

**Law Library Of Congress Global Legal Monitor: Immigration And
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The *Global Legal Monitor*, an electronic publication of the Law Library of Congress, is intended for those who have an interest in legal developments from around the world. Globalization is a fact with far-reaching implications including an increasing number of international transactions. The Immigration and Nationality law section has been excerpted for this Feature Article.



Immigration and Nationality

CANADA – Supreme Court Refuses to Hear Appeals of U.S. Deserters

On November 15, 2007, the Supreme Court of Canada declined to hear the appeals of two U.S. military deserters who had sought refugee status in Canada. (Brandon David Hughey v. Minister of Citizenship and Immigration, No. 3211 & Jeremy Hinzman v. Minister of Citizenship and Immigration, No. 32112, http://scc.lexum.umontreal.ca/en/news_release/2007/07-11-15.3a/07-11-15.3a.html (last visited Dec. 6, 2007). The applications were dismissed without any statement of reasons.

The applicants had originally argued before the Canadian Immigration and Refugee Board that they should be granted asylum because of their moral objections to the war in Iraq and because they would face persecution if they were returned to the United States. In 2005, the Immigration and Refugee Board found that the deserters would receive a fair trial in the United States and that they would not face cruel and unusual punishment. The Federal Court of Canada upheld this decision before it was appealed to the Supreme Court.

The Supreme Court's refusal to hear the appeals of the two deserters is consistent with past Canadian practices. While Canada has received as eligible refugees persons who came to the country to avoid a draft, it has traditionally declined to receive deserters from an allied armed force. It is estimated that up to 200 former U.S. soldiers are in Canada and that approximately 20 have applied for refugee status. (Nick Fiske, *Canadian Supreme Court Refuses to Hear Asylum Appeals of U.S. Army Deserters*, PAPER CHASE NEWSBURST, Nov. 15, 2007, available at <http://jurist.law.pitt.edu/paperchase/2007/11/canada-supreme-court-refuses-to-hear.php>.) (Stephen Clarke)

FRANCE – Constitutional Council Validates DNA Testing for Immigration Cases

On November 15, 2007, the Constitutional Council of France found that voluntary recourse to DNA testing, limited to showing the relationship with the mother when there is serious doubt regarding the authenticity of a document presented to establish family ties, does not violate the principle of equality of citizens before the law. The Council, however, listed several reservations aimed at prohibiting “a systematic recourse to DNA testing in the states where the testing will be conducted during the trial period.” (See 11 W.L.B. 2007.)

The Council also found that the provision on DNA testing, as drafted, did not infringe upon the right to family reunification, the right of privacy, and the principle of respect for the dignity of the human person. The Council struck down a provision of the law allowing the gathering of statistics showing the ethnic or racial origin of a person as contrary to article 1 of the Constitution, which states, “France is an indivisible, secular, democratic and social Republic. It ensures the equality of all citizens before the law, without distinction of origin, race or religion.” (Conseil Constitutionnel, Decision 2007-557 of Nov. 15, 2007.) (Nicole Atwill)

