

TUNISIAN REPUBLIC

PERSONNEL STATUTE CODE

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## PERSONAL STATUS CODE

Attached are the texts regulating:

- \* Civil status
- \* The community property regime between spouses
- \* The prenuptial medical certificate
- \* Organization of guardianship
- \* Guardianship and adoption
- \* Assigning a surname to abandoned children or children of unknown parentage
- \* The guarantee fund for alimony and divorce settlements.

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Decree of August 13, 1956 (6 Moharem 1376), promulgating the Personal Status Code.

(J.O.T. No. 104 of December 28, 1956)

Praise be to God!

We, Mohamed Lamine Pacha Bey, Possessor of the Kingdom of Tunisia;

Having regard to the decree dated May 5, 1876 (30 Rabia II 1293) on the functioning of the Sharia of Tunis and the Sharia and Cadis' Courts of the interior,

Having regard to Our decree of September 21, 1955 (30 Safar 1375), relating to the provisional organization of public authorities, as amended by Our decree of August 3, 1956 (25 Douhida 1375),

Having regard to Our Decree of July 12, 1956 (30 Douhida 1375), establishing the personal status of non-Muslim and non-Jewish Tunisians,

Having regard to Our Decree of August 3, 1956 (25 Douhida 1375), amending certain articles of the Tunisian Code of Civil Procedure,

Having regard to the opinion of the Council of Ministers,

On the proposal of Our Prime Minister, President of the Council,

We have issued the following decree:

Article 1

The texts published below relating to matters of personal status are combined into a single body under the title "Personal Status Code."

## Article 2

The provisions of the said code shall come into force and be applied as of January 1, 1957. They shall not have retroactive effect. Nevertheless, proceedings pending on January 1, 1957 shall remain subject to the legislation in force on the date of this decree until their final settlement <sup>(1)</sup>.

Articles 3-4-5. – (These articles were repealed by Article 5 of Law No. 57-40 of September 27, 1957).

## Article 6

Our Prime Minister, President of the Council, our Minister of the Interior, and our Minister of Justice are responsible, each in their respective areas, for the implementation of this decree.

Sealed, August 13, 1956 (6 Moharem 1376)

The Prime Minister, President of the Council,

Habib Bourguiba

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(1) Article 2, original version in Arabic, states that: "..... Nevertheless, proceedings pending on January<sup>1</sup>, "whether commenced before October 1- 1956, or after that date," shall remain subject to the legislation in force on the date of this decree until their final settlement."

# PERSONAL STATUS CODE

## BOOK ONE

### MARRIAGE

#### Engagement

##### Article 1

The promise of marriage and the exchange of promises do not constitute marriage, and the judge may not enforce their fulfillment on the parties.

##### Article 2 (Amended by Law No. 93-74 of July 12, 1993)

Each of the two fiancés is entitled to the return of gifts given to the other, unless the promise is broken or otherwise stipulated.

#### Marriage

##### Article 3

Marriage is only formed by the consent of both spouses.

The presence of two honorable witnesses and the setting of a dowry for the benefit of the woman are also required for the marriage to be valid.

##### Article 4

Proof of marriage may only be provided by an authentic document under conditions set by a subsequent law.

In the case of marriages celebrated abroad, proof shall be provided in accordance with the laws of the country where the marriage was celebrated.

Article 5 (Amended by Decree-Law No. 64-1 of February 20, 1964, ratified by Law No. 64-1 of April 21, 1964, and by Law No. 2007-32 of May 14, 2007).

The two future spouses must not be in any of the situations of impediment provided for by law.

Furthermore, neither of the two future spouses may be under the age of eighteen. Below this age, marriage may only be contracted with the special authorization of a judge, who will only grant it for serious reasons and in the best interests of both future spouses.

Article 6 (Amended by Law No. 93-74 of July 12, 1993)

The marriage of a minor is subject to the consent of his or her guardian and mother.

In the event of refusal by the guardian or mother and persistence on the part of the minor, the matter shall be referred to a judge.

The order authorizing the marriage is not subject to appeal.

Article 7

The marriage of a prodigal person shall only be valid after the consent of the curator. The latter may, before the marriage is consummated, apply to the judge for its annulment.

Article 8

Consent to the marriage of a minor is given by the closest agnatic relative. This person must be of sound mind, male, and of legal age.

The father or his representative consents to the marriage of his minor child, whether male or female.

If there is no guardian, consent is given by the judge.

Article 9

Men and women may enter into marriage themselves or through a representative. Anyone who consents to the marriage of a minor may also do so by proxy.

Article 10

No special conditions are required of the representative referred to in the previous article. However, he or she may not, in turn, give power of attorney to a third party without the authorization of the principal.

The power of attorney must, on pain of nullity, be established by authentic instrument and must expressly include the names of both future spouses.

#### Article 11

Any clause or condition relating to persons or property may be included in the marriage certificate. In the event of non-fulfillment of the condition or non-execution of the clause, the marriage may be dissolved by divorce.

This dissolution does not give rise to any right to compensation if it takes place before the marriage has been consummated.

#### Dowry

Article 12 (Amended by Law No. 93-74 of July 12, 1993).

The dowry may consist of any lawful property that can be valued in money. It belongs to the wife.

#### Article 13

The husband may not, if he has not paid the dowry, compel the wife to consummate the marriage.

After consummation of the marriage, the wife, as creditor of her dowry, may only claim payment thereof. Failure by the husband to pay does not constitute grounds for divorce.

#### Impediments to marriage

#### Article 14

There are two types of impediments to marriage: permanent and temporary.

Permanent impediments result from kinship, alliance, breastfeeding, or triple divorce.

Temporary impediments result from the existence of an undissolved marriage and the non-expiration of the waiting period.

## Article 15

It is prohibited for a man to marry his ascendants and descendants, his sisters and the descendants of his brothers and sisters in infinite generations, his aunts, great-aunts, and great-great-aunts.

## Article 16

It is prohibited for a man to marry his wife's ascendants from the moment the marriage is celebrated, his wife's descendants provided that the marriage has been consummated, or the wives of his ascendants or descendants of any degree from the moment the marriage is celebrated.

## Article 17

Breastfeeding entails the same impediments as kinship and alliance.

Only the breastfed child, to the exclusion of his or her brothers and sisters, is considered the child of the wet nurse and her husband.

Breastfeeding only prohibits marriage when it takes place during the first two years of the infant's life.

Article 18 (Amended by Law No. 58-70 of July 4, 1958, and paragraphs 3, 4, and 5 added by Decree-Law No. 64-1 of February 20, February 1964, ratified by Law No. 64-1 of April 21, 1964).

Polygamy is prohibited.

Anyone who, being bound by the bonds of marriage, enters into another marriage before the dissolution of the previous one, shall be liable to imprisonment for one year and a fine of 240,000 francs, or to one of these two penalties only, even if the new marriage was not contracted in accordance with the law.

"The same penalties shall apply to anyone who, having contracted marriage outside the forms provided for by Law No. 57-3 of August 1, 1957 (4 Moharem 1377) regulating civil status, enters into a new union and continues to live with their first spouse.

The same penalties shall apply to a spouse who knowingly enters into marriage with a person falling under the provisions of the two preceding paragraphs.

Article 53 of the Penal Code shall not apply to the offenses referred to in this article.

#### Article 19

It is prohibited for a man to marry a woman from whom he has been divorced three times.

#### Article 20

It is prohibited for a man to marry a woman who is still married and whose union has not yet been dissolved. A woman may not, before the expiry of the waiting period, marry anyone other than her former husband.

### Nullity of marriage

Article 21 (Amended by Decree-Law No. 64-1 of February 20, 1964, ratified by Law No. 64-1 of April 21, 1964).

A union shall be null and void if it contains a clause contrary to the very essence of marriage or if it is entered into in contravention of the provisions of the first paragraph of Article 3, the first paragraph of Article 5, and Articles 15, 16, 17, 18, 19, and 20 of this Code.

When criminal proceedings are brought pursuant to Article 18 above, a single judgment shall rule on both the offense and the nullity of the marriage.

Spouses whose marriage has been declared null and void and who continue or resume living together shall be liable to six months' imprisonment.

Article 53 of the Penal Code shall not apply to the offenses provided for in this article.

#### Article 22

The union referred to in the previous article shall be null and void without the need for divorce. In this case, the celebration of the marriage alone shall have no effect. The consummation of a null marriage shall have only the following effects:

- a) the right of the woman to claim the dowry set by the marriage contract or by the judge,
- b) the establishment of parentage,
- c) the obligation for the woman to observe the waiting period that begins at the time of separation,
- d) impediments to marriage resulting from the alliance.

### Mutual obligations of spouses

Article 23 (Amended by Law No. 93-74 of July 12, 1993).

Each spouse must treat their partner with kindness, live in harmony with them, and avoid causing them harm.

Both spouses must fulfill their marital duties in accordance with customs and traditions.

They shall cooperate in the management of family affairs, the proper education of their children, and the management of their children's affairs, including education, travel, and financial transactions.

The husband, as head of the family, must provide for the needs of his wife and children to the best of his ability and according to their circumstances within the framework of the components of alimony.

The wife must contribute to the family's expenses if she has assets.

### Article 24

The husband has no power of administration over the wife's separate property.

### Disputes between spouses

### Article 25

If one spouse complains of any act by the other spouse that causes them harm but is unable to provide evidence of it

proof, and if the judge cannot determine which spouse is responsible, the judge must appoint two arbitrators. After studying the situation, they must, as far as possible, reconcile the spouses and, in all cases, report on their mission to the judge.

#### Article 26

In the event of a dispute between the spouses concerning the ownership of property in the marital home and in the absence of evidence, the claim of each spouse shall be upheld and, under oath, they may take respectively the property usually belonging to men and that usually belonging to women.

If the disputed property consists of merchandise, it shall be awarded, under oath, to the spouse who is a merchant. Property owned jointly by men and women shall be divided between them after the spouses have taken an oath.

#### Article 27

When one of the spouses predeceases the other and a dispute arises between the surviving spouse and the heirs of the deceased regarding the ownership of property located in the marital home, the heirs shall take the place of their predecessor under the conditions set out in the previous article.

#### Article 28 (Amended by Law No. 93-74 of July 12, 1993).

In the event of dissolution of the marriage before consummation, for a reason attributable to one of the spouses, gifts given by either party after the marriage was concluded shall be returned in their current condition, even if they have been altered. No restitution shall be made after consummation of the marriage.

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## BOOK TWO ON DIVORCE

### Article 29

Divorce is the dissolution of marriage.

### Article 30

Divorce may only take place before the court. Article 31.

(Amended by Law No. 81-7 of February 18, 1981). The court shall grant a divorce:

- 1) in the event of mutual consent of the spouses,
- 2) at the request of one of the spouses on the grounds of harm suffered,
- 3) at the request of the husband or wife.

A decision shall be made on compensation for material and moral damage suffered by either spouse and resulting from the divorce pronounced in the two cases provided for in the second and third paragraphs above.

With regard to the wife, material damage shall be compensated in the form of a monthly pension payable in arrears at the end of the period of widowhood, based on the standard of living to which she was accustomed during the marriage, including housing. This annuity may be revised upwards or downwards, taking into account any fluctuations that may occur. It shall continue to be paid until the death of the divorced woman or if certain changes occur in her social position through remarriage or when she no longer needs it. This annuity becomes a debt that is included in the liabilities of the estate.

upon the death of the divorced person and must therefore be settled amicably with the heirs or judicially in a single payment, taking into account the age of the beneficiary on that date. All of this unless the beneficiary prefers to receive the annuity in the form of a lump sum payment.

Article 32 (Amended by Law No. 2010-50 of November 1, 2010).

The president of the court shall choose the family judge from among his or her vice-presidents.

The divorce shall only be granted after the family judge has made an unsuccessful attempt at reconciliation.

The family judge may, with the agreement of both spouses in conflict, seek the assistance of a family conciliator appointed from among the senior staff of social advancement structures, with a view to reconciling them and helping them to reach a solution that will end their dispute, with the aim of safeguarding family cohesion.

The list of family mediators is established by joint order of the Minister of Justice and the Minister of Social Affairs.

When the defendant does not appear and service has not been effected on him or her personally, the family court judge shall adjourn the hearing of the case to another date in order to serve the summons on the interested party personally or to ascertain his or her actual place of residence so that he or she may be summoned to appear.

If there are one or more minor children, three conciliation hearings shall be held, the interval between each hearing being no less than thirty days.

During this period, the judge shall endeavor to achieve conciliation. To this end, he shall request the services of any person whose assistance he deems useful.

The family judge must order, even *ex officio*, all urgent measures concerning the spouses' residence, alimony, child custody, and visitation rights. The parties may agree to expressly waive these measures in whole or in part, provided that such waiver does not harm the interests of minor children.

The family court judge shall determine the amount of alimony, taking into account the factors available to him or her during the conciliation attempt.

The urgent measures are the subject of an enforceable order, which is not subject to appeal or cassation, but which may be reviewed by the family court judge until a decision has been made on the merits of the case.

The court rules on the divorce in the first instance after a two-month reflection period preceding the pleadings phase. It also rules on all related matters, sets the amount of alimony payable to the divorced wife at the end of the waiting period, and rules on the urgent measures covered by the orders issued by the family court judge.

The judge may shorten the proceedings in cases of divorce by mutual consent, provided that this does not harm the interests of the children.

The provisions of the judgment relating to child custody, alimony, maintenance, the spouses' residence, and visitation rights are enforceable notwithstanding any appeal or cassation.

