the first two weekends of December of the given year (ibid. 9 Aug. 1999a). For those who live abroad, a "discharged" military identity card can be obtained at the Mexican consular office where the registrant registered for military service, in December of the following year (ibid.). A discharged military identity card is among the documentation required to be presented in order to obtain a Mexican passport (Embassy of Mexico in the United States 22 Oct. 1998b; War Resisters' International Sept. 1998, 199).

If a conscript accumulates four unjustified absences from his weekly SMN training sessions, he will be dismissed from SMN (SEDENA 1999b, 27). Eight justified absences will also result in dismissal, as two justified absences are considered equal to one unjustified absence (ibid.). In 1999 absences were counted starting on Saturday, 6 February (ibid.). Dismissal from SMN means that the conscript will not receive his discharged military identity card (ibid., 33).

For information on the use of military identity cards in support of job applications and applications for Mexican passports, please see Response to Information Requests MEX32298.E of 2 July 1999, MEX27815.E of 22 September 1997, MEX25130.E of 23 September 1996, MEX22850.E of 1 February 1996 and MEX22851.E of 1 February 1996, available at Regional Documentation Centres, in the REFINFO database, and on the IRB Website at < [www.irb.gc.ca](http://www.irb.gc.ca) >.

As noted above, Mexicans may perform their National Military Service (SMN) either as placed or on availability (SEDENA 9 Aug. 1999d). The majority of those who are placed undergo training for six hours a day on Saturdays for one year (*ibid.* 23 Aug. 1999c; *ibid.* 1999b, 27). For those doing their SMN in one year, their term of service begins in early February (*ibid.*) and ends on the first Saturday of December (*ibid.*, 26). The uniform worn by conscripts serving in the “one-year” option consists of the following: red baseball-type cap, navy-blue denim pants, a white t-shirt bearing the letters “S.M.N.”, and black shoes and belts (*ibid.*, 26, 27). Those on availability may be called upon to perform community service (*labor social*), for a maximum of six hours a month (*ibid.*, 24).

Conscripts who perform their SMN over one year follow a general training program that includes the following: drill (*orden cerrado*) (e.g. marching and saluting), disaster-relief (Plan DN-III-E) (SEDENA 1999a, Annex A, VI, B, b, 2; Annex A, Appendix 3; Annex B, Appendix 5; Annex C, Appendix 5; Annex P, I; see also SEDENA 29 July 1999), first aid and cardio-pulmonary resuscitation (*ibid.*, Annex P, III), and civic-military education (*educación civico-militar*), which includes instruction on the structure of the army and the duties of soldiers, the Military Code of Justice, national symbols (e.g. the national seal, flag, and national anthem) and public security (including instruction on the Civil and Penal Codes) (*ibid.*, Annex P, II). None of the SEDENA documents dealing with SMN consulted by the Research Directorate make any mention of combat training or training with weapons.

In addition to the general program of military training, conscripts discharging their duties in the “one-year” stream do so within the framework of one of the following programs: adult education under the SEDENA-SEP-INEA program, sports promotion under the SEDENA-SEP-CONADE program, or community service (*ibid.* 23 Aug. 1999c).

After the period during which they are considered “on active duty” (*en el ejército activo*) conscripts are in the first reserve until age 30 and in the second reserve until age 40 (Mexico 11 Sept. 1940, Art. 5; Embassy of Mexico in the United States 22 Oct. 1998a). In practice, reservists have never been mobilized in Mexico (Aranda 29 Aug. 1999; Benítez Manaut 21 Sept. 1999).

### 2.4.1 Adult Education

On 9 October 1996 an agreement was signed between Mexico's Secretariat of National Defence (SEDENA) and the Secretariat of Public Education (SEP) under the terms of which placed conscripts would be trained to teach basic literacy skills to adults, with the participation of the National Institute for Adult Education (Instituto Nacional para la Educación de los Adultos: INEA) (*La Jornada* 10 Oct. 1996). Under the agreement, conscripts able to do so, serve as advisors (*asesores*), and other conscripts are given the opportunity to learn to read or complete their primary or secondary school education, serve as receivers (*receptores*) (SEDENA 1999b, 8; see also *La Jornada* 10 Oct. 1996).

