

No. 26445

**FRANCE
and
ALGERIA**

**Convention relating to children born from separated parents
of mixed French and Algerian nationalities. Signed at
Algiers on 21 June 1988**

Authentic texts: French and Arabic.

Registered by France on 16 February 1989.

**FRANCE
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ALGÉRIE**

**Convention relative aux enfants issus de couples mixtes sé-
parés franco-algériens. Signée à Alger le 21 juin 1988**

Textes authentiques : français et arabe.

Enregistrée par la France le 16 février 1989.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA RELATING TO CHILDREN BORN FROM SEPARATED PARENTS OF MIXED FRENCH AND ALGERIAN NATIONALITIES

The Government of the French Republic and the Government of the People's Democratic Republic of Algeria,

Desiring to strengthen their cooperation in the legal field,

Anxious to ensure the better physical protection of children whose parents are separated and of different nationalities and their free movement between the two countries,

[Convinced that it is necessary to safeguard the interests of such children as a matter of priority,]²

Aware that the interests of the children require that they should be able to maintain undisturbed and regular relations with their separated parents, wherever they reside,

Have agreed as follows:

*Chapter I. GENERAL PROVISIONS**Article 1*

The Ministries of Justice shall be designated as the central authorities with responsibility for meeting the obligations set forth in this Convention. The central authorities shall communicate directly with each other for that purpose, and their intervention shall be free of charge. They shall undertake to promote cooperation between the competent authorities in regard to the protection of minors.

Article 2

The central authority of each of the two States, at the request of the central authority of the other State, must take all appropriate measures:

- (a) To seek and locate the child in question;
- (b) To furnish information on the social situation of the child or on legal proceedings concerning it, communicating in particular, copies of the judicial decisions rendered;
- (c) To facilitate any amicable settlement that may ensure the child's return or visitation;
- (d) To promote the arrangement and effective exercise of visitation rights;

¹ Came into force on 1 August 1988, i.e., the first day of the month following the date of the last of the notifications by which the Contracting Parties had informed each other (on 18 and 28 July 1988) of the completion of the required constitutional procedures, in accordance with article 14 (1) and (2).

² The text between brackets appears in the authentic French text only (information provided by the Government of France).

- (e) To ensure the return of the child to the person seeking it when execution of the decision is granted;
- (f) To inform the requesting central authority of the measures taken and of their outcome;
- (g) To facilitate the effective exercise in or from its territory of visitation rights recorded to a national of the other State.

Article 3

For the application of this Convention, the parties shall, in the territory of each of the two States, benefit from legal aid as a matter of course and without regard for their resources.

Article 4

1. Judicial or administrative measures of protection concerning the person of a minor who is a national of only one of the two States shall be taken after consultation with the competent consulate of that State.

2. Judicial or administrative measures of protection concerning the person of a minor born of a national of only one of the two States, wherever they are taken, shall be brought to the attention of the consulate having territorial jurisdiction.

Chapter II. MAINTENANCE OF THE CHILD'S RELATIONS WITH BOTH PARENTS

Article 5

For the purposes of this Convention, the jurisdiction considered as competent shall be that of the place of conjugal domicile understood as the place of common family life.

Article 6

The Contracting Parties shall undertake to guarantee to the estranged couple the effective exercise of internal and inter-country visitation rights.

All judicial decisions that are awarding custody of a child rendered by the jurisdictions of the Contracting Parties shall accord visitation rights, including the right of inter-country visitation to the other parent.

In the case of exceptional circumstances directly endangering the physical health or moral welfare of a child, the judge shall adapt the arrangements for the exercise of such rights in accordance with the interests of the child.

Article 7

Any denial by the parent benefiting from custody rights of the effective exercise of the internal or inter-country visitation rights accorded by judicial decision to the other parent shall entail liability to the criminal proceedings for the non-return of children provided for under the penal legislation of the two States.

The Public Prosecutor having territorial jurisdiction to whom the case is referred by the other parent shall without delay institute criminal proceedings against the offender.

Article 8

The Contracting Parties shall undertake to guarantee, on completion of an inter-country visit, the effective return of the child to the territory from which it departed.

1. If, on expiry of the period established for an inter-country visit by the judicial authority that has jurisdiction in accordance with article 5, the child taken to the other country is not returned to the person having custody, the recognition and immediate execution of the enforceable judicial provisions relating to inter-country visitation rights cannot be denied, notwithstanding any decision rendered or action taken with regard to the custody of the child.

2. The provisions of paragraph 1 of this article shall apply in the case where the child's journey took place at a time other than one of those established by the competent judicial authority.

Article 9

Enforceable judicial decisions or those accompanied by a grant of execution, as the case may be, shall constitute authorization for departure from the national territory.

Article 10

The decision according recognition of the execution of judicial provisions relating to inter-country visitation rights shall be rendered with provisional enforcement notwithstanding the exercise of any right of recourse.

Article 11

For the purpose of giving effect to article 8, the parent having custody of the child shall refer the issue to the central authority, or directly to the Public Prosecutor, of the place where custody is habitually exercised.

The Public Prosecutor having jurisdiction shall without delay require the police to be utilized to enforce the effective return of the child to the territory from which it departed.

Chapter III. SPECIAL PROVISIONS

Article 12

The Contracting Parties undertake to have the cases pending at the time of the entry into force of this Convention examined in the light of its provisions and of the interests of the child.

To this end, a joint commission shall be established on the signing of this Convention which shall be entrusted with facilitating the settlement of such cases. The mandate of the commission shall expire one year after its establishment.

Petitions shall be referred to the commission by one of the parents. It shall be authorized to request from the central authorities designated in article 1 that inquiries be carried out in each State by the competent administrative and judicial authorities. It shall issue opinions, accompanied by a statement of its reasons, on custody rights and visitation rights and on the practical details relating to such rights.

Any involved parent may, on presentation of such opinion, request the judge who decided the custody rights and the visitation rights to modify his decision in accordance with the provisions of this Convention which are applicable at that time.

To facilitate the settlement of these cases, the Contracting Parties shall take suitable measures so as not to institute or to suspend proceedings relating to such actions.

Chapter IV. FINAL PROVISIONS

Article 13

The provisions of the Convention of 27 August 1964 relating to grants of execution and to extradition and those of the exchange of letters of 18 September 1980¹ which are not the subject of specific provisions in this Convention shall remain in force.

Article 14

1. Each of the two Contracting Parties shall notify the other of the completion of the procedures required by its Constitution for the entry into force of this Convention.

2. This Convention shall enter into force on the first day of the month following the date of receipt of the last such notification.

3. Each of the two Contracting Parties may denounce this Convention at any time by communicating to the other, through the diplomatic channel, a notice of denunciation. The denunciation shall take effect one year after the date of receipt of the said notice.

DONE at Algiers, on 21 June 1988, in duplicate in the French and Arabic languages, both texts being equally authentic.

For the Government of the French Republic:

GEORGINA DUFOIX
Minister responsible to the Minister
of Social Affairs and Employment,
for the family, women's rights,
solidarity and returnees

For the Government of the People's Democratic Republic
of Algeria:

MOHAMED NABI
Minister of Labour and Social Affairs

¹ United Nations, *Treaty Series*, vol. 1215, p. 39.