Article 32 bis. (Added by Law No. 93-74 of July 12, 1993).

Any spouse who uses fraudulent means to prevent service from reaching their spouse shall be liable to one year's imprisonment.

Article 33

If the divorce is pronounced before the marriage has been consummated, the woman is entitled to half of the agreed dowry.

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## BOOK THREE OF THE WIDOWRY PERIOD

### Article 34

A woman who is divorced after consummation of the marriage or who becomes a widow before or after consummation of the marriage must observe the waiting period as determined in the following article.

### Article 35

A divorced woman who is not pregnant shall observe a waiting period of three full months. For a widow, the waiting period is four full months and ten days. The waiting period for a pregnant woman ends with the birth of the child. The maximum duration of the waiting period is one year from the date of divorce or death of the husband.

### Article 36

The waiting period for the wife of an absent husband is the same as for a widow; it begins to run from the date of the judgment declaring the absence.

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## BOOK FOUR

### ON MAINTENANCE OBLIGATIONS

#### Article 37

The obligation to provide maintenance arises from marriage, kinship, or voluntary commitment.

#### Article 38

The husband owes alimony to the wife after the marriage has been consummated and during the waiting period in the event of divorce.

#### Article 39

An indigent husband is not required to pay alimony. However, if, at the end of a two-month period granted by the judge, he is unable to fulfill this obligation, the judge shall grant the divorce. However, a wife who, at the time of the marriage, is aware of her husband's situation shall not have the right to claim a divorce.

#### Article 40

If the husband, finding himself without resources, leaves his wife without providing her with maintenance and if no one provides for her during his absence, the judge shall give the husband a period of one month to return; at the end of this period, the judge shall pronounce the divorce, the wife having previously sworn an oath in support of the facts she alleges.

#### Article 41

If the wife provides for her own maintenance from her own funds while awaiting proceedings against the absent husband, she may bring an action against him.

#### Article 42

The woman's claim for maintenance is not subject to any limitation period. Article 43 (Amended by Law No. 93-74 of July 12, 1993). The following persons are entitled to maintenance:

- a) the father and mother, the paternal grandparents of any degree and the maternal grandparents of the first degree,
- b) descendants, regardless of their degree of kinship.

Article 44 (Amended by Law No. 93-74 of July 12, 1993).

Wealthy children of both sexes are required to provide maintenance for those of their parents, paternal grandparents of any degree, and maternal grandparents of the first degree who are in need.

#### Article 45

Where there are several children, they shall contribute to the maintenance in proportion to their wealth and not according to their number or their shares in the estate.

Article 46 (Amended by Law No. 93-74 of July 12, 1993).

Maintenance shall continue to be paid to children until they reach the age of majority or, beyond that age, until the end of their studies, provided that they do not exceed the age of 25. A daughter shall continue to be entitled to maintenance as long as she has no resources of her own and is not dependent on her husband.

Alimony also continues to be paid to disabled children who are unable to earn a living, regardless of their age.

#### Article 47

In the event of the father's indigence, the mother is called upon before the grandfather to provide maintenance for her children.

#### Article 48

If the mother is unable to do so, the father is required to provide for the costs of breastfeeding in accordance with customs and traditions.

#### Article 49

Anyone who undertakes to provide maintenance to a person for a specified period, regardless of that person's age, is required to fulfill their obligation. If the period is not specified, it shall be determined at the discretion of the debtor.

#### Article 50

Maintenance includes food, clothing, housing, education, and everything else considered necessary for existence, according to custom and practice.

#### Article 51

Maintenance shall cease when the cause for it ceases to exist. The person liable for maintenance shall be entitled to reimbursement of any sums unduly paid.

#### Article 52

Maintenance shall be granted only in proportion to the wealth of the person liable to pay it and the needs of the person claiming it, taking into account the cost of living.

#### Article 53

If there are several maintenance creditors and the person liable for maintenance is unable to pay them all, the spouse shall be called before the children and the children before the ascendants.

Article 53 bis. (Added by Law No. 81-7 of February 18, 1981, and amended by Law No. 93-74 of July 12, 1993).

Anyone who has been ordered to pay alimony or divorce maintenance and who voluntarily fails to pay for one month shall be punished by imprisonment for three months to one year and a fine of one hundred (100d) to one thousand dinars (1000d).

Payment shall halt any proceedings, trial, or enforcement of the sentence.

The alimony and divorce pension guarantee fund shall, under the conditions laid down by the law establishing the fund, proceed with the payment of alimony or divorce pension that is the subject of final judgments rendered in favor of divorced women and children born of their union with the debtors, but which have remained unenforced due to the latter's procrastination.

The guarantee fund is subrogated to the beneficiaries of the judgment for the recovery of the sums it has paid.

## BOOK FIVE CUSTODY

### Article 54

Custody consists of raising the child and ensuring his or her protection in his or her home.

### Article 55

A woman who refuses to provide custody of the child shall only be obliged to do so when no other person can be substituted for her.

Article 56 (Paragraphs 2, 3, 4, 5, 6, and 7 added by Law No. 2008-20 of March 4, 2008)

The costs necessary for the maintenance of the child shall be deducted from the child's assets or those of the father if the child has no assets of his or her own. The father must provide housing for the child and the custodial parent if the latter has no housing.

The custodial parent has a right to remain in the home when the father, who owns the dwelling, is required to provide housing for the child and the custodial parent. This right ceases when the cause for it no longer exists.

Where the father is required to provide accommodation for the custodial parent and the child in a home rented by him, he is required to continue paying the rent until the cause of his obligation ceases to exist.

If he is required to pay housing allowance to the custodial parent and the child, the amount of said allowance shall be determined in proportion to the father's wealth and the child's needs, taking into account the cost of living.

The right of the custodial parent and the child to remain in the father's home does not prevent the father from selling it, for a fee or free of charge, or mortgaging it, provided that this right is mentioned in the title establishing the sale or mortgage.

It is possible to review the judgment relating to the accommodation of the custodial parent in the event of a change in circumstances or situations requiring it. The court shall rule on requests for review in accordance with the procedures prescribed for summary proceedings and shall decide on the grounds for review, taking into account the interests of the child.

Urgent measures relating to the right of accommodation of the custodial parent and their child, taken by the family court judge, remain subject to review in accordance with the prescribed procedures in this area.

Article 56 bis (Added by Law No. 2008-20 of March 4, 2008)

Any person who knowingly transfers, for consideration or free of charge, residential premises that the father is required to provide for the accommodation of the custodial parent and her child shall be punished by imprisonment for three months to one year and a fine of one hundred to one thousand dinars. anyone who knowingly transfers, for consideration or free of charge, a dwelling that the father is required to provide for the accommodation of the custodial parent and her child, or mortgages said dwelling, without having mentioned in the title of transfer or of

the mortgage the right of retention of premises enjoyed by the custodial parent and their child, with the intention of depriving them of this right.

The same penalties provided for in the preceding paragraph shall be imposed on a father who deprives the custodial parent and the child of the right to occupy the dwelling that the court has granted for their accommodation, either by knowingly terminating the lease in collusion with the landlord, or by refusing to pay the rent due, or, where the father is ordered to pay housing maintenance, by deliberately failing to pay for one month after the order has been made against him.

In both of the above cases, the father cannot be prosecuted cumulatively for this offense and for non-payment of child support; regularization results in the discontinuation of proceedings, the trial, or the enforcement of the sentence.

Article 57. (Amended by Law No. 66-49 of June 3, 1966)

During marriage, custody belongs to the father and mother.

Article 58 (Amended by Law No. 81-7 of February 18, 1981)

The holder of custody rights must be of legal age, of sound mind, honest, capable of providing for the child's needs, and free from any contagious disease. The male holder of custody rights must also have a woman at his disposal to take care of the child. He must not be related to the female child to a degree that would be prohibited by law. The holder of custody rights must be unmarried, unless the judge considers it to be in the best interests of the child, or if the husband is related to the child to a prohibited degree or is the child's guardian.

Similarly, if the holder of custody rights refrains from claiming their rights for one year after learning of the consummation of the marriage, or if the woman is the child's wet nurse or both mother and guardian.

#### Article 59

The holder of custody rights who belongs to a different religion than the child's father may only exercise this right if the child is under five years of age and there is no reason to fear that the child will be raised in a religion other than that of his father.

The provisions of this article shall not apply when custody is exercised by the mother.

#### Article 60. (Amended by Law No. 93-74 of July 12, 1993).

The child's father, guardian, and mother may have a right to oversee the child's affairs, provide for the child's education, and send the child to school, but the child may only spend the night with the person who has custody, unless a judge decides otherwise in the child's best interests.

#### Article 61

If the person who has custody of the child changes residence and moves to a location that prevents the guardian from fulfilling their duties towards their ward, they shall be deprived of their rights.

#### Article 62

The father may only remove the child from the mother's place of residence with her consent as long as she retains custody, unless the interests of the child require otherwise.

### Article 63

A woman to whom custody has been transferred for a reason other than the physical incapacity of the previous guardian may only live with the child with the consent of the child's guardian, under penalty of forfeiture.

Article 64. (Amended by Law No. 66-49 of June 3, 1966).

The person to whom custody is entrusted may renounce it. In this case, the judge shall appoint a new custodian.

### Article 65

The guardian shall receive remuneration only for laundry, food preparation, and other services in accordance with customary practice.

### Article 66

The father or mother may not be prevented from exercising their right of access and supervision over the child entrusted to the custody of one of them. The costs of transporting the child shall be borne by the parent who has requested to exercise their right of access at home.

The family court judge shall rule on the request to exercise visiting rights in accordance with summary proceedings. (Paragraph 2 added by Law No. 2006-10 of March 6, 2006)

Article 66 bis. (Added by Law No. 2006-10 of March 6, 2006)

If one of the child's parents dies, the child's grandparents may exercise visitation rights. The family court judge shall decide in the best interests of the child.

The visitation request shall be decided in accordance with the procedures set out in the previous article.

Article 67. (Amended by Law No. 93-74 of July 12, 1993).

In the event of dissolution of the marriage by death, custody shall be entrusted to the surviving parent.

If the marriage is dissolved during the lifetime of the spouses, custody shall be entrusted to one of them or to a third party.

The judge shall decide, taking into consideration the interests of the child.

If custody of the child is entrusted to the mother, she shall enjoy the prerogatives of guardianship with regard to the child's travel, education, and management of financial accounts.

The judge may entrust the powers of guardianship to the mother who has custody of the child if the guardian is unable to exercise them, behaves abusively in the performance of his or her duties, fails to properly fulfill the obligations arising from his or her position, or is absent from his or her home and becomes homeless, or for any reason that is detrimental to the interests of the child.

## BOOK SIX

### PARENTAGE

#### Article 68

Parentage is established by cohabitation, the acknowledgment of the father, or the testimony of two or more reputable persons.

#### Article 69

Parentage is not established in the case of disownment of a child of a married woman whose non-cohabitation with her husband has been proven, or of a child born to a married woman one year after the absence or death of her husband or the date of divorce.

#### Article 70

In the event of conclusive evidence to the contrary, the acknowledgment shall be invalid. The recognition by a child of unknown parentage of paternal or maternal parentage constitutes proof thereof, provided that the recognized father or mother is capable of fathering or mothering a child similar to the author of the recognition and confirms the latter's claim, who thus becomes, vis-à-vis the recognized parents, the object of obligations and the subject of rights.

#### Article 71

Regardless of the validity or invalidity of the marriage contract, a child born to a married woman six months or more after the marriage was concluded shall have the husband as its father.

#### Article 72

The severance of paternal filiation excludes the child from consanguineous kinship and abolishes his or her right to maintenance and inheritance.

### Article 73

The recognition of parentage, which creates an obligation for third parties such as brothers, paternal uncles, grandfathers, and grandsons of the male line, does not establish kinship. This recognition is valid with regard to its author in the absence of any successor other than the other party and upon confirmation by the latter. Otherwise, the latter shall not be entitled to any inheritance.

To determine succession, reference must be made to the date of death of the author of the recognition and not to the date of recognition.

### Article 74

In the event of disavowal subsequent to recognition, the recognized child inherits from the author of the recognition. However, the latter does not inherit from the child who died before him, and the latter's inheritance is reserved. Upon the death of the author of the recognition, the inheritance devolves to his heirs.

### Article 75

If the husband denies being the father of a child conceived or born during the marriage, the contested filiation shall only be broken by a court decision. All forms of evidence provided for by law in this matter are admissible.

### Article 76

If the judge establishes disavowal in accordance with the provisions of the previous article, he shall pronounce the severance of filiation and the permanent separation of the two spouses.

BOOK SEVEN PROVISIONS  
RELATING TO FOUND  
CHILDREN

Article 77

Anyone who, with the judge's authorization, takes charge of a foundling who has no property shall be required to provide for the child's maintenance until he or she is able to earn a living.

Article 78

The foundling shall not be removed from the person who took him in, except by decision of the judge when his father and mother come forward.

Article 79

Any property found with the child shall be acquired by the child.

Article 80

In the absence of an heir to the foundling, the latter's property shall be acquired by the Treasury.

However, the person who took the child in may bring an action against the State for reimbursement of the sums spent, up to the value of the property left by the foundling.

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BOOK EIGHT PROVISIONS  
RELATING TO MISSING  
PERSONS

Article 81

Any person who has not been heard from and cannot be found alive shall be considered missing.

Article 82

The judge shall set a time limit not exceeding two years for searching for a person who has disappeared during wartime or in exceptional circumstances involving serious risk of death, and shall then issue a ruling of disappearance.