Advisors in the SEDENA-SEP-INEA program receive special training to lead "study circles" (*ibid.* 9 Aug. 1999c). These advisors receive their training in February and March in their year of service (*ibid.* 1999a, Annex A, IV; *ibid.*, Annex A, VI, B) and provide these study circles, composed of conscripts and/or people from the general population over 15 years of age, with basic education (*ibid.* 9 Aug. 1999c). Basic education is defined by SEDENA as literacy, primary and secondary school or equivalent (*ibid.*).

Men of military age who have not completed their basic education (SEDENA 23 Aug. 1999c; see also *El Informador* 17 Nov. 1998) or who are unable to provide documentation proving their highest level of education attained (SEDENA 23 Aug. 1999c) are assigned to the SEDENA-SEP-INEA program study circles, with the goal of receiving official accreditation from SEP upon completing their military service (*ibid.*; see also *El Informador* 17 Nov. 1998). Males who have received permission to perform their SMN at ages 16 and 17 (*anticipados*) and who have not completed their basic education will also be placed as receivers in the SEDENA-SEP-INEA program (*ibid.* 1999b, 16).

SEP reported that participants in the SEDENA-SEP-INEA program who are taking primary or secondary education courses receive three hours a week of basic education courses plus one hour a week on "youth in Mexico and its characteristics," relating to matters such as sexuality, work and health (SEP n.d.b).

### **2.4.2 Sports Promotion**

Conscripts can also participate in the SEDENA-SEP-CONADE (CONADE is the Comisión Nacional del Deporte: the National Sports Commission) program, which is aimed at promoting sports among Mexican youth with the participation of the military (SEDENA 23 Aug. 1999f). Conscripts who will serve as sports promoters for the SEDENA-SEP-CONADE program are chosen for the program on Saturdays and Sundays in January of the year of their military service (ibid.). Suitability for the position of sports promoter is determined by a questionnaire filled out by the conscript (ibid.). Each SMN training centre has a group called the Sports Promoters Group (Grupo de Promotores Deportivos) (SEDENA 23 Aug. 1999f), not to number over 60 conscripts (ibid. 1999a, Annex B, V, B, b).

To participate in the sports promoter program, a conscript must have basic education, or a background of studies related to sports, or a distinguished personal background in either sports or community leadership, and live in an area where the government supports the program (ibid. 23 Aug. 1999f). Sports promoters work alone or in pairs (ibid. 1998a, Annex B V B), and work with the general community, including children aged eight and older (SEDENA 23 Aug. 1999f). Sports promoters organize exercises, games, meetings, tournaments and recreational festivals (ibid.).

### **2.4.3 Community Service**

Each military training centre has a community service group, with a maximum of 100 conscripts (SEDENA 1999a, Annex C, V, A). The community service group receives special training in its duties in February and March, including eight hours of instruction on Mexico's DN-III-E disaster relief plan (ibid., Annex C, V, D).

Conscripts participating in the program specialize in various types of work including masonry, carpentry, metalworking, electricity, painting, reforestation, and medical and dental services (ibid. 23 Aug. 1999d). Among the community service activities of SMN conscripts are maintenance of public schools and government installations, improving streets and rural roads, fire-fighting, disaster relief and sanitation projects (ibid.; *El Informador* 12 Dec. 1998), medical and dental services, haircutting, drainage, sewage disposal and water treatment (SEDENA 1999b, 22).



#### **2.4.4 “Reserve” Conscripts**

Twenty per cent of the conscripts assigned to any given training centre are considered “reserve” (SEDENA 1999b, 13). These conscripts begin their service in the community service program (*ibid.*, 21), and if by the training session on the last Saturday in April a reserve conscript is not called on to fill a vacancy from among the other 80 per cent of conscripts assigned to the training centre, he will be put on availability and excused from further participation in weekly training sessions (*ibid.*, 22).

