

**No. 22336**

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**FRANCE  
and  
TUNISIA**

**Convention on reciprocal legal assistance in matters of child custody, visitation rights and maintenance obligations.  
Signed at Paris on 18 March 1982**

*Authentic texts: French and Arabic.*

*Registered by France on 30 August 1983.*

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**FRANCE  
et  
TUNISIE**

**Convention relative à l'entraide judiciaire en matière de droit de garde des enfants, de droit de visite et d'obligations alimentaires. Signée à Paris le 18 mars 1982**

*Textes authentiques : français et arabe.*

*Enregistrée par la France le 30 août 1983.*

## [TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE FRENCH REPUBLIC AND THE  
REPUBLIC OF TUNISIA ON RECIPROCAL LEGAL ASSISTANCE  
IN MATTERS OF CHILD CUSTODY, VISITATION  
RIGHTS AND MAINTENANCE OBLIGATIONS

The Government of the French Republic and  
The Government of the Republic of Tunisia,

Noting the importance of personal and family relationships between  
nationals of the two States,

Desiring to strengthen relations in the field of judicial co-operation between  
the two States, in order better to ensure the protection of children and persons  
entitled to maintenance and to improve the provisions of existing conventions,

Have decided to conclude a Convention, the provisions of which are as  
follows:

## CHAPTER I. GENERAL PROVISIONS

*Article 1. SCOPE*

The authorities of the two States with jurisdiction in the fields of child  
custody, visitation rights and maintenance obligations shall provide each other  
with reciprocal legal assistance and promote co-operation between themselves  
in those fields.

*Article 2. CENTRAL AUTHORITIES AND MIXED COMMISSION*

The Ministries of Justice of the two States shall be designated as the central  
authorities with responsibility for meeting the obligations imposed on them by this  
Convention. The said central authorities shall communicate directly with each  
other for that purpose and shall inform their competent authorities if the need  
arises. The intervention of the central authorities shall be free of charge.

A Mixed Advisory Commission, composed of representatives of the  
Ministries of Foreign Affairs and Justice, shall be established and shall meet  
periodically at the request of either State in order to facilitate the settlement of  
problems which they see fit to refer to it.

*Article 3. REQUESTS FOR INFORMATION*

The central authorities may, unless to do so would be incompatible with  
public policy, address requests for information or investigation to each other with  
respect to civil or commercial proceedings or cases relating to personal status  
which are being heard by their judicial authorities. They shall follow up the  
requests which they address to each other with regard to the provision, free of  
charge, of copies of public documents, and in particular copies of judicial deci-  
sions, records of civil status or records relating to personal status. They shall

<sup>1</sup> Came into force on 1 July 1983, i.e., the first day of the second month following the date of receipt of the  
latter of the notifications (effected on 12 January and 20 May 1983) by which the Parties informed each other of the  
completion of the required constitutional procedures, in accordance with article 16.

provide each other, on request, with information concerning the laws in force in the territories of their States, in order to facilitate the presentation of evidence to the judicial authorities, and concerning their judicial systems.

Requests and replies shall be drafted in the language of the requested State.

Assistance of the same nature may be rendered by means of information supplied by the consular authorities concerned.

#### *Article 4.* ENFORCEABLE DECISIONS

Judicial decisions relating to child custody, visitation rights and maintenance which are rendered in the territory of one of the two States may be declared applicable in the territory of the other State by the courts of that State when they are enforceable and meet the conditions laid down by the provisions of paragraphs (a), (b), (d), (e) and (f) only of article 15 of the Convention of 28 June 1972 on reciprocal legal assistance in civil and commercial matters and the recognition and execution of judicial decisions.<sup>1</sup>

A party which, under part II of the aforesaid Convention of 28 June 1972, invokes the authority of a judicial decision rendered in a case of child custody, visitation rights or maintenance or which requests execution of such a decision shall produce a certificate of the clerk of the court, stating simply that the decision is enforceable in the State where it was rendered, notwithstanding the provisions of article 15, paragraph (c), and article 22, paragraph (c), of that Convention.

### CHAPTER II. CHILD CUSTODY AND VISITATION RIGHTS

#### *Article 5.* SPECIFIC LEGAL CO-OPERATION

The two States shall guarantee to each other, under the supervision of their judicial authorities, the free exercise in their territory of custody and visitation rights in respect of a minor child, on the sole condition that the interests of the child be respected, in accordance with the provisions of this Convention, particularly those of articles 10 and 11. They shall guarantee to each other that the judicial decisions rendered by the other State in this field shall be properly executed.

#### *Article 6.* FUNCTIONS OF THE CENTRAL AUTHORITIES

1. The central authorities shall assist each other in seeking and locating on their territory displaced children the right to custody over whom is contested or unrecognized. They shall comply with requests for information relating to the material and moral situation of such children.

2. The central authorities shall, directly or indirectly, take every measure to ensure the voluntary return of the children or to facilitate an amicable solution. In cases of urgency, they shall ensure that every provisional measure that seems effective is taken to protect the child from new dangers or the parties concerned from further harm. They shall provide information of a general nature on the contents of their laws with respect to the application of these provisions and shall, if the need arises, draw up certificates regarding the nature of their legislative provisions on custody and visitation rights.

<sup>1</sup> United Nations, *Treaty Series*, vol. 930, p. 121.

3. The central authorities shall, directly or indirectly, take every measure to facilitate the exercise of visitation rights. They shall co-operate with a view to organizing visitation and accommodation rights in the territory of the two States for the benefit of those parents who do not enjoy custody rights and to remove any legal obstacle to the exercise of such rights. They shall also co-operate to ensure respect for the conditions imposed by their respective authorities for the enjoyment and free exercise of those rights, as well as for the commitments entered into by the parties in that regard.