However, if the disappearance does not occur under such conditions, the judge, after having used all means to determine whether the missing person is alive or deceased, shall rule at his or her discretion on the length of the period after which the ruling of disappearance shall be made.

Article 83

Pending proof of the existence or death of the missing person or a ruling of disappearance, the judge shall have an inventory of the missing person's property drawn up without appointing a representative and shall appoint an administrator, who may or may not be a relative of the missing person, to manage the missing person's property under his or her supervision.

Article 84

If the missing person had an agent prior to their disappearance, the latter shall only cease their functions once the declaration of absence has been issued.

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NEW BOOK  
OF SUCCESSION  
CHAPTER ONE  
General Provisions

Article 85

The succession opens upon the death of the deceased, even if this is established by a court, and upon the actual existence of the heir after the death of the deceased.

Article 86

If two persons die without it being possible to determine which of the two died first, there shall be no opening of succession between them, whether or not they died in the same event.

Article 87

The charges encumbering the succession shall be paid in the following order of priority:

- a) charges borne by the real property comprising the succession;
- b) funeral and burial expenses;
- c) certain debts owed by the deceased;
- d) valid and enforceable bequests;
- e) inheritance.

In the absence of an heir, the estate or what remains of it shall be collected by the Treasury.

Article 88

Voluntary homicide constitutes an impediment to inheritance. The guilty party is excluded from the right to inherit, whether they are

the principal perpetrator, an accomplice, or a false witness whose testimony led to the perpetrator's death sentence followed by execution.

## CHAPTER II

### Heirs

#### Article 89

There are two types of heirs: compulsory heirs and agnatic heirs (aceb).

#### Article 90

The male persons who may be eligible to inherit are: 1°) the father, 2°) the grandfather, even if he is of a higher degree, provided that the line of kinship with the deceased is not interrupted by a female heir, 3°) the son, 4°) the grandson (on the son's side), even if he is of a lower degree, 5°) the brother, whether full, half, or uterine, 6°) the son of a full or half-brother, 7°) the paternal uncle, whether full or half-brother, 8°) the paternal cousin, whether full or half-brother, 9°) the husband.

The female persons who may be eligible to inherit are:

1°) the mother,

2°) the maternal grandmother, provided that the line of kinship with the deceased is not interrupted by the existence of a male heir, as well as the paternal grandmother, provided that the line of kinship with the deceased is not interrupted by the existence of a male heir other than the ascendant, even if of a lower degree,

3) the daughter,

4°) the granddaughter (on the son's side), even if she is of a lower degree, provided that her relationship to the deceased is not interrupted by the existence of a female heir,

5°) the full sister, half-sister, or uterine sister 6°) the wife.

### CHAPTER III

#### Compulsory heirs

##### Article 91

The reserved portion of the estate is set for the benefit of the heir. The estate is first transferred to the compulsory heirs.

The beneficiaries of these shares who are male are: 1°) the father, 2°) the paternal grandfather, even if he is of a higher degree, 3°) the uterine brother, and 4°) the husband.

The beneficiaries of the aforementioned female shares are: 1°) the mother,

2°) the grandmother,

3°) the daughter,

4) the granddaughter (on the son's side), even if she is of a lower degree,

5°) the full sister, 6°) the

blood sister, 7°) the half-sister, and

8°) the wife.

##### Article 92

There are six inheritance shares: half; quarter; eighth; two-thirds; one-third; and one-sixth.

##### Article 93

There are five beneficiaries of half:

1°) the husband, provided that the wife has not left any male or female descendants.

2) the daughter, provided that she is the sole descendant of her father and that he has left no other children of either sex.

3°) the daughter of the son, provided that she is the sole descendant of her father, who left no other children of either sex, nor any grandchildren,

4) the full sister, provided that there is no father or descendants of the deceased, whether male or female, and no descendants of the son or full brother,

5°) the blood sister, provided that she is the sole descendant, excluding those mentioned in relation to the full sister, as well as the blood brother and blood sister of the deceased.

#### Article 94

There are two beneficiaries of the quarter:

1°) the husband, if there are descendants with him who may be entitled to inherit from the wife,

2°) the wife, if the deceased husband has not left any descendants who may be entitled to his estate.

#### Article 95

The eighth is the wife's share if the deceased husband left descendants who may be entitled to his estate.

#### Article 96

There are four beneficiaries of the two-thirds share: 1) the two or more daughters of the deceased, provided that they are the only descendants, their father having left no a son.

2°) the two granddaughters of the son, provided that they are the only descendants and that the deceased did not leave any male or female descendants or a grandson,

3°) the two full sisters, provided that they are the only descendants of the deceased, who left behind neither a father nor any male or female descendants nor a full brother,

4) two sisters who are blood relatives, provided that they are the only descendants of the deceased who did not leave behind any of those already mentioned in relation to the two full sisters or a half-brother.

#### Article 97

There are three beneficiaries of the one-third share:

1°) the mother, provided that there are no descendants of the deceased who may be entitled to the estate and no two or more brothers,

2°) the uterine brothers, provided that there are several of them and that there is no father of the deceased, no male or female descendants, and no descendants of the son,

3°) the grandfather, if he has as co-heirs the brothers of the deceased and if the third constitutes the largest share for him.

#### Article 98

The sixth is the share of the following seven beneficiaries: 1°) the father, provided that the deceased left children or grandchildren on the son's side, whether male or female,

2°) the mother, provided that she has children of the deceased or grandsons on the son's side or two or more brothers who are actually entitled to the estate or covered by other heirs,

3°) the granddaughter (on the son's side), provided that she is with only one daughter of the deceased and that there is no grandson (on the son's side) with her,

4°) the blood sister, provided that she is with a single blood sister of the deceased and that there is no father with her and no descendants of the deceased, whether male or female, nor a blood brother,

5°) the uterine brother, provided that he is alone, and the uterine sister under the same condition, and that the deceased has not left a father, grandfather, child, or descendants of his son, whether male or female,

6) The grandmother, when she is alone, whether maternal or paternal. If there are two grandmothers, they will share the sixth, provided that they are of the same degree or that the maternal grandmother is of a more distant degree. If, on the other hand, the maternal grandmother is of a closer degree, she shall take the sixth alone.

7°) the grandfather, if there are descendants of the deceased or descendants of the deceased's son, and in the absence of the deceased's father.

#### CHAPTER IV

Provisions affecting the shares due to heirs entitled to a reserved portion in competition with other heirs Article 99

Three cases affect the father's right to inherit:

1°) he acts exclusively in his capacity as a compulsory heir with his share of one-sixth, except in his capacity as an agnate, when he competes with the son of the deceased, the grandson of the deceased to infinity,

2°) he acts in his dual capacity as a compulsory heir and agnate when he competes with the deceased's daughter and the son's daughter ad infinitum,

3°) he acts exclusively in his capacity as agnate in the absence of descendants of the deceased, or if there are no children of the deceased's son in infinite succession,

#### Article 100

There are three cases for uterine brothers:

1°) the sixth is allocated to the uterine brother if he is the only one,

2) One-third is allocated to two or more half-siblings, whether male or female, in equal shares between them.

3°) the status of heir is forfeited if there is a son or grandson, even if he is of a lower degree, and if there is a daughter or granddaughter (on the son's side), even if she is of a lower degree, and finally, in the case of the existence of a father or grandfather.

#### Article 101

There are two possible scenarios for the husband:

1) he is entitled to half if there are no descendants of the wife and descendants of the son, even if they are of a lower degree,

2) he is entitled to a quarter if there are descendants of the wife or descendants of the son, even if they are of a lower degree.

#### Article 102

There are two possible scenarios when there is one or more wives:

1) one quarter is allocated to one or more wives if there are no descendants of the husband or descendants of the son, even if they are of a lower degree,

2) only one-eighth is allocated to them in the presence of descendants of the husband or descendants of the son, even if they are of a lower degree.

### Article 103

There are three cases for daughters:

- 1°) half is allocated to the daughter when she is an only child, 2°) two-thirds are allocated to daughters when there are there are several (i.e., two or more),
- 3°) when they act as agnate heirs of their brothers, in which case their share shall be determined according to the principle that male heirs receive twice the share allocated to female heirs.

### Article 104

The daughters of the son are treated as daughters of the deceased and there are six cases:

1) Half is allocated to the granddaughter when there is only one granddaughter.

2) two-thirds is allocated to the granddaughters when there are two or more granddaughters, provided that there are no daughters,

3) one sixth is allocated to them if there is a single daughter, in order to make up the two thirds,

4) they shall not inherit jointly with two or more daughters of the deceased, unless they have a male grandson (on the son's side) of the same degree as them as a co-heir,

5°) if the latter is of a lower degree than them, he shall act as an agnatic heir and, in this case, they shall inherit jointly with him the remainder of the estate on the basis of the principle that the male heir has twice the share allocated to a female heir,

6) they forfeit their status as heirs due to the existence of the deceased's son.

## Article 105

There are five cases involving full sisters:

1°) half is allocated when there is a single sister, 2°) two-thirds are allocated when there are two or more sisters or more,

3) They act as agnate heirs if they are agnated by their brother and grandfather, and according to the principle that male heirs receive twice the share allocated to female heirs.

4°) once in the position of agnate, the full sister will inherit the remainder of the estate jointly with the daughters or granddaughters (on the son's side),

5) their rights to the estate are forfeited due to the presence of the father, son, or grandson (on the son's side), even if he is of a lower degree.

## Article 106

There are six cases involving blood sisters:

1°) half is allocated to the sister when she is the only one,

2°) two-thirds is allocated to them when there are two or more blood sisters and in the absence of full sisters,

3°) one-sixth is allocated to them in the presence of a single full sister,

4°) they inherit as agnates in the presence of two full sisters, if they have a blood brother as co-heir. The remainder of the estate shall be divided between them according to the principle that the male heir shall receive twice the share allocated to the female heir,

5) they inherit as agnates in the presence of the daughters of the deceased or the daughters of the son,

6°) they forfeit their rights to the estate due to the presence of the father, son, grandson, and great-grandson, even if he is of a lower degree, the brother, the sister if she is an agnate heiress together with the daughters or granddaughters of the son, or with the two sisters when they do not have a blood brother with them.

#### Article 107

There are three cases concerning the mother:

1°) she is entitled to one-sixth if the deceased left a child or grandson (on the son's side), even if of a lower degree, or if she inherits jointly with two or more sisters, whether full, half, or uterine,

2°) one-third of the entire estate is allocated to her in the absence of the above-mentioned co-heirs,

3°) one-third of the remainder of the estate is allocated to her after deduction of the share of one of the spouses in the following two cases:

- a) if one is in the presence of a husband and parents,
- b) if there is a wife and parents.

If, instead of the father, there is a grandfather, the mother is entitled to one-third of the estate after deduction of the share of one of the spouses.

#### Article 108

When the grandfather is called to the succession, four cases may arise:

1°) if he has a son or grandson (on the son's side) as co-heir, even if he is of a lower degree, he will then inherit one-sixth without being able to claim more,

2°) if he has co-heirs who are beneficiaries of shares only, he shall be allocated one-sixth with them. If the estate leaves a remainder, it shall be collected by the grandfather as agnate.

3°) if his only co-heirs are brothers of the deceased, he will have the choice between one-third of the estate or the division of the estate. One-third will become mandatory if the number of brothers and sisters exceeds two brothers and four sisters. The division will in turn become mandatory and the grandfather will take the rank of a brother to share the estate with them according to the rule of granting the male heir a double share of that allocated to a female heir, if there is only one brother and three sisters.

4°) if he has brothers as co-heirs and beneficiaries of shares, he will benefit from the best of the following three proportions: he will take either the entire sixth or one-third of the remainder of the estate after deduction of the shares of the beneficiaries, or he will participate in a division with his brothers.

#### Article 109

If there are full brothers and half-brothers as well as a grandfather, the full brother shall ensure that the grandfather takes into account the existence of the half-brothers during the division, or he shall take possession of the share due to the latter and make it his own.

#### Article 110

If there is a grandfather, a single full sister, and a half-sister, the full sister shall ensure that the grandfather takes into account the existence of the half-sister, and thus the grandfather shall receive half of the estate, the second half shall go to the full sister, and the half-sister shall have no rights.

If, on the other hand, the grandfather and the only full sister have two or three blood sisters as co-heirs, the latter shall receive the remainder of the estate, after the grandfather and all the sisters have been taken into account in the division and the full sister has taken half of the estate.

#### Article 111

The grandmother shall receive one-sixth, whether she is the maternal or paternal grandmother, alone or with other grandmothers, provided that the latter are of the same degree or that the paternal grandmother is of a closer degree, such as, for example, the father's mother or the mother's mother's mother, or the father's father's mother. In this case, the maternal grandmother alone shall receive one-sixth. The paternal grandmother shall not inherit if the father is alive.

Neither the maternal grandmother nor the paternal grandmother will be eligible for inheritance if the mother is alive.

#### Article 112

If the shares of the compulsory heirs exceed the value of the estate, the estate shall be divided among them in proportion to their respective shares.

### CHAPTER V

#### Universal heirs

#### Article 113

There are three types of universal heirs: 1°)

universal heirs in their own right,

2°) universal heirs as a result of the presence of other heirs,

3) universal heirs with others.

#### Article 114

The universal heir inherits the entire estate when he or she is the sole heir; the remainder, if any, goes to the legitimate heirs, failing which they will be disinherited.