#### **2.4.5 First National Military Service Company**

Conscripts may request to join the First National Military Service Company (Primera Compañía del Servicio Militar Nacional) in Mexico City, a body composed of 120 conscripts in which military training is combined with community service and recreational activities on Mondays to Saturdays for three months (SEDENA 1999b, 11, 57; *ibid.* 23 Aug. 1999c). Applicants to the First National Military Service Company must have at least primary school education and must support their applications with two personal references (*ibid.*). Service in the First National Military Service Company differs from the service performed by the majority of conscripts, discussed above, in that more emphasis is placed on the military aspect of the training in the First National Military Service Company and the conscripts wear army uniforms (Benítez Manaut 21 Sept. 1999).

### **2.5 Enforcement**

All Mexican federal, state and municipal government employees are obliged to ensure that citizens with whom they have professional dealings have executed their military obligations, and in the event that they have not, must direct them to the relevant authorities (Mexico 11 Sept. 1940, Art. 20). Migration officials are obliged to demand evidence of proper authorization from Mexicans leaving the country (*ibid.*, Art. 60). Failure to do so may result in a two to six months’ suspension from work (*ibid.*).

All persons who know about any violation of the Military Service Law are obliged to inform the authorities of the violation, or face up to 15 days’ detention (*ibid.*, Art. 64).

Punishment does not apply if the violation of the Military Service Law is committed by a grandfather, father, brother, son or spouse (*ibid.*).

Land, sea and air transportation companies that transport outside the country Mexican men of military age who have not received the proper authorization to leave the country are subject to a fine of from one to 5,000 pesos, except for companies which provide international transportation between two border communities (*ibid.*, Art. 59). The Military Service Law defines military age as 18 to 40 (*ibid.*, 5<sup>th</sup> Trans. Art.).

### **3. PENALTIES FOR CONSCRIPTION EVASION**

All legal references in this section are to Mexico's Military Service Law of 11 September 1940. The text of the law was posted on the Internet by Mexico's federal Chamber of Deputies < <http://www.cddhcu.gob.mx/> >. The most recent amendments (*reformas*) on the website are from 23 January 1998.

An act intended to cause a person of military age to avoid registration for military service, whether committed by the person himself or by a third party, could result in prosecution before a federal court and the responsible party is subject to a prison sentence of one month to one year (Mexico 11 Sept. 1940, Art. 50). The same penalty may be applied to persons who, being of military age and without just cause, fail to report to recruitment committees or offices or fraudulently procure exemptions from recruitment committees or offices, and to members of recruitment committees or offices who illicitly help one or more men of military age to avoid registration (*inscripción*) or the lottery or to procure an unjustified exemption (*ibid.*, Art. 51). However, as noted in section 2.1, men are generally not prosecuted for failing to register for military service during the year they turn 18 (Benítez Manaut 21 Sept. 1999).

A man whose conscription into active duty has been published or who has been notified personally of his conscription into active duty and who without just cause fails to report to the relevant authorities within three days of the date he was to report for active duty, shall be imprisoned for 30 days (*ibid.*, Art. 53). The same punishment is provided for by Mexico's Code of Military Justice, which states that conscripts who as a result of the lottery are obliged to report for active duty and fail to do so within the designated period of time are considered to be

committing the crime of insubordination (*ibid.* 31 Aug. 1933, Art. 275). The Code of Military Justice adds that the prison sentence does not absolve the offender of the obligation to perform his military service (*ibid.*).

Anyone who hides a person fleeing military service shall be imprisoned for a term of one to six months, and if the offence is repeated the penalty shall be doubled (*ibid.* 11 Sept. 1940, Art. 54).

Anyone who intentionally, by his own hand or by the hand of another acting on his behalf, partially or totally disables himself in order to avoid military service, after having been inscribed on the list of those who must participate in the lottery for military service, shall be imprisoned for a term of six months to one year, as will anyone who, at the request of another person, disables the same for the same purpose (*ibid.*, Art. 56).

Those who fail to report changes of address as stipulated by the terms of the Military Service Law shall be detained for a period of two to fifteen days (*ibid.*, Art. 58). In time of war the punishment shall be one to six months' imprisonment (*ibid.*).