#### *Article 7. COMPULSORY EXECUTION*

Failing voluntary return, the central authorities shall assist each other in facilitating the execution of judicial decisions relating to custody or visitation rights when they are enforceable in the requesting State.

#### *Article 8. RIGHT OF AUTOMATIC ACTION*

The central authorities shall at the earliest opportunity refer petitions to their competent judicial authorities, through the public prosecutor's office which deals with the civil courts, either for the enforcement in the requested State of decisions which are enforceable in the requesting State or for the pronouncement of a judgement on the return of a child.

The central authorities shall also refer to their judicial authorities petitions to determine or to protect the exercise of rights to visit and accommodate a child in one or the other State for the benefit of the parent who does not enjoy custody rights.

#### *Article 9. SUMMARY PROCEEDINGS*

The judicial authorities of the two States shall, once a case is referred to them, pronounce judgement as a matter of urgency. If these authorities have not pronounced judgement within six weeks of the date on which the case was referred to them, the central authority of the requested State shall inform the central authority of the requesting State of the extent to which the proceeding has progressed.

The central authorities shall ensure the rapid execution of such relevant letters rogatory as may be used to assemble all the necessary information.

#### *Article 10. INDIRECT JURISDICTION*

With regard to child custody, and pursuant to the provisions of articles 15 and 16 of the Convention of 28 June 1972, recognition or execution of a decision rendered in one of the two States may not be refused by the other State when the court of the State which rendered the decision is that:

- Of the joint effective residence of the parents; or
- Of the residence of the parent with whom the child habitually resides.

In its evaluation of the territorial jurisdiction of the court of the State which rendered the decision, the requested authority of the other State shall be bound by the statements of fact on which that court based its jurisdiction, except in the event of a decision by default.

### *Article 11.* PRECAUTIONARY PROCEDURE

The judge of a State to which a child has been removed or in which he has been held shall, as a precautionary measure, order the immediate return of the child, unless the person who has removed or held the child proves:

- (1) That, at the time of the violation invoked, the person to whom custody had been awarded before the child was removed was not exercising the right of custody over the child effectively or in good faith; or
- (2) That to return the child would seriously endanger his health or safety, as a result of an exceptionally serious event which had occurred since custody was awarded.

In their evaluation of the circumstances referred to above, the judicial authorities shall take into consideration the information provided by the central authority of the State of the child's habitual residence, particularly with regard to his social condition and to the contents of the legislative provisions relating to custody rights in that State.

A decision on the child's return shall be without prejudice to the basis of the right of custody.

When an action is brought to amend the award of custody rights in respect of a child who has been removed or held in violation of a custody decision rendered by a court of one of the two competent States under article 10 above and the courts of the other State are presented with a petition for the child's return from the person enjoying custody rights, those courts shall pronounce judgement, as a matter of priority, on the petition for the child's return in accordance with the conditions of this article.

### *Article 12.* NOTIFICATION OF CONSULAR AUTHORITIES

Judicial decisions on the award of custody rights in respect of children which are rendered by the courts of the two States when one parent is French and the other Tunisian shall be brought, through the diplomatic channel, to the attention of the consular authorities of the State of which the parent who does not enjoy custody rights is a national.

## CHAPTER III. MAINTENANCE OBLIGATIONS

### *Article 13.* RIGHT OF AUTOMATIC ACTION

The central authorities may, if the need arises, directly and in accordance with the procedure in cases of urgency, refer petitions to their competent judicial authorities for the enforcement of decisions rendered with respect to maintenance, without prejudice to the functions assigned to transmitting and receiving agencies under the New York Convention on the Recovery Abroad of Maintenance of 20 June 1956,<sup>1</sup> to which France and Tunisia are parties.

### *Article 14.* INDIRECT JURISDICTION

With regard to maintenance, and pursuant to the provisions of articles 15 and 16 of the Convention of 28 June 1972, recognition or execution of a decision rendered in one of the two States may not be refused by the other State when

<sup>1</sup> United Nations, *Treaty Series*, vol. 268, p. 3.

the court of the State which rendered the decision declared itself competent because the habitual residence of the party entitled to maintenance was situated in its territory.

In its evaluation of the territorial jurisdiction of the court of the State which rendered the decision, the requested authority of the other State shall be bound by the statements of fact on which that court based its jurisdiction, except in the event of a decision by default.

#### CHAPTER IV. FINAL PROVISIONS

##### *Article 15*

Any difficulties which may arise on the adoption of this Convention shall be settled through the diplomatic channel.

##### *Article 16*

Each of the two States shall notify the other of the completion of the procedures required under its Constitution for the entry into force of this Convention, which shall take place on the first day of the second month following the date of receipt of the last such notification.

##### *Article 17*

This Convention is concluded for an indefinite period. It may be denounced at any time by either of the two States, and such denunciation shall take effect six months after the date on which the notice of denunciation is received by the other State.

IN WITNESS WHEREOF, the representatives of the two Governments, duly authorized for that purpose, have signed this Convention and affixed thereto their seals.

DONE at Paris, on 18 March 1982, in two copies in the French and Arabic languages, both texts being equally authentic.

For the Government  
of the French Republic:

[Signed]

CLAUDE CHEYSSON  
Minister for Foreign Affairs

For the Government  
of the Republic of Tunisia:

[Signed]

BÉJI CAID ESSEBSI  
Minister for Foreign Affairs