The following shall take the rank of "aceb" heirs and succeed in that capacity:

- 1°) the father,
- 2°) the ascendant, even if he is of the highest degree,
- 3°) the son
- 4°) the descendant of the son, even if he is of the lowest degree,
- 5°) the full or blood brother,
- 6°) the descendant of the full or half-brother<sup>(\*)</sup>, even if he is of the lowest degree,
- 7°) the paternal or maternal uncle,
- 8°) the first cousin, whether the uncle is of the highest or lowest degree, such as the paternal uncle or ascendant,
- 9°) the Treasury.

#### Article 115

Universal heirs are divided into classes ranked in order of priority, as follows:

- 1) descendants,
- 2) the father,
- 3) ascendants and siblings, 4) descendants of siblings,
- 5) paternal uncles and their descendants, who occupy the same rank but are classified in order of closest kinship,
- 6) the Treasury.

#### Article 116

The heir whose degree\* is closest takes precedence over the others, even if he is distant from those whose degree is lower.

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<sup>(\*)</sup> In accordance with the Arabic text.

\* Article 116, original version in Arabic, refers to "class" (MARTABA) and not "degree" (DARAJA).

#### Article 117

In the event of equality in class and difference in degree, the heir of the closest degree shall be placed before that of the most distant degree.

#### Article 118

In the event of equality in class and degree and when the relationship is more or less close, the stronger family relationship takes precedence over the weaker one.

#### Article 119

An agnate, as a result of the presence of other heirs, is any woman who becomes an agnate in competition with a man: the daughter, the granddaughter on the son's side, the full sister, and the blood sister.

The daughter is agnatic to her brother. She will inherit jointly with him, either the entire estate or the remainder, according to the rule that male heirs receive twice the share of female heirs. The granddaughter on the son's side is agnatic by her brother and by her first cousin of the same degree as her, without condition. She is also agnatic by the grandson of a degree lower than hers, provided that she is not entitled to two-thirds.

The full sister and the blood sister are agnated by their brother and their grandfather, who will occupy the same rank in the inheritance as their brother.

#### Article 120

Any woman who is not entitled to a share of the inheritance and whose brother is agnate may not, under any circumstances, become agnate herself because of the presence of her brother. This is the case, for example, with the paternal uncle and paternal aunt, the paternal cousin and paternal cousin, and the nephew on the brother's side and the niece on the same side.

The inheritance shall devolve to the agnate, and the sister shall have no right to it.

#### Article 121

An agnate with others is any woman who will become a universal heir jointly with another. There are two such women:

a) the full sister with one or more daughters or with one or more granddaughters on the son's side,

b) the blood sister with one or more daughters or with one or more granddaughters on the son's side.

### CHAPTER VI

#### Eviction in matters of succession "Hajb" Article

#### 122

Disinheritance in matters of succession "Hajb" consists of totally or partially disinheriting an heir from the inheritance. There are two types:

1°) eviction by reduction, which consists of reducing the share of the inheritance to a smaller portion,

2°) total eviction from the inheritance.

#### Article 123

Total exclusion cannot be invoked against six ranks of heirs: 1) the father, 2) the mother, 3) the son, 4) the daughter, 5) the husband, and 6) the wife.

Eviction by reduction may apply to both spouses, the father and mother, the grandfather, the granddaughter on the son's side, the full sister, and the blood sister.

#### Article 124

There are six persons who may claim eviction by reduction: 1) the son, 2) the grandson, 3) the daughter, 4) the granddaughter on the son's side, 5) brothers without distinction, and 6) the full sister.

#### Article 125

The son and grandson each cover the husband, reducing his share of the inheritance from half to a quarter, the wife, reducing her share from a quarter to an eighth, the mother, whose share will be reduced from a third to a sixth, and finally the father or grandfather, who, losing their agnatic share, will thus obtain only a sixth of the inheritance.

#### Article 126

The only daughter covers the granddaughter on the son's side by reducing the latter's share from half to one-sixth. If there are two granddaughters, their share will be reduced from two-thirds to one-sixth. The same applies to the full sister or blood sister, whose share will be that of an agnate instead of half. The same applies to two full sisters or blood sisters, who will take the place of agnates instead of two-thirds. The husband's share will also be reduced from half to a quarter. The wife's share will be reduced from one quarter to one eighth. The mother's share will be reduced from one third to one sixth. The father and grandfather, losing their status as agnates, will receive one sixth and will collect the rest of the estate, if any, as agnates.

#### Article 127

The granddaughter on the son's side covers the granddaughters on the son's side of a lower degree by agnating them in relation to the succession of a brother or paternal cousin of the same degree as her, so that if there is only one granddaughter, her share will be reduced from half to one sixth. But if there are two granddaughters, their share will be reduced from two-thirds to one-sixth. She will also cover the full or blood sister by reducing her share from half to one agnate share. She will also cover the two full or blood sisters by making them agnates when they could have claimed two-thirds. The same applies to the husband, whose share will be reduced from half to a quarter, and to the wife.

whose share will be reduced from one quarter to one eighth, the mother, whose share will be reduced from one third to one sixth, and finally the father and grandfather, whose agnatic share will be reduced to one sixth and who will receive the remainder of the estate, if any, as agnates.

The brothers and sisters, whatever their claims, whether they are heirs or covered by others, in turn cover the mother by reducing her share from one-third to one-sixth.

#### Article 128

A full sister covers her blood sister by reducing the latter's share from one-half to one-sixth, unless she has a blood brother as co-heir, through whom she would be agnatic. The same applies to two blood sisters, whose share shall be reduced from two-thirds to one-sixth, unless they have a blood brother as co-heir.

#### Article 129

There are sixteen persons who cover other heirs in their entirety: 1) the son, 2) the male descendants of the son, even if they are of a lower degree, 3) the daughter, 4) the granddaughter on the son's side, 5) the full brother, 6) the blood brother, 7) the full nephew, 8) the blood nephew, 9) paternal uncle, 10) paternal cousin, 11) the daughter or granddaughter on the son's side with the full sister, 12) the two full sisters, 13) the father, 14) the grandfather, 15) the mother, and 16) the maternal grandmother.

#### Article 130

The children of the son of both sexes, brothers whether full or half or uterine, and paternal uncles whether full or half, may not inherit with the son or the descendants of the son, even if they are of a lower degree.

#### Article 131

The following persons shall not be entitled to inherit at the same time as the daughter or granddaughter on the son's side: the paternal half-brothers or half-sisters

. The uterine brother, nor the granddaughter or granddaughters on the son's side, shall not inherit together with the two daughters, unless they are agnated by a brother or paternal cousin of the same degree as them in order to be able to claim the rest of the estate as agnates, and according to the rule attributing to the male heir twice the share of a woman. The same applies to the two granddaughters on the son's side, in relation to female descendants of a lower degree than themselves on the grandson's side.

#### Article 132

Neither the full brother nor the paternal uncle, whether full or collateral, may inherit at the same time as the full brother. As for the half-brother, he may not, under any circumstances, be covered by the full brother.

#### Article 133

The paternal uncle, whether full or collateral, and the children of the brother, even if the latter is a full brother, may not inherit jointly with the collateral brother.

#### Article 134

The paternal uncle, even if he is a full uncle, the child of the half-brother, or those who are of a lower degree, such as the descendants of the brother's children, may not inherit jointly with the son of the full brother.

#### Article 135

The paternal uncle, even if he is a full brother, or those who are of a lower degree, such as the descendants of the brother, even if the latter is a full brother, may not inherit jointly with the son of the half-brother.

#### Article 136

The paternal uncle by blood, the paternal uncle by marriage, or those of a lower degree such as the descendants of the uncle, even if the latter is by blood or by marriage, may not inherit jointly with the paternal uncle by blood.

#### Article 137

Neither paternal first cousins, paternal second cousins, nor those of a lower degree of kinship, such as the descendants of paternal first or second cousins, may inherit jointly with paternal first cousins.

#### Article 138

The full brother or brothers cannot inherit jointly with the daughter or full sister or granddaughter on the son's side with the full sister.

#### Article 139

The consanguineous sister shall not inherit jointly with the two germain sisters if she is not agnated by a brother.

#### Article 140

The paternal grandfather, paternal grandmother, paternal uncle, or brother shall not inherit jointly with the father.

#### Article 141

The paternal grandfather's ancestors of a higher degree than the latter, uterine brothers, paternal uncles, and nephews on the brother's side shall not inherit jointly.

#### Article 142

The maternal grandmother, paternal grandmother, or maternal uncles shall not inherit jointly with the mother.

#### Article 143

The paternal grandmother shall not inherit jointly with the maternal grandmother if she is of a more distant degree than the latter.

#### Article 143 bis. (Added by Law No. 59-77 of June 19, 1959).

In the absence of agnatic heirs (Aceb), and whenever the estate is not entirely absorbed by the

(Fardh), the remainder shall revert to the latter and shall be distributed among them in proportion to their shares.

The daughter or daughters, the granddaughter of the paternal line to infinity, benefit from the return of the surplus, even in the presence of "Acebs" heirs themselves, from the category of brothers, paternal uncles and their descendants, as well as from the treasury.

## CHAPTER VII

### Special cases

#### Article 144

If a woman dies, leaving as co-heirs a husband, mother or grandmother, uterine brothers, one or more germain brothers, the uterine brothers and germain brothers shall share among themselves what remains after the husband's, mother's, or grandmother's share has been taken, in equal parts without distinction between men and women and between germain brothers and uterine brothers. If there are consanguineous brothers with the germain brothers, the latter shall not inherit.

#### Article 145

If a woman dies, leaving as co-heirs a husband, a mother or grandmother, uterine brothers, one or more germain brothers, and a grandfather, the husband shall receive half, the mother or grandmother one-sixth, the grandfather one-sixth, and the full brother or blood brother the remainder of the estate as agnate, which corresponds to the remaining one-sixth. Half-brothers shall receive nothing.

#### Article 146

If a woman dies, leaving as co-heirs a husband, a mother, a full sister or a half-sister, and a grandfather, the husband shall receive half, the mother one-third, the sister one-

half, the grandfather one sixth, the shares of the sister and grandfather shall be combined and divided according to the rule attributing to the male heir twice the share of a woman.

## CHAPTER VIII

### Miscellaneous matters

#### Article 147

If there is an unborn child among the heirs, a share greater than that which would be due to a single male child or to a female child shall be taken from the estate if the unborn child is entitled to inherit or if it partially covers the other heirs. However, if it covers them entirely, the entire estate shall be reserved and shall not be divided.

#### Article 148

If the unborn child is entitled to inherit alongside the other heirs or partially covers them, those whose inheritance shares cannot be modified will receive their full shares. However, those whose shares are likely to be reduced will receive the minimum share. As for those who are to be completely excluded from the inheritance because of the sex of the unborn child, they will receive nothing.

#### Article 149

In the event of a dispute regarding the pregnancy, specialists shall be consulted.

#### Article 150

A child conceived by a deceased man shall only inherit if born alive within one year of the date of death or, in the event of divorce, from the date of the woman's legal retirement.

The child conceived shall only be entitled to inherit in a succession other than that of his father in the following two cases:

a) if it is born alive within a maximum period of 365 days from the date of death or separation when the mother is legally retired due to the death of her husband or divorce and when the author of the estate is decided during said legal retirement,

b) if he or she is born alive within a maximum period of 270 days from the death of the author when the child is the offspring of spouses still united by the bonds of marriage at the time of the death of the said author.

#### Article 151

The share of an estate belonging to a missing person is reserved for them. They will receive it if they are found to be alive. If a judgment declaring the person missing is handed down, this share will revert to the rightful heirs on the date of the author's death. If, after the judgment declaring the disappearance, the missing person is found to be alive, they will only receive what remains of their share in the hands of the heirs.

#### Article 152

An illegitimate child shall inherit only from his or her mother and her parents. The mother and her parents shall have sole inheritance rights in the estate of the said child.

## BOOK TEN

### DISQUALIFICATION AND EMANCIPATION

The causes of interdiction are:

Minority, insanity, mental deficiency, and prodigality.

#### Minority

Article 153 (Amended by Law No. 93-74 of July 12, 1993).

A person who has not reached the age of majority of "eighteen years" is considered incapacitated due<sup>to</sup> minority.

A minor becomes an adult through marriage if he or she is over the age of 17, in terms of his or her personal status and the management of his or her civil and commercial affairs.

Article 154. (Amended by Law No. 81-7 of February 18, 1981).

The father is the guardian of the minor child and, in the event of the father's death or incapacity, the mother is the legal guardian, subject to the provisions of Article 8 of this Code relating to marriage. The father's will only takes effect after the death or incapacity of the mother.

In the event of the death or incapacity of the parents, and in the absence of a testamentary guardian, the judge must appoint a guardian.

Article 155. (Amended by Law No. 81-7 of February 18, 1981).

Guardianship shall be exercised by right over the minor child by the father, then by the mother, then by the testamentary guardian. It shall only cease by order of the judge for legitimate reasons.

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(1) The expression was replaced by Article 2 of Law No. 2010-39 of July 26, 2010, unifying the age of civil majority.

#### Article 156

A child who has not reached the age of thirteen is considered incapable of discernment and all his or her acts are null and void.

A child over the age of thirteen is considered to have discernment. Their acts shall be valid if they are solely to their advantage and void if they are solely to their detriment. Outside of these two cases, their validity shall be subject to the guardian's consent.

#### Article 157

A child under guardianship who has reached the age of eighteen<sup>18</sup> and is no longer subject to a judgment of incapacitation for reasons other than minority shall be deemed to have attained the age of majority. He or she shall then be capable of performing all civil acts. All his or her acts shall be valid.

#### Article 158

The judge may grant the child limited or absolute emancipation, and may withdraw it if necessary.