Penalties of detention (*arresto*) and imprisonment imposed under the terms of the Military Service Law are not commutable (*ibid.*, Art. 62). In addition, conscripts who serve prison terms under Articles 50, 51, 53, 54 and 56 of the Military Service Law must begin their military service as soon as their prison terms end (*ibid.*, Art. 57).

Penalties for desertion from the Mexican military are outlined in the Appendix.

## **4. VOLUNTARY ENLISTMENT AND RE-ENLISTMENT IN THE ARMED FORCES**

### **4.1 Army and Air Force**

The rules governing voluntary enlistment and re-enlistment in Mexico's army or air force vary, depending on the class of military personnel to which the individual belongs. Under the Organic Law of the Mexican Army and Air Force (*Ley Orgánica del Ejército y Fuerza Aérea Mexicanos*), military personnel are divided into three classes: arm (*de arma*), service (*de servicio*) and auxiliary (*auxiliares*) (Mexico Dec. 26 1986, Art. 133). Information on contracts of service in the Mexican army or air force can also be found in Response to Information Request

MEX30170.E of 7 October 1998, available at Regional Documentation Centres, in the REFINFO database, and on the IRB Website at < www.irb.gc.ca >.

The arm class comprises those who receive technical training to command, train and lead combat units, and they are considered permanent and professional members of the military (Mexico 26 Dec. 1986, Art. 134). The service class comprises those who receive technical training to command, train and lead service units and exclusively to discharge technical and professional activities in their field (ibid., Art. 135). Members of this class are also considered permanent and professional members of the military (ibid.). The auxiliary class is composed of those who carry out technical and professional functions exclusively in the services of the army and air force on a contract basis (ibid., Art. 136).

The arms of the Mexican army are infantry, cavalry, artillery, armour and engineers (ibid., Art. 56). The services of the Mexican army and air force are cartography, communications, war materials, transport, administration, quartermaster, sanitation, justice, veterinary and remount, meteorological, air traffic control, air material and engineering (ibid., Art. 68). The Organic Law of the Mexican Army and Air Force does not provide details on the difference between engineers as an arm and engineers as a service.

Those who voluntarily join the Mexican army or air force are bound by a contract of service not to exceed three years if they are classified as “arm” or “service,” and not to exceed five years if they are classified as “auxiliary” (ibid., Art 153).

Those classified as arm or service and who hold the rank of corporal or private may have their contracts renewed by SEDENA; in the case of those holding the rank of private, the initial contract plus subsequent renewals shall not exceed nine years (ibid., Art. 154).

Those classified as auxiliary and who hold the rank of private, corporal or sergeant<sup>3</sup> can be rehired for periods of service not exceeding five years as many times as SEDENA sees fit, until those individuals reach the maximum age of service in the army or air force (ibid., Art. 156). This, according to the Mexican Armed Forces Social Security Institute Law, is 45 years of age for privates, corporals and sergeants, and for higher ranks, ranges from 46 for sub-

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<sup>3</sup> Article 129 of Mexico’s Organic Law of the Mexican Army and Air Force defines “rank and file” personnel (*tropa*) as privates (*soldado*) and noncommissioned officers (*clases*), i.e. first sergeants, second sergeants and corporals (Mexico 26 Dec. 1986).

lieutenants (*subtenientes*) to 65 for division generals (*generales de división*) (ibid. 29 June 1976, Art. 23).

Those between the ages of 16 and 18 may be admitted into the army for the purpose of training as technicians in the signal corps on the basis of a contract not to exceed five years (ibid. 11 Sept. 1940, Art. 24).

Civilians who study in military schools are obliged to sign contracts to serve in the army or air force for a period of time at least double that in which they studied (ibid. 26 Dec. 1986, Art. 150). Members of the army and air force who take time from their regular duties to study are required to serve one additional year of duty for every year in which they were studying, two years if the study was abroad and at their own expense, three years if the study was abroad and at the Mexican government's expense (ibid.).

## 4.2 Navy

The conditions of voluntary enlistment and re-enlistment in the Mexican navy depend on the individual's rank. The General Ordinance of the Navy (*Ordenanza General de la Armada*) states that apprentice sailors and apprentice stokers (*grumetes y aprendices de fogonero*) sign contracts for five years' service (ibid. 8 Jan. 1912, Art. 32). Personnel holding the rank of first and second sailor (*marineros de primera y segunda clase*) and their equivalents sign contracts for three years' service (ibid., Art. 33). Sea corporals and cannon corporals (*cabos de mar y de cañón*), warrant officers (*contramaestres*), gunners (*condestables*), masters of arms (*maestres de armas*), sea officers (*oficiales de mar*) and their equivalents are obliged to sign service contracts for two years (ibid., Art. 34). Noncommissioned officers and sailors (*clases y marinería*) and equivalent ranks are entitled to renew their contracts of service for periods of two years (ibid., Art. 39). Noncommissioned officers and sailors include the following ranks: first sailor, second sailor, apprentice sailor, first cannon corporal, second cannon corporal, first sea corporal, second sea corporal, first master of arms, second master of arms, third master of arms, first gunner, second gunner, third gunner, first warrant officer, second warrant officer, third warrant officer and first sea officer (ibid., Art. 13).

In addition, the General Ordinance of the Navy provides for recruitment of apprentice sailors from age 14 and of apprentice stokers from age 17, with the permission of their parents in the cases of minors (*ibid.*, Art. 32).

## NOTES ON SELECTED SOURCES

### **Aranda, Jesús**

A journalist specializing in military matters for the Mexico City daily newspaper *La Jornada*.

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**APPENDIX: SELECTED TRANSLATED ARTICLES FROM MEXICO'S CODE OF MILITARY JUSTICE, DEALING WITH DESERTION**

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CODE OF MILITARY JUSTICE

Article 122

The penalties are:

- I. Ordinary imprisonment
- II. Rigorous imprisonment
- III. Suspension of military employment or commission
- IV. Dismissal, and
- V. Death

Article 123

All penalties involving time to be served in prison have three degrees: minimum, medium and maximum. In the event that the law stipulates a single degree, it shall be deemed to be medium, and the minimum and maximum degrees shall be established by subtracting or adding one-third to that term. In the event that the law stipulates a minimum and maximum degree, the medium shall be half way between the two.

Article 128

Ordinary imprisonment consists of the loss of freedom for between 16 days and 15 years. The latter term may not be increased on account of accumulation [of sentences] or recidivism, and shall be subject only to extensions for misconduct, when warranted.



Article 129

Persons sentenced to ordinary imprisonment shall serve their terms in a military or common prison or at the place designated by the War and Navy Department.

Article 130

Rigorous imprisonment is applied in lieu of the death sentences in the cases expressly authorized in this Code. It shall last for 20 years and be served under the terms established in the preceding article.

Article 137

Sergeants and corporals who have been dismissed shall lose the rights they acquired during their term of service and the right to wear medals or decorations and shall be discharged, unless they have not served out the time for which they enlisted, in which event they shall continue to serve as soldiers, wherever possible in a different body or branch than the one to which they belonged. They shall not lose the right to regain their former rank through promotion, except during the time they are on probation.

Article 153

Minors under the age of 18 who are serving in the army for any reason [and who commit an offence] shall be punished with one half of the penalty established in this law for the offence they committed.

Article 154

Students in military schools shall be subject to the same penalties in the same degree established in the preceding article.

Article 174

Substitution may be made in the following cases:

I. When the penalty is capital punishment and the accused is a woman or is under the age of 18 or over the age of 60 at the time the sentence is handed down, or when five years

have elapsed between the time that the crime was committed and the time of arrest, even though a sentence had been handed down [in absentia];

II. For an offence that has not caused injury or scandal and the penalty is not more than six months imprisonment, if this is the first offence and the accused had previously demonstrated good conduct and other circumstances exist that merit being taken into consideration; and

III. When expressly stated in the law.

#### Article 175

In cases under subsection I of the preceding article, the death penalty shall be replaced with rigorous imprisonment. In cases under subsection II, the sentence shall not be executed but the offender shall be admonished.