Acts performed by the child within the limits set by the emancipation order shall be valid.

#### Article 159

A child may not be emancipated before reaching the age of fifteen.  
Dementia and mental weakness

#### Article 160

A demented person is someone who has lost their reason; their dementia may be continuous or interrupted by lucid intervals.

A weak-minded person is someone who does not enjoy full consciousness, who manages their affairs poorly, is unfamiliar with common transactions, and is disadvantaged in their acts of buying and selling.

<sup>(1)</sup> The expression was replaced by Article 2 of Law No. 2010-39 of July 26, 2010, unifying the age of civil majority.

#### Article 161

In the cases provided for in the previous article, the prohibition shall be pronounced by the judge on the advice of experts in the field.

#### Article 162

Acts performed by the prohibited person without the assistance of the guardian shall be null and void unless approved by the latter.

#### Article 163

The acts of a person suffering from dementia shall be null and void. Acts performed by a person of weak mind prior to the prohibition shall be voidable if the cause of the prohibition was well known at the time when such acts were performed.

#### Prodigality

##### Article 164

A spendthrift is someone who does not manage their property properly and indulges in extravagance. Their interdiction is subject to a judgment.

##### Article 165

All acts performed by the prodigal before the judgment of interdiction are valid and not subject to annulment. The validity of acts performed after the judgment shall be subject to the approval of the guardian.

##### Article 166

The recognition of the prodigal is null and void in financial matters.

#### Common provisions

##### Article 167

A prohibition imposed by judgment shall only be lifted by judgment, except in the case of prohibition imposed on grounds of minority.

#### Article 168

A person who has been disqualified, for whatever reason, has the right to appeal directly to the courts to request the lifting of the disqualification.

#### Article 169

The provisions of this chapter shall apply notwithstanding the exceptions provided for in other chapters of this code.

#### Article 170

The provisions of this chapter shall apply equally to persons under legal disability, whether male or female.

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BOOK ELEVEN<sup>(1)</sup>  
WILLS AND TESTAMENTARY  
DISPOSITIONS

CHAPTER I

General Provisions

Article 171

A will is an act by which a person transfers, free of charge, for the time after their death, all or part of their property, either in full ownership or in usufruct.

Article 172

A testamentary disposition subject to an unlawful condition is valid, the condition being deemed unwritten.

Article 173

A bequest in favor of a place of worship or a legally constituted association is permitted.

Article 174

A will shall be valid even if the testator and the legatee are not of the same religion.

Article 175

A will made in favor of a foreigner is valid subject to reciprocity.

Article 176

To be valid, a will must be made by authentic instrument or by a written document dated and signed by the testator.

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<sup>(1)</sup> Book Eleven and Articles 171 to 199 were added by Law No. 59-77 of June 19, 1959.

## Article 177

The will may be revoked by the testator, but the revocation shall only be valid if it has been made in the manner provided for in Article 176.

## CHAPTER II

### The testator

## Article 178

A will made by a prodigal, a person of weak mind or a minor under the age of sixteen<sup>(1)</sup> is valid, provided that it is probated by a judge.

## Article 179

No disposition may be made by will in favor of an heir; nor may more than one-third of the testator's estate be disposed of.

A bequest made in favor of an heir, or which exceeds one-third of the testator's estate, shall only be executed if the heirs consent to it after the testator's death.

## Article 180

The act of a person assigning, during his lifetime, to all his heirs, or to one or more of them, specific assets from his estate not exceeding their inheritance shares, is valid and shall be executed upon his death.

Any excess is subject to the rules of the will.

## CHAPTER III

### The legatee

## Article 181

Upon the death of the testator, the legatee shall receive the bequeathed item and anything that has been added to it since.

<sup>(1)</sup> The expression was replaced by Article 2 of Law No. 2010-39 of July 26, 2010, on the unification of the age of civil majority.

#### Article 182

A legacy of usufruct shall only take effect in respect of a single generation, the object of the legacy reverting to the testator's estate upon the extinction of that generation.

#### Article 183

A legacy made in favor of two or more persons shall be reduced to one-third of the estate if it exceeds that amount, and for the purposes of distribution, the testator's wishes shall be taken into account with regard to the shares and the formation of lots.

#### Article 184

A will made in favor of a child already conceived at the date of the will is valid if the child is born viable within the time limits provided for in Article 35 of this Code.

In this case, from the death of the testator until the birth, the fruits shall be subject to protective measures.

### CHAPTER IV

#### Bequests

#### Article 185

Nothing is due to the specific legatee if the bequeathed item perishes or is claimed and recognized as the property of a third party; if only part of the bequeathed item perishes or is claimed and recognized as the property of a third party, the legatee shall receive the remainder.

#### Article 186

The thing that is the subject of a specific bequest must exist in the testator's estate on the date of the will.

#### Article 187

A bequest made in favor of a person other than an heir shall be executed without the consent of the heirs if it does not exceed one-third of the estate.

## Article 188

A testator who has no creditors and leaves no heirs may bequeath even the entirety of his estate, notwithstanding the inheritance rights of the treasury.

## Article 189

A legacy of the usufruct of a specific item shall be executed for the period specified; where no period is specified, the legatee shall enjoy the bequeathed item for the rest of his life, unless the will provides otherwise.

## Article 190

A will that includes a loan of money shall only be executed up to a limit of one-third of the estate, unless the heirs consent to it.

## CHAPTER V

### Mandatory bequest

## Article 191

The children, sons or daughters, of a person who dies before or at the same time as their grandfather or grandmother, are entitled to a compulsory legacy equivalent to the share of the estate that their father or mother would have received had they remained alive, without this share exceeding one-third of the estate's assets.

However, they are not entitled to the compulsory legacy:

1) if they are called to the succession of their grandfather or grandmother, 2) if they benefit from a legacy made in their favor by their grandfather or grandmother, or if the latter made them a gift during their lifetime equivalent to the compulsory legacy; if the legacy made in their favor is less than the compulsory legacy or exceeds it, in the first case there would be a need for a supplement, and in the second case, the excess

shall be considered a voluntary bequest and subject to the general rules governing bequests.

The compulsory legacy takes precedence over the voluntary legacy; voluntary legacies are of equal rank and are reduced to the franc in the event of competition.

#### Article 192

The compulsory legacy shall only benefit the first line of grandchildren born to a child of either sex, and the division between them shall be two parts for the boy and one part for the girl.

### CHAPTER VI

#### Acceptance and repudiation of legacies Article 193

A legacy may be renounced by the legatee or by his or her representative.

#### Article 194

The repudiation of the bequest must take place after the death of the testator and, at the latest, two months after the will has been notified to the legatee.

Silence on the part of the legatee during this period shall be deemed acceptance.

If the legatee dies within this period, his or her heirs shall exercise their rights from the date on which the will is disclosed to them.

#### Article 195

A bequest that is accepted in part shall be executed for that part and shall be void for the remainder.

In the event of multiple legatees, if some accept the bequest and others reject it, the bequest shall be executed with regard to those who accept it and shall be deemed null and void with regard to the others.

#### Article 196

Acceptance upon rejection shall not be valid, and vice versa, unless the heirs consent thereto.

### CHAPTER VII

#### Lapse of legacies

#### Article 197

A bequest shall lapse:

1°) due to the testator's proven insanity, if this condition persists until his or her death,

2°) upon the testator's predecease,

3°) if the bequeathed item perishes before the testator's death,

4°) by the repudiation of the bequest by the legatee after the testator's death.

#### Article 198

Voluntary and compulsory legacies shall be null and void where the legatee, aged over 13, has voluntarily attempted, without legitimate reason, to take the life of the testator, as principal perpetrator, co-perpetrator, or accomplice. The same shall apply where the legatee has given false testimony against the testator, resulting in the latter being sentenced to death.

#### Article 199

In the event that the bequest is null and void, in whole or in part, the bequeathed property shall revert to the testator's estate.

BOOK XII<sup>(1)</sup>  
DONATIONS  
CHAPTER ONE  
General provisions

Article 200

A donation is a contract whereby one person transfers ownership of property to another person free of charge.

The donor may, without being deprived of his or her liberal intention, impose on the donee the obligation to perform a specific service, in which case the act is referred to as a donation with a charge.

CHAPTER II  
Conditions of donation

Article 201

The donation is complete upon delivery of the donated item to the donee.

The donation is void if the donor or the donee dies before delivery, even if the donee has done everything possible to take possession of the donated item.

Article 202

The provisions relating to the delivery of the thing sold shall apply to the delivery of the thing donated, insofar as they are not contrary to the nature and specific rules of donation.

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<sup>(1)</sup> Book XII and Articles 200 to 213 were added by Law No. 64-17 of May 28, 1964.

### Article 203

If the delivery of the donated item has not taken place, the donee has the right to demand it.

Article 204. (Amended by Law No. 92-48 of May 4, 1992).

To be valid, all donations must be made by authentic deed.

The resulting rights in rem for registered immovable property shall only be constituted by their registration in the land register.

However, if the donation relates to tangible movable property, simple delivery is sufficient, subject to the special rules applicable to registered movable property<sup>(1)</sup>.

### Article 205

The donation of future property is null and void.

### Article 206

A donation made by a sick person during their final illness is deemed to be a bequest.

## CHAPTER III

### Effects of the donation

### Article 207

The donor shall only be liable for eviction if he has intentionally concealed the cause of the eviction or if the donation was made with a charge. In the first case, the donee shall be awarded fair compensation for the loss suffered. In the second case, the donor shall only be liable up to the value of the charges incurred by the donee, unless otherwise agreed.

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<sup>(1)</sup> The provisions of this article shall come into force three years after the date of publication of Law No. 92-48 of May 4, 1992. This period is extended by three further years by Law No. 98-30 of April 20, 1998.

In the event of eviction, the donee shall be subrogated to the rights and actions of the donor.

#### Article 208

The donor is not liable for any defects in the donated item.

However, if the donor has intentionally concealed the defect or has guaranteed its non-existence, he shall be liable to the donee for compensation for the damage caused thereby. He shall also be liable for damages if the donation is made with a charge, provided that the amount of the damages does not exceed, in this case, the value of the charges incurred by the donee.

### CHAPTER IV

#### Revocation of the donation

#### Article 209

If the donor reserves the right to revoke his donation, the donation remains valid but the reservation is void.

#### Article 210

Provided that the rights specifically acquired by third parties are respected and unless one of the impediments provided for in Article 212 exists, the donor may request the revocation of the donation on one of the following grounds:

1°) in the event of a breach constituting serious ingratitude on the part of the donee towards the donor,

2°) if the donor is reduced to a state such that he or she is unable to provide for his or her own maintenance in accordance with his or her social status or is unable to meet his or her legal maintenance obligations,

3°) in the event of the death of the donor after the donation of a child who is still alive at the time of revocation.

## Article 211

Action for revocation on grounds of ingratitude shall be time-barred one year from the date on which the ingratitude occurred or from the date on which the donor could have become aware of such ingratitude. In any event, it shall be time-barred ten years from the date on which the ingratitude occurred.

This revocation may not be requested by the donor's heirs, unless the action was brought by the donor or he died within one year of the act constituting ingratitude.

## Article 212

The revocation of the donation may not be requested if any of the following impediments exist:

1°) if the donated item acquires added value as a result of an increase that is attached to and incorporated into it,

2°) if the donee has disposed of the donated item; however, if the disposal is only partial, the donor may revoke the donation for the remaining part,

3°) if the donated item has perished in the hands of the donee through the latter's actions, through an external cause not attributable to the donee, or through use; however, if the loss is partial, revocation may take place for the remaining part.

## Article 213

A revoked donation is deemed null and void.

The donee shall only be required to return the fruits from the date of the agreement on revocation or the legal claim. He may be compensated for all necessary expenses and, up to the amount of the increase in value, for useful expenses.

## APPENDICES

- \* Civil status regulations .....
- \* Prenuptial medical certificate.....
- \* Community property regime between spouses.....
- \* Organization of guardianship.....
- \* Guardianship and adoption.....
- \* Assignment of a surname to abandoned children or children of unknown parentage.....
- \* Alimony and Divorce Pension Guarantee Fund.....

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## REGULATION OF CIVIL STATUS

Law No. 57-3 of August 1, 1957 (4 Moharem 1377), regulating civil status.

(JORT Nos. 2 and 3 of July 30 and August 2, 1957) In the name of the people,

We, Habib Bourguiba, President of the Republic of Tunisia,

Having regard to the decree of December 28, 1908 (4 Douhidja 1320) making birth and death declarations mandatory for Tunisians,

Having regard to the decree of September 30, 1929 (25 Rabia II 1348) regulating civil status,

Having regard to the decree of December 6, 1929 (22 djoumada II 1348) specifying the application of the aforementioned decree of September 30, 1929 (25 rabia II 1348) with regard to Tunisians,

Having regard to the decree of June 21, 1956 (12 Doulkâada 1375) on the administrative organization of the Kingdom,

Having regard to the decree of August 13, 1956 (6 Moharram 1376) promulgating the Personal Status Code,

Having regard to the decree of March 14, 1957 (12 Sha'ban 1376),

In view of the opinion of the Secretaries of State for Justice and the Interior, we hereby enact the following law:

### Article 1

This law regulates:

- 1) the conditions under which births and deaths shall be declared,
- 2) the establishment and transcription of marriage certificates and the transcription of divorce judgments or decrees.

## CHAPTER I

### General provisions

Article 2 (Amended by Law No. 76-32 of February 4, 1976).

The presidents of municipalities, governors, first delegates, delegates, and sector heads shall be vested with the functions of civil registrars.

The territorial jurisdiction of each category shall be determined by decree.

#### Article 3

The civil registrar may not insert anything in the documents he receives, either by note or by any statement, other than what is declared by the parties appearing before him.

They are prohibited from appearing in the document as a party, declarant, or witness.

#### Article 4

Witnesses appearing before civil registrars must be at least "at least eighteen years of age,"<sup>(1)</sup> parents or others, without distinction of sex, and shall be chosen by the persons concerned.

#### Article 5

The registrar shall read the records to the parties appearing and to the witnesses. Mention shall be made of the completion of this formality.

#### Article 6

The records shall state the year, day, and hour at which they were received, the first and last names of the civil registrar, and the first names, last names, occupations, and addresses of all those named therein.

The dates and places of birth:

a) of the father and mother, in birth records,

<sup>(1)</sup> The expression has been replaced by Article 2 of Law No. 2010-39 of July 26, 2010, on the unification of the age of civil majority.

b) of the deceased, in death certificates - shall be indicated when known.

Otherwise, the age of the said persons shall be indicated by their number of years, as shall, in all cases, the age of the declarants. With regard to witnesses, only their status as adults shall be indicated.

#### Article 7

The documents shall be signed by the registrar, the parties appearing and the witnesses, or mention shall be made of the reason preventing the parties appearing or the witnesses from signing.

#### Article 8

Civil status documents shall be recorded in duplicate registers.

Article 9. (Amended by Law No. 59-120 of September 28, 1959).

The registers shall be numbered on the first and last pages and initialled on each page by the district judge.

#### Article 10

The records shall be entered in the registers consecutively, without any blank pages, at the rate of one record per folio. Deletions and references shall be approved and signed in the same manner as the body of the record. Nothing shall be written in abbreviated form, and no dates shall be written in figures.

#### Article 11

The registers shall be closed and finalized by the registrar at the end of each year; and within one month, one of the duplicates shall be deposited with the clerk of the court of first instance, the other with the archives of the municipality, governorate, or delegation.

#### Article 12

Documents that must remain attached to civil status records shall be filed, after being initialed by the person who produced them and by the civil registrar, with the court clerk's office, together with two copies of the registers that must be filed with said clerk's office.

### Article 13

Any person may, except as provided for in Article 14 below, obtain copies of the records entered in the civil status registers from the registrars.

Copies issued in accordance with the registers, bearing the date of issue in full and bearing the signature and seal of the authority that issued them, shall be deemed authentic until proven false.

They must also be legalized, unless otherwise provided for in international agreements, when they are to be produced before foreign authorities.

Extracts may be issued which shall contain, in addition to the name of the district where the record was drawn up, a literal copy of that record and the notes and transcriptions made in the margin, with the exception of anything relating to the documents produced to the civil registrar who drew it up and to the appearance of witnesses. These extracts shall be deemed authentic until proven false.

### Article 14

No one, except the government commissioner\*, the child, his or her direct ascendants and descendants, his or her spouse who is neither separated nor divorced, his or her guardian or legal representative, if he or she is a minor or incapacitated, may obtain a certified copy of a birth certificate other than his or her own, except by virtue of an authorization issued free of charge by the district judge of the district where the certificate was received and upon written request by the interested party.

If this person does not know how to sign or is unable to sign, this inability shall be noted by the registrar or the police commissioner, who shall also certify that the request was made on the initiative of the person concerned.

In the event of refusal, the request shall be brought before the President of the Court of First Instance, who shall rule by summary judgment.

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Read: Public Prosecutor.

The registrars shall be required to issue to all applicants specified above extracts indicating, without further information, the year, day, time, and place of birth, the sex of the child, the first names given to the child, and the surnames, first names, occupations, and addresses of the father and mother, as stated in the birth certificate or in the marginal notes.

#### Article 15

In all cases where a civil status record must be mentioned in the margin of a record that has already been registered, this shall be done automatically.

The civil registrar who drew up or transcribed the record giving rise to the entry shall make this entry within five days in the registers in his possession and, if the duplicate of the register in which the entry is to be made is kept at the registry, he shall send a notice to the government commissioner\* of his district.

If the record in the margin of which this entry is to be made has been drawn up or transcribed in another district, the notice shall be sent within five days to the registrar concerned, who shall immediately notify the government commissioner\* if the duplicate register is held by the court clerk.

#### Article 16

Any civil status document relating to Tunisians and foreigners, issued in a foreign country, shall be considered authentic if it has been drawn up in the form used in that country.

Those records concerning Tunisians shall be transcribed into the civil status registers for the current year, kept by the diplomatic agents or consuls with territorial jurisdiction; a summary note of this transcription shall be made in the margin of the registers on the date of the record. Where, as a result of the severance of diplomatic relations or the closure of the diplomatic or consular post with territorial jurisdiction, the transcription cannot be made under the conditions provided for in the preceding paragraph, the document shall, exceptionally, be filed with the Secretary of State for Foreign Affairs.

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\* Read: Public Prosecutor.

Foreign Affairs, which may issue a certified copy. As soon as circumstances permit, the Secretariat of State shall have the document transcribed under the conditions set out above.

#### Article 17

All civil status documents for Tunisians in foreign countries shall be drawn up, in accordance with Tunisian law, by diplomatic agents or consuls of Tunisia accredited in those countries.

A duplicate of the civil status registers kept by these officers shall be sent at the end of each year to the municipality of Tunis, which shall keep them and may issue extracts from them.

#### Article 18

Any violation of the preceding articles by the officials named therein shall be prosecuted before the District Court of First Instance and punished by a fine not exceeding ten thousand francs.

#### Article 19

Any custodian of the registers shall be civilly liable for any alterations made thereto, without prejudice to his right to take action, where appropriate, against the perpetrators of such alterations.

#### Article 20

Any alteration or forgery in civil status records, any entries in such records made on a loose sheet of paper and not in the registers intended for that purpose, shall give rise to damages for the parties, without prejudice to the penalties provided for in the Penal Code.

#### Article 21

The government commissioner\* at the District Court of First Instance shall be required to verify the condition of the registers when they are filed with the court clerk's office, draw up a summary report of the verification, report any violations or offenses committed by civil registry officers, and request that they be fined.

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\* Read: Public Prosecutor.

## CHAPTER II

### Birth certificates

#### Article 22

Births shall be registered within ten days of delivery with the registrar of the place of birth.

However, for births occurring outside the municipal boundaries and in foreign countries, this period shall be extended to fifteen days<sup>(\*)</sup>.

#### Article 23. (Amended by Law No. 64-42 of November 3, 1964).

When a birth has not been registered within the legal time limit, the registrar may only record it in the registers pursuant to a decision rendered by the President of the Court of First Instance in whose jurisdiction the child was born, and a summary note shall be made in the margin of the date of birth. If the place of birth is unknown, the President of the competent Court of First Instance shall be that of the applicant's place of residence.

The President may always refer the case to the Court.

Anyone who knowingly lies in order to obtain a declaratory judgment of birth shall be liable to one year's imprisonment and a fine of two hundred and forty dinars<sup>(\*\*)</sup>.

#### Article 24

The birth of the child shall be declared by the father or, in the absence of the father, by the doctors, midwives, or other persons who attended the birth and, when the mother has given birth outside her place of residence, if possible, by the person at whose home she gave birth.

The birth certificate shall be drawn up immediately.

<sup>(\*)</sup> This paragraph is not mentioned in the Arabic text.

<sup>(\*\*)</sup> In accordance with the Arabic text.

## Article 25

Any person who, having attended a birth, fails to make the declaration required by Article 22 of this Act shall be punished by imprisonment for six months and a fine of three thousand francs, or by one of these two penalties only.

The provisions of Article 53 of the Penal Code shall apply to the offenses referred to in the preceding paragraph.

## Article 26

The birth certificate shall state the date, time, and place of birth, the sex of the child, and the first names given to the child, as well as the first names, surnames, dates and places of birth, occupations, addresses, and nationalities of the father and mother and, where applicable, those of the person making the declaration.

The custodians of civil status registers shall not reproduce in certified copies the words "father or mother unknown" or "unnamed" or any similar wording.

These references shall also not be reproduced in the registers, civil status records, or transcripts.

## Article 27

Any person who finds a newborn child shall be required to hand it over to the civil registrar, together with any clothing and other effects found with the child, and to report all the circumstances, the time and place where it was found.

A detailed report shall be drawn up, stating the apparent age of the child, its sex, and the names given to it.

This report shall be entered in the registers.

The registrar shall immediately notify the government commissioner.

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\* Read: Public Prosecutor.

## Article 28

In the event of a birth during a sea voyage, a birth certificate shall be drawn up within twenty-four hours of the birth, based on a declaration by the father, if he is on board, or by two witnesses from among the officers of the vessel or, failing that, from among the crew.

If the birth takes place during a stopover in a port, the certificate shall be drawn up under the same conditions when it is impossible to communicate with the shore or when there is no Tunisian diplomatic or consular agent in the port, if abroad, vested with the functions of a civil registrar.

This certificate shall be drawn up, on State vessels, by the commander; on other vessels, by the captain, master or skipper of the ship.

It shall mention the circumstances referred to above in which the document was drawn up. The document shall be entered in the crew list.

## Article 29

At the first port where the vessel calls, for any reason other than its decommissioning, the officer in charge shall be required to file two copies of each birth certificate issued on board, in a Tunisian port, with the Maritime Authority Office, and, in a foreign port, with the Tunisian Consul. If there is no Maritime Authority Office or Consul in that port, the deposit shall be postponed until the next port of call or port of call.

One of the copies filed shall be sent to the Secretary of State for the Navy, who shall forward it to the registrar of the last place of residence of the child's father or, if the father is unknown, of the mother, so that it may be transcribed in the registers. If the last place of residence cannot be found or is outside Tunisia, the transcription shall be made in Tunis.

The other copy shall remain on file at the Consulate or the Maritime Authority Office.

A note of the transmissions and deposits made in accordance with the provisions of this article shall be entered in the margin of the original documents by the agents of the Maritime Authority and the Consuls.

#### Article 30

Upon the vessel's arrival at the port of decommissioning, the officer in charge shall be required to deposit, together with the crew list, a copy of each of the birth certificates drawn up on board, copies of which have not already been deposited in accordance with the provisions of the preceding article.

This deposit shall be made at the Office of the Maritime Authority.

The shipment thus deposited shall be addressed to the Secretary of State for the Navy, who shall forward it as stated in the preceding article.

### CHAPTER III

#### Marriage certificates and their transcription

##### Article 31

The marriage certificate shall be drawn up in Tunisia before two notaries or before the registrar in the presence of two reputable witnesses.

The marriage of Tunisians abroad shall be celebrated before Tunisian diplomatic or consular agents, or in accordance with local law.

##### Article 32

The marriage certificate shall state:

1) the first names, surnames, professions, ages, dates and places of birth, domiciles, residences, and nationalities of each of the spouses,

2) the first names, surnames, professions, domicile, and nationalities of the father and mother,

3) a statement by two witnesses that the future spouses are free of any previous marital ties,

4) the first names and surnames of the previous spouse of each of the future spouses, as well as the dates of death or divorce that led to the dissolution of their marriages,

5°) where applicable, the consent or authorization required by law, as well as mention of the dowry.

Article 33. (Amended by Law No. 58-71 of July 4, 1958).

Notaries are required, before delivering a copy of the marriage certificate to the parties concerned and within one month of the date of the certificate, to send the registrar of their district a notice of marriage in accordance with the model attached to this law.

Any violation of the provisions of the preceding paragraph shall be punishable by a fine of ten thousand francs.

Article 34

Upon receipt of the notice of marriage, the registrar who drew up the certificate shall enter it in the marriage register and inform the registrar of the place of birth of each of the spouses of the marriage.

Article 35

The registrar of the place of birth of each spouse shall be required to make a note of the marriage certificate in the margin of the birth certificate of each spouse.

Article 36. (Amended by Decree-Law No. 64-2 of February 20, 1964, ratified by Law No. 64-2 of April 21, 1964).

A union that is not entered into in accordance with Article 31 above shall be null and void. In addition, both spouses shall be liable to a penalty of three months' imprisonment.

When criminal proceedings are brought under the provisions of the preceding paragraph, a single judgment shall rule on both the offense and the nullity of the marriage.

Spouses whose union has been declared null and void and who continue or resume living together shall be liable to a penalty of six months' imprisonment.

Article 53 of the Penal Code shall not apply to the offenses provided for in this article.

Article 36 bis (Added by Decree-Law No. 64-2 of February 20, 1964, ratified by Law No. 64-2 of April 21, 1964).

A union declared null and void pursuant to the provisions of the preceding article shall have only the following effects:

- 1) the establishment of parentage,
- 2°) the obligation for the woman to observe the period of widowhood, which shall run from the date of the judgment,
- 3°) the impediments to marriage resulting from the alliance.

#### Article 37

Any marriage certificate of Tunisians, concluded abroad in accordance with local customs, must be transcribed, within three months of its issuance and at the request of the spouses, in the marriage register of the nearest Tunisian Consulate.

Any violation of this obligation shall be punishable by a fine of ten thousand francs.

#### Article 38

The marriage certificate of foreigners in Tunisia shall be drawn up in accordance with Tunisian law, on the basis of a certificate from their consul attesting that they are eligible to marry.

Marriages contracted in Tunisia between two foreigners of the same nationality may be celebrated by the diplomatic and consular agents of their nation in Tunisia. In this case, the diplomatic agent or consul shall notify the registrar of the place of marriage.

#### Article 39

In the cases provided for in the previous article, the registrar shall transcribe the marriage certificate into a register kept for this purpose.

## CHAPTER IV

### Transcription of judgments pronouncing divorce or declaring the nullity of marriage

Article 40. (Amended by Law No. 58-71 of July 4, 1958).

Judgments or rulings pronouncing divorce or declaring the nullity of marriage that have become final shall be transcribed in the civil status registers of the place where the marriage was transcribed.

Reference shall be made to this judgment or ruling in the margin of the marriage certificate and the birth certificates of the spouses.

Article 41. (Amended by Decree-Law No. 62-20 of August 30, 1962, ratified by Law No. 62-40 of October 22, 1962).

The transcription referred to in the previous article shall be made at the request of the clerk of the court that pronounced the divorce or declared the marriage null and void. To this end, the operative part of the judgment or decision shall be transmitted by the clerk, on pain of a fine of ten dinars, within ten days of the expiry of the time limits for appeal, to the competent registrar, who shall immediately issue a receipt.

The time limits for appealing against judgments or rulings on divorce or annulment of marriage are one month from the date of the judgment or ruling, in respect of all their provisions, including damages.

The appeal shall be lodged with the registry of the court that delivered the judgment or ruling.

The two paragraphs above are interpretative in nature.

Article 42

If the divorce is pronounced abroad, the transcription shall be made at the request of the interested parties, "under penalty of a fine of ten thousand francs" (\*), in the civil status registers of the place where the marriage was transcribed.

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(\*) This reference has not been cited in the Arabic version.

## CHAPTER V

### Death certificates

Article 43. (Amended by Law No. 64-42 of November 3, 1964).

The deadline for reporting deaths is three days. When a death has not been reported within the legal deadline, the registrar may only record it in the registers pursuant to a decision rendered by the President of the Court of First Instance in whose jurisdiction the death occurred, and a summary note shall be made in the margin of the death certificate. If the place of death is unknown, the President of the competent Court of First Instance shall be that of the applicant's place of residence.

The President may always refer the case back to the Court.

Anyone who knowingly lies in order to obtain a declaratory judgment of death shall be liable to imprisonment for one year and a fine of two hundred and forty dinars.

Article 44. (Paragraphs 3 and 4 are added by Decree-Law No. 64-5 of February 21, 1964, ratified by Law No. 64-7 of May 21, 1964).

The death certificate shall be drawn up by the registrar of the district where the death occurred, on the basis of a declaration by a relative of the deceased or by a person who has the most accurate and complete information possible regarding the deceased's civil status.

No burial shall take place without authorization, on plain paper and free of charge, from the registrar.

The registrar shall send two copies of the death certificate he has drawn up to the public prosecutor or the cantonal judge. Upon receipt of these documents, the magistrate shall conduct an investigation to determine the heirs, after which he shall draw up the certificate of death.

If the estate includes one or more registered properties, the certificate of death and one of the two copies of the death certificate are sent to the Land Registry for registration on the title deed(s).

#### Article 45

Any person who, without having made the declaration of death prescribed by Article 1 of this decree<sup>(1)</sup> to the competent authority and without the prior authorization of the public official, has buried a deceased individual shall be punished by imprisonment for six days to six months and a fine of three thousand francs or by one of these two penalties alone.

The provisions of Article 53 of the Penal Code shall apply to the offenses provided for in this article.

#### Article 46

When a death occurs outside the municipality where the deceased was domiciled, the registrar who drew up the death certificate shall, as soon as possible, send a copy of the certificate to the registrar of the deceased's last domicile, which shall be immediately transcribed into the registers.

In the event of death in hospitals or health facilities, the directors or administrators of these hospitals or establishments shall notify the registrar within 24 hours, who shall draw up the death certificate in accordance with Article 44 above, based on the statements made to him and the information he has obtained.

A register shall be kept in the said hospitals, health facilities, and establishments, in which the statements and information shall be recorded.

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<sup>(1)</sup> As published in the JORT, read: "of this law".

#### Article 47

The death certificate shall state: the date, time, and place of death; the first name, surname, date and place of birth, occupation, domicile, and nationality of the deceased; the first names, surnames, occupations, domiciles, and nationalities of the deceased's father and mother; the first names and surnames of the other spouse, if the deceased was married, widowed, or divorced; the first name, surname, age, profession, and address of the person registering the death, and, where applicable, their relationship to the deceased.

All of this information should be provided to the best of one's knowledge.

The death shall be mentioned in the margin of the birth certificate of the deceased person.

#### Article 48

When there are signs or indications of violent death, or other circumstances that give rise to suspicion, burial may only take place after a police officer, assisted by a medical doctor, has drawn up a report on the condition of the body and the circumstances surrounding it, as well as any information he may have gathered on the first name, surname, age, occupation, place of birth, and domicile of the deceased.

The police officer shall be required to immediately forward to the registrar of the place where the person died all the information contained in his report, on the basis of which the death certificate shall be drawn up.

#### Article 49

The registrar shall send a copy of the death certificate to the registrar of the deceased person's place of residence, if known, and this copy shall be entered in the registers.

#### Article 50

The clerks of the criminal courts shall be required to send, within twenty-four hours of the execution of death sentences, to the registrar of the place where the condemned person was executed, all the information set out in Article 47, on the basis of which the death certificate shall be drawn up.

#### Article 51

In the event of death in detention facilities, the guards shall immediately notify the registrar, who shall draw up the death certificate.

#### Article 52

In all cases of violent death in detention facilities and in cases of execution, no mention of these circumstances shall be made in the registers, and death certificates shall simply be drawn up in the manner prescribed by Article 47.

#### Article 53

In the event of death during a sea voyage, a report shall be drawn up within twenty-four hours by the officers designated in Article 28 and in the manner prescribed therein.

The filing and transmission of originals and copies shall be carried out in accordance with the distinctions provided for in Articles 29 and 30.

Death certificates shall be transcribed in the civil registry of the deceased's last place of residence or, if the place of residence is unknown, in the municipality of Tunis.

#### Article 54

When a Tunisian citizen has disappeared in Tunisia or outside Tunisia in circumstances that may have endangered his life, and his death cannot be confirmed, a report of disappearance shall be drawn up by:

- 1) the Secretary of State for National Defense with regard to members of the army and air force and civilians who have disappeared as a result of acts of war,
- 2°) the Secretary of State for the Navy, in the case of state sailors,

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(1) As published in the JORT, read: "indications."

3°) the Secretary of State for the Merchant Navy, in respect of merchant seamen and passengers who have disappeared while at sea,

4°) the Secretary of State for Aeronautics, with regard to persons missing aboard an aircraft,

5°) the Secretary of State for the Interior, with regard to all other missing persons if the disappearance occurred in Tunisia, the Secretary of State for Foreign Affairs if it occurred outside Tunisia.

This shall apply in particular where the disappearance occurs during or following an event such as a natural disaster, a war operation, a rail, maritime or air disaster, a fire, an explosion or a collective or individual accident in which the victims or some of them could not be found, total loss or destruction of a ship, aircraft, or other means of transport, complete destruction of a locality, establishment, or building, disappearance of part of a crew, a group of employees of an establishment, a group of passengers, travelers, or inhabitants.

The foregoing provisions shall apply to foreigners who have disappeared in Tunisia, or during maritime or air transport, on a Tunisian vessel or aircraft.

#### Article 55

The reports referred to in the previous article shall be forwarded either to the Chief Prosecutor\* of the Court of Appeal in whose jurisdiction the disappearance took place, if it occurred on Tunisian territory, or to the Chief Prosecutor\* at the Court of Appeal in whose jurisdiction the last domicile or residence of the missing person is located, or to the Chief Prosecutor\* at the Court of Appeal in whose jurisdiction the home port of the ship or aircraft that transported the missing person is located.

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\* Read: Public Prosecutor.

## Article 56

When transmitting the report, the competent Secretary of State shall request the Chief Public Prosecutor\* to proceed ex officio with the judicial declaration of death.

The interested parties may also apply for a declaration of death. The request shall be communicated to the competent Secretary of State for his opinion at the request of the public prosecutor.

The court shall declare the death and set the date thereof.

The documents relating to the proceedings initiated pursuant to this article, as well as the decisions, extracts, copies, certified copies, and transcriptions issued in connection therewith, shall be exempt from stamp duty and registered free of charge.

Where several persons have disappeared in the same event, their deaths may be declared by a collective judgment.

## Article 57

Any declaratory judgment of death shall be transcribed on the date thereof in the civil status registers of the last place of residence, or in the registers of the municipality of Tunis if the place of residence is unknown.

The judgment and its transcription shall be noted in the margin of the registers on the date of death.

Collective judgments, rendered pursuant to Article 56, shall be transcribed in the civil status registers of the place of disappearance or, failing that, the place of departure. Individual extracts shall be sent to the civil registrar designated in Article 46 and to the competent Secretary of State. Copies may be issued to the interested parties.

Judgments declaring death shall serve as civil status records and shall be enforceable against third parties, who may only obtain their rectification.

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\* Read: Public Prosecutor.

## Article 58

If the person whose death has been judicially declared reappears after the declaratory judgment, he or she shall be allowed to provide proof of his or her existence and to seek the annulment of the said judgment.

He shall recover his property in its current state, as well as the price of any property that has been disposed of and any property acquired through the use of capital or income accruing to him.

A note of the annulment of the declaratory judgment shall be made in the margin of its transcript.

## CHAPTER VI

### Civil status records concerning military personnel and sailors in certain special cases

#### Article 59

Civil status records concerning military personnel and sailors of the State shall be drawn up as described in the preceding chapters.

However, outside Tunisia, and in the circumstances provided for in this paragraph, civil status records may also be received at any time by the following authorities:

- 1°) in mobilized military units, by the unit commander,
- 2°) in headquarters or staff headquarters, by quartermaster officers,
- 3°) for military personnel under his command and for prisoners, by the Provost,
- 4°) in military medical units or establishments, by the administrators.

In Tunisia, civil status records may also be received, in the event of mobilization or siege, by the authorities listed above, but only when municipal services are no longer available in any way as a result of circumstances arising from the state of war.

The jurisdiction of these authorities may be extended, under the same conditions, to non-military persons who find themselves in besieged forts and strongholds.

#### Article 60

The officer who has received a document shall, as soon as communication is possible and as soon as possible, send a copy to the Secretary of State for National Defense, who shall ensure that it is transcribed in the civil registers of the last domicile of the father or, if the father is unknown, of the mother, for birth certificates, the husband for marriage certificates, and the deceased for death certificates. If the place of last residence is unknown, the transcription shall be made in the municipality of Tunis.

#### Article 61

A civil registry shall be kept:

1°) in each military unit or each mobilized war formation, for records relating to individuals listed on the rolls of the military units or those of the units that participated in the construction of the war formation,

2) in each headquarters or command post, for acts relating to all individuals who are employed by or report to them,

3°) in the Provost Marshal's offices, for military personnel under the command of the Provost Marshal and for prisoners.

4°) in each formation or health establishment dependent on the armed forces, for individuals undergoing treatment or employed in these establishments.

The registers shall be sent to the Secretary of State for National Defense to be deposited in the archives immediately after their closure, which shall take place no later than the day on which the armed forces return to peacetime or the siege is lifted.

## Article 62

The registers shall be numbered and initialled:

- 1°) by the Chief of Staff, for mobilized units,
- 2°) by the Commanding Officer for units that do not report to any headquarters,
- 3) in hospitals or healthcare facilities, by the chief physician of the hospital or healthcare facility.

## CHAPTER VII

### Correction of civil status records

Article 63. (Amended by Law No. 86-88 of September 1, 1986).

The rectification of civil status records shall be ordered by the President of the Court of First Instance of the district in which the record was drawn up, or by his or her deputy.

Where the request does not originate from the public prosecutor, it must be communicated to him.

The correction of civil status records drawn up during a sea voyage, abroad or in the armed forces shall be requested from the President of the Court of First Instance in whose jurisdiction the record was transcribed or from his deputy; the same shall apply to death records whose transcription is ordered by Article 46 of this law.

"The correction of civil status records drawn up or transcribed by diplomatic and consular agents shall be made by order of the President of the Court of First Instance of Tunis or his deputy."<sup>(\*)</sup>

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<sup>(\*)</sup> Translated in accordance with the Arabic text.

The correction of declaratory judgments of birth or death shall be requested from the court that declared the birth or death.

Judicial decisions concerning rectification may not, under any circumstances, be enforced against third parties.

Anyone who knowingly lies in order to obtain a corrective judgment of a civil status document shall be liable to one year's imprisonment and a fine of two hundred and forty dinars (240,000).

#### Article 64

Orders, judgments, and rulings concerning rectification shall be immediately transmitted by the government commissioner\* to the civil registrar of the place where the amended record is registered. Their provisions shall be transcribed in the registers, and mention shall be made thereof in the margin of the amended record.

#### Article 65

Any provisions contrary to this Act are repealed.

#### Article 66

This law shall be published in the Official Journal of the Republic of Tunisia and enforced as a law of the State.

Done at Tunis, August 1, 1957 (4 Moharem 1377).

*The President of the Tunisian Republic*

Habib Bourguiba

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\* Read: Public Prosecutor.

## NOTICE OF MARRIAGE

Notice No. ....  
The two notaries <sup>(1)</sup> .....  
Notify the registrar <sup>(2)</sup> ..... that:  
The undersigned .....  
residing at .....  
Born on ..... in .....  
Nationality .....  
Occupation .....  
Father's name .....  
Mother's name .....  
    married:  
    Name of wife .....  
Born on ..... in .....  
Nationality .....  
Father's name .....  
Mother's name .....  
Occupation .....  
    by a contract dated .....  
    and registered in the register of the first notary under No. ....

Signature of the notaries	Signature of the husband or his representative
	Signature of the wife or her representative.

<sup>(1)</sup> Name and address of the notaries.

<sup>(2)</sup> Registrar who drew up the marriage certificate.

Republic of Tunisia  
Secretariat of State for the Interior  
Municipal Services Department

Notice No. ....

The registrar .....

.....  
Certifies having received notice of the marriage contracted  
between:

Mr. ....

and .....

The marriage certificate was drawn up by <sup>(1)</sup>

..... on

.....

Signature and seal

.....  
<sup>(1)</sup> Name and address of the notaries.

Official Printing Office of the Republic of Tunisia

## STANDARDIZATION OF CIVIL STATUS DOCUMENTS

Decree of the Ministers of Justice and the Interior of May 7, 1999, amending the decree of September 27, 1985, relating to the standardization of civil status documents.

(JORT No. 39 of May 14, 1999).

The Ministers of Justice and the Interior,

Having regard to the Personal Status Code promulgated by the Decree of August 13, 1956, as amended or supplemented by subsequent texts, and in particular Article 6 thereof,

Having regard to Law No. 57-3 of August 1, 1957, on the organization of civil status, together with the texts that have amended or supplemented it, in particular Law No. 86-88 of September 1, 1986,

Having regard to Law No. 75-33 of May 14, 1975, promulgating the Organic Law on Municipalities, together with the texts that have amended or supplemented it, in particular Law No. 95-68 of July 24, 1995,

Having regard to the decree of the Minister of Justice and the Secretary of State to the Minister of the Interior of September 27, 1985, relating to the standardization of civil status documents.

Hereby decree:

Article 1

The marriage certificate and marriage contract have been amended in accordance with the models appended to this order.

Article 2

Civil registrars shall use only documents drawn up in accordance with the models referred to in the previous article, with effect from June 1, 1999.

Tunis, May 7, 1999.

The Minister of Justice

Abdallah Kallel

The Minister of the Interior

Ali Chaouch

*Having regard to*

The Prime Minister

Hamed Karoui

Official Printing Office of the Republic of Tunisia

TUNISIAN REPUBLIC  
MINISTRY OF THE INTERIOR

Year: .....

Act No. ....

Governorate: .....

Delegation: .....

Municipality:  
.....

District: ...

Sector: .....

## Marriage Certificate

Between

Husband: ..... Spouse .....

.....

We ..... Registrar in ..... Year ..... and

From month ..... to ..... time .....

Capacity .....

We hereby certify that the following appeared before us in public (1):

We hereby certify that we have seen the judgment rendered (2) by the

court ..... No. .... on

Declaring the existence of the bonds of marriage .....

1: Spouse First and last name: .....

Nationality .....

Date of birth .....

Place of birth ..... Birth certificate ..... No. Year ..... Occupation

Place of residence .....

Parents of the groom

Father's first and last name ..... Nationality ..... Occupation .....

Mother's first and last name ..... Nationality ..... Profession..... Was married to Mrs. (3) .....

Deceased on (day, month, and year)..... Death certificate no. .... Or divorced by virtue of the divorce decree issued on (3) ..... Court .....

2: Wife First and last name .....

Nationality .....

Date of birth .....

Place of birth ..... Birth certificate ..... No. Year .....

Occupation .....

Place of residence .....

Divorced pursuant to the divorce decree issued on ..... By the court .....

Was married to Mr. .... who died on (day, month, and year) .....

Death certificate no. ....

Parents of the Wife

Father's first and last names ..... Nationality ..... Occupation .....

Mother's first and last names..... Nationality ..... Occupation .....

Pursuant to (the authorization or judgment) issued by (4) .....

Mr. ....

And Mrs. .... have declared .....

That they intend to marry and agree to take each other as spouses, and after verification of the consent of the guardian of the minor husband and his mother (3) or the guardian of the minor wife and her mother (3) (4) and in view of the authorization granted (5)

.....

By ... as required by law, in the presence of two adult witnesses: Mr.

.....

And Mr. ....

These honorable individuals have declared that the future spouses are free from any previous marital ties.

We declare that the future spouses are united in marriage, the husband having presented his wife with a dowry valued at .....

That the wife has declared that she has received (if the dowry has not been received, this must be mentioned) .....

Other conditions, if any ..... Signed by both spouses and the two witnesses below Signature of the first witness, ID number and date ..... Signature of the second witness, ID number and date ..... Signature of the guardian (if applicable)

Signature of the representative of the husband and wife, if applicable  
Signature of the mother (if applicable) Signature  
of the husband:

Signature of the wife:

Signature of the registrar

- 
- 1) Name and first name of the representative, if applicable
  - 2) Delete if this is not a transcript of a marriage declaration judgment.
  - 3) Delete any extra words.
  - 4) Mention of the judge who authorized the marriage for spouses who have not reached the legal age of 17 for the wife and 20 for the husband.
  - 5) Mention the certificate for the marriage of foreigners or the authorization for those whose marriage requires the consent of their superior according to the law.

Official Printing Office of the Republic of Tunisia

TUNISIAN REPUBLIC  
MINISTRY OF THE INTERIOR

Year: .....
Act No. ....

Governorate: .....

Delegation: .....

Municipality: .....

District: .....

Sector: .....

**Marriage Contract**

Praise be to God

In view of the provisions of the laws regulating personal status and civil status:

We ..... Quality ..... Registrar .....

In the year ..... of the Hegira and on the ..... day of the month of .....

corresponding to the ..... of the month ..... of the year ..... athour.

Appeared before us: Mr. .... Born on ..... in ..... Who was married to Mrs. (\*) .....

who died on (day, month, and year) .....

Who is divorced by virtue of a divorce decree issued on ..... And Ms. ....

Born on ..... in .....

And divorced by virtue of a divorce decree issued on (\*) ..... By the court .....

Who was married to Mr. .... deceased on (day,

(\*) Delete as appropriate.

month and year) .....

The first declared that he agrees to take as his wife the lady named below

And she declared that she consented to the marriage and agreed to take him as her husband

A dowry worth.....has been granted to her.

And she declared that she had received it (if the dowry has not been received, this must be mentioned).

Other conditions, if any .....

After verification of the consent of the guardian of the minor husband and his mother or the guardian of the minor wife and her mother.

Given the authorization(\*\*) : .....

Whereupon the contract is concluded in the presence of two witnesses:

Mr. .... and Mrs. ....

Who have declared that both spouses are free of any marriage ties and legal impediments .....

This contract is entered in the marriage register under no. .... after being read and signed.

In accordance with the regulations.

....., on ..... year .....

The Registrar

(\*\*) The certificate for the marriage of foreigners or the authorization for those whose marriage requires the consent of their superiors, or the authorization of a court for spouses who have not reached the legal age.

**TERRITORIAL JURISDICTION  
OF CERTAIN CATEGORIES OF REGISTRARS**

Decree No. 86-132 of January 22, 1986, determining the territorial jurisdiction of certain categories of civil registrars.

(JORT No. 7 of January 31, 1986).

We, Habib Bourguiba, President of the Republic of Tunisia,

Having regard to Law No. 57-3 of August 1, 1957, on the organization of civil status, amended by Law No. 76-32 of February 4, 1976, and in particular Article 2 thereof,

On the proposal of the Prime Minister, Minister of the Interior,

Having regard to the opinion of the Minister of Justice,

Having regard to the opinion of the

Administrative Court. Decree:

**Article 1**

Pursuant to the provisions of Article 2 of the aforementioned Law No. 57-3 of August 1, 1957, the delegate and the president of the municipality shall exercise their functions as civil registrars within the territorial jurisdiction determined by this decree.

**Article 2**

The delegate shall perform his duties as a civil registrar in the delegation that does not have a municipality.

### Article 3

The president of the municipality shall perform his duties as a civil registrar throughout the territory of the delegation having a single municipality.

### Article 4

Where there is more than one municipality in the delegation, the presidents of the municipalities shall perform their duties as civil registrars within their respective boundaries. This jurisdiction shall extend to non-municipal areas of the delegation in accordance with boundaries established by order of the governor, taking into account the territorial unity of the sectors and their proximity to the municipality concerned.

### Article 4 bis (Added by Decree No. 99-1382 of June 21, 1999)

Any civil registrar may consult the computerized civil status database in order to edit, sign, and issue to applicants extracts from civil status records kept by other civil registrars.

### Article 5

The Prime Minister, Minister of the Interior, governors, delegates, and mayors are responsible, each in their respective areas of competence, for the implementation of this decree, which shall be published in the Official Journal of the Republic of Tunisia.

Done at Tunis, January 22, 1986.

*For the President of the Republic of Tunisia  
and by delegation*

*The Prime Minister, Minister of the Interior*

MOHAMED MZALI

REGIME  
OF COMMUNITY  
PROPERTY BETWEEN  
SPOUSES

Law No. 98-94 of November 9, 1998, relating to the regime of community property between spouses<sup>(1)</sup> .

(JORT No. 91 of November 13, 1998).

On behalf of the people,

The Chamber of Deputies having adopted,

The President of the Republic promulgated the following law:

Title I

GENERAL PROVISIONS

Article 1

The community property regime is an optional regime that spouses may choose at the time of entering into a marriage contract or at a later date. The purpose of this regime is to make a building or group of buildings the undivided property of the spouses when they are suitable for family use.

Article 2

When spouses declare that they choose the community property regime, they shall be subject to the provisions of this law , however, they their belongs to agree on

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<sup>(1)</sup> Preparatory work:

Discussion and adoption by the House of Representatives at its session on October 20, 1998.

the extension of the domain of the community, provided that this is expressly mentioned in the act.

#### Article 3

The choice of the community property regime shall be without prejudice to the rules of succession.

#### Article 4

The dowry shall not form part of the community property but shall remain the exclusive property of the wife.

#### Article 5

The power of attorney for marriage shall only be valid if it expressly states the principal's choice to opt in or out of the community property regime.

#### Article 6

The choice of the community property regime by a minor spouse is subject to the consent of the guardian and the mother. If the guardian and the mother refuse to give their consent and the minor persists in his or her intention, the matter must be referred to a judge.

Where the judge's authorization is required for the conclusion of the marriage contract, the choice of the community property regime will in turn depend on his authorization, in the event of refusal by the guardian and the mother.

#### Article 7

The public official responsible for drafting the marriage contract must remind both parties of the provisions of Articles 1 and 2 of this law and record their response in the contract.

The public official who drafts the deed must send an extract to the registrar of the place of birth of each spouse within ten days of the date of its drafting, and the latter must transcribe it into his or her registers.

A marriage concluded without mention of the option chosen by both spouses regarding the matrimonial property regime is presumed to confirm the choice of the separation of property regime.

#### Article 8

Any agreement on community property entered into after the conclusion of the marriage contract must be recorded in an authentic instrument.

The public official who drafted the deed must comply with the provisions of paragraph 2 of Article 7 of this law.

#### Article 9

Any public official who fails to comply with the provisions of paragraphs 1 and 2 of Article 7 and paragraph 2 of Article 8 of this law shall be punished by a fine of 100 dinars.

## Title II

### COMMUNITY PROPERTY

#### Chapter I

#### Common property

#### Article 10

Property acquired after marriage or after the conclusion of the community agreement shall be considered common property between the spouses, unless ownership has been transferred to one of them by inheritance, donation, or bequest, and provided that they are intended for family use or for the family's own benefit, regardless of whether such use is continuous, seasonal, or occasional.

The outbuildings of the real estate and its fruits of any kind are also considered incidentally common.

Buildings used for purely professional purposes shall not be considered as such.

In the case of an agreement on community property by virtue of a deed subsequent to the marriage certificate, the spouses may, by express stipulation in the contract, include in the community property any real estate acquired from the date of the marriage.

The agreement may cover all their real estate, including that acquired before the marriage and that resulting from a donation, inheritance, or bequest.

#### Article 11

Real estate acquired after the marriage and intended for residential use, such as that located in residential areas or purchased from real estate developers specializing in the construction of residential premises or financed by housing loans, or real estate whose title deeds were registered after the marriage, shall be considered real estate intended for family use or in the family's own interest. such as those located in residential areas or purchased from real estate developers specializing in the construction of residential premises or financed by housing loans, or real estate whose deeds of acquisition stipulate their intended use for residential purposes, or those that can be proven to have been effectively occupied as family housing.

Proof to the contrary may be established by any means.

#### Article 12

Where one of the spouses uses joint income or funds to improve or extend a property belonging to him or her, and the value of the extension and improvements equals or exceeds the initial value of the property at the time the community property regime was established, the property shall, by operation of law, become part of the community property.

If, on the other hand, the value of the extension and improvements is less than the initial value of the property, it shall remain the property of its owner, who shall become liable for the sums he has taken from the joint funds.

## Chapter II

### Debts encumbering the common property Article 13

Debts and expenses arising from the acquisition of ownership of the joint property, its operation, administration, use, or disposal are joint.

Debts related to the ownership of the property are also common to the spouses, in accordance with the legislation in force.

Mortgage debts encumbering the common property are considered common only if they meet the conditions set out in the two preceding paragraphs and the conditions of Title IV of this law.

## Title III

### LEGAL PUBLICITY

#### Article 14

When both spouses choose the community property regime, the registrar must mention this in their records and in all extracts and copies.

If the agreement between the spouses stipulates a