#### Article 176

Punishments may be commuted by the President of Mexico after final sentences imposing capital punishment have been handed down, if any of the following apply:

I. The accused is sixty years of age or over;

II. The accused can convincingly show that the punishment is not warranted on account of personal circumstances;

III. When a law has been passed changing the nature of the punishment;

IV. When he deems warranted on account of the time that has passed since the crime was committed or for any other reason of public convenience; and

V. When he grants an amnesty.

#### Article 177

The death penalty shall be commuted into rigorous imprisonment. In the case of subsection II of the preceding article, the circumstance that makes the punishment inapplicable shall be modified [sic] and in the case of subsection III the punishment shall be commuted for the sentence established in the new law.

Article 178

The Federal Executive Branch may reduce the penalty imposed under a final sentence in the following cases:

- I. When the prisoner is serving a sentence which is the outcome of a pardon or commutation of a sentence of capital punishment, and a law is passed reducing the punishment for the crime for which the person had been condemned, the prisoner's sentence shall be reduced to the maximum stipulated in the new law; and
- II. When no accumulation of penalties was performed [sic].

Article 255

The following shall be grounds for considering that enlisted men not on duty have deserted, if no other evidence is available:

- I. When they are absent from the administrative roll call without a legitimate reason and do not report to justify their absence within the following 24 hours;
- II. When they are absent, without justification, from morning and evening roll call in the troop to which they belong or the unit of which they form part;
- III. For sailors, when they remain ashore after their ship sails, provided they were notified of the sailing in a timely fashion, or when they are absent from duty aboard the ship for three consecutive days; and
- IV. When without permission from their superior, they leave their camp or garrison for a night or when, in peacetime, they are more than 20 kilometres away from their camp, 40 from their garrison, or 15 from the port where their ship is anchored; and in wartime, at any distance from their post, ship or military point.

Article 256

Deserters under the preceding article shall be punished in peacetime:

- I. With two months imprisonment in their barracks or ship, without detriment to the service,<sup>4</sup> if they report voluntarily within eight days, counting from the day on which they illegally left the military service;

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<sup>4</sup> This is completely opaque. It might mean that they are still required to serve out the term for which they enlisted. Translator.

II. With three months imprisonment in their barracks or ship, without detriment to the service, if they report after the deadline stipulated in the preceding subsection; and

III. With six months imprisonment in their barracks or ship, without detriment to the service, or in police or military jails, if they were apprehended.

#### Article 257

Enlisted men who ought to be condemned simultaneously for several of the offences referred to in the preceding article or for just one of them, but who have already been convicted of another offence of the same kind in a final sentence already handed down, shall be punished:

I. With four months imprisonment in a barracks or ship, without detriment to the service, if they report voluntarily within eight days counting from the date on which they illegally left military service;

II. With six months imprisonment in a barracks or ship, without detriment to the service, if they report after that deadline; and

III. With eight months imprisonment in a barracks or ship, without detriment to the service, or in police or military jails if they were apprehended.

#### Article 258

Sergeants and corporals who are punished with imprisonment for having been apprehended in any of the circumstances described in the two preceding articles shall be dismissed; in the other cases in those two articles, apart from serving their sentences, they shall be suspended for a time equal to the length of their sentence and they shall serve, during both periods, as soldiers in the service to which they are assigned which, whenever possible, shall be under the terms of Article 135, in a different body or office.

#### Article 259

A soldier shall be punished with just one month in prison who, having deserted in the cases mentioned in Article 256, argues in his defence that he was not read the rules regarding desertion upon entering the troop and at least once a month, or who committed the offence because he did not receive his daily wage, food, allowance or uniform, or because any other

condition of his service was not complied with, provided the lack of the daily wage, food, allowance or uniform only applied to the individual in question and not to his other comrades, and that he can also show that when he complained he was not given justice, and the desertion did not involve three or more individuals together.

#### Article 260

Enlisted men who desert from the military service in peacetime when they are performing duties for that service other than those specified in the following article shall be punished with two years imprisonment if the service involved [bearing] arms; and with one year if it involved economic duties in a barracks or ship or any other service not involving [bearing] arms. Sergeants and corporals shall also be dismissed, in all cases.

#### Article 261

Enlisted men who desert in peacetime in any of the following circumstances shall be punished as follows:

- I. A person deserting from an escort of prisoners or detainees or some other escort not specified in this article, with three years imprisonment;
- II. A person deserting when on guard or escorting munitions or who takes a horse, mule or mount<sup>5</sup>, or a deserting sailor who takes a boat or uses a boat exclusively for that purpose, with four years imprisonment;
- III. A person deserting with a carbine, rifle, pistol or sword, or a deserting sailor who takes any other arm or object that he received for use during his service at sea and has the obligation to return, with five years imprisonment;
- IV. A person deserting while on sentry duty, with six years imprisonment;
- V. A person deserting by climbing over or tunnelling through the walls of a barracks or military site or a site occupied militarily, or leaving a ship by any means that is not authorized for disembarkation, with three years imprisonment; and
- VI. A person deserting from a fortress or fortified town, with four years imprisonment.

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<sup>5</sup> The word "montura" used here can mean 'tack' as handwritten into the copy submitted for translation but it can also mean 'mount' which may be more likely. Taking tack would be useless without a mount, and mount could be extended to mean a bicycle or a motorized vehicle of some kind. Translator.

Non-commissioned officers to whom any of the penalties established above are applicable, shall also be dismissed, regardless of whether that is prescribed as a consequence of their imprisonment.

#### Article 262

In the cases of the first two subsections of the preceding article, if the deserter was acting as commander of the escort or guard he shall be punished with four years imprisonment or with six, depending on whether subsection I or II is applicable.

#### Article 263

Soldiers who desert on guard or sentry duty or when forming part of an escort who were appointed to said service prior to having completed four months of training, counting from the date on which they were assigned to that post, shall be punished with the minimum penalty that would apply if they had not been assigned to that post. The same shall hold true for a sailor in the same circumstances who deserts from a military guard or watch or forms part of an escort or skiff's crew.

#### Article 264

When an enlisted man deserts on campaign, the following rules shall apply:

I. In the cases referred to in Articles 256, 257 and 263, the penalty established therein shall be doubled. Sergeants and corporals shall also be dismissed.

II. In the cases referred to in Articles 260, 261 and 262, the penalties established therein shall be increased by two years.

#### Article 265

Enlisted men who leave the country after having deserted on Mexican soil or who desert while they are outside the country shall be punished as follows:

I. If the offence is committed in peacetime, four years imprisonment;

II. If it was committed in wartime, seven years imprisonment;

III. If it was committed in peacetime but the person took a horse, mule or mount or a carbine, rifle, pistol or sword, or boat or some object used in the service of the fleet, eight years imprisonment; and

IV. If it was committed in wartime taking anything mentioned in the preceding subsection, ten years imprisonment.

#### Article 266

A non-commissioned officer or sailor who is absent for two days without permission from his superior during operations that were the consequence of a shipwreck or dangerous event for his ship shall be punished as a deserter during wartime, even if the event took place in peacetime. If the event occurred in wartime, he shall be considered a deserter in the face of the enemy.

#### Article 267

Officers who desert in peacetime in any of the cases listed in the present article shall be punished as follows:

I. An officer who deserts while performing any commission other than those specified below, if the service involved [bearing] arms, with three years imprisonment; with one year and six months if the service involved economic duties in a barracks or on a ship or any other service that did not involve arms; and in both cases, with dismissal, regardless of whether it is called for as a consequence of the preceding actions;

II. An officer who deserts an escort of prisoners or detainees or some other escort not specified in this article, with five years imprisonment or with four years, depending on whether he was commander of the escort;

III. An officer who deserts when on guard duty or escorting munitions, with eight years imprisonment or with six, depending on whether he was commander of the guard or escort; and

IV. An officer who while not on duty bearing arms who deserts and flees abroad, with seven years imprisonment; if he deserted while bearing arms, with nine years, and if he was the commander of a post, troop or ship, with 11 years.

Article 268

In the cases in the preceding article and in those referred to in Article 270 (I) and (II), if the desertion occurred in wartime, the penalties set forth therein shall be increased by two years.

Article 269

Officers who do the following shall also be considered to be deserters:

- I. Who on the pretext of illness or for some other illegitimate reason, stay behind in town without permission after the troop to which they belong has left;
- II. Who without the necessary orders or without justified reasons, fail to arrive at their posts on time or return after the troop has left;
- III. Who without due cause deviate from the route stipulated as necessary in their orders;
- IV. Who are away for one night from their camp or garrison without permission from their superior officer;
- V. Who are more than 40 kilometres away from their camp, 80 from their garrison, or 30 from the port where their ship is anchored in peacetime; and in wartime, at any distance from their post, ship or military point, without permission from their superior;
- VI. Who are absent from service for three consecutive days with no legitimate reason or who are absent for 48 hours from their vessel with no legitimate reason and without permission from their superior;
- VII. Who are absent from the administrative roll call without a legitimate reason and do not report to explain their absence within the following 24 hours.
- VIII. Who, after having received a sum [of money] for a march, do not undertake it within three days after their orders were issued or within the deadline given them, with no legal impediment or without an order or permission from the pertinent authority;
- IX. Who, while on temporary leave, fail to report when called prior to the end of the period of leave or at the end of that leave, without justified reasons; and
- X. Who, while on unlimited leave, fail to report within two months after having received the order and funds, in the event of foreign war.



Article 270

Officers to whom the preceding article applies shall be punished:

- I. In the case of subsections I and II, with one year imprisonment and dismissal;
- II. In the case of subsections III to VII, with six months imprisonment; and
- III. In the cases of subsections VIII to X, with dismissal.

Article 271

The punishments in Articles 267, 268 and 270 shall always be accompanied by dismissal with the person being ineligible to rejoin the army for a period of 10 years.

Article 272

Persons who desert in the face of the enemy, marching out to meet it, waiting for it on the defensive, in pursuit or during retreat shall be punished with death.

Article 273

Desertion when on duty or at war shall be understood to exist whenever the author of the crime used violence, fled from his pursuers or eluded pursuit completely, or in the absence of the above [in the presence] of any other event demonstrating illegal separation from military service for a period of 24 hours without the individual reporting to his immediate superior or the troop to which he belongs. Desertion in the face of the enemy shall be understood to exist when a member of the army unduly leaves the ranks or a sailor unduly leaves the ship or troop to which he belongs.

Article 274

When three or more individuals together simultaneously commit one of the offences established in this Chapter, the following shall apply:

- I. Persons who, had they committed the offence alone, would have been subject to the death penalty, shall continue to be subject to it;

II. Persons who, in the same case, would have been subject to imprisonment for that offence or when that offence is combined with a different offence shall be subject to the maximum penalty, increased by one-fourth, plus any other applicable penalties; and

III. The person who led the group, if a non-commissioned officer, shall be punished with 13 years imprisonment, provided that he is not subject to the death penalty as established in subsection I; but if he is an officer or the offence was committed during wartime, the death penalty shall apply.

#### Article 275

Persons who for a legitimate reason become separated from the troop or ship to which they belong shall be punished as deserters, depending on the circumstances of their absence, unless they report to that same troop or ship or to other national troops or warships or to the nearest military, naval or consular authority as soon as possible.

The same rules shall apply to soldiers who having been made prisoners of war fail to report as soon as they have been released.

Any member of the Army Reserve or National Guard who, without a legitimate reason, fails to report to the place to which he is called up within the deadline shall be punished with one month in prison.

Conscripts whose names have been drawn for active service but fail to report to the respective authority within the deadline to be inducted into one of the units of the army commit the offence of insubordination.

They shall be sentenced to one month in prison. Serving that term does not relieve them of the duty to serve.

Source: Mexico. 31 August 1933. Código de Justicia Militar. Translated by the Department of the Secretary of State of Canada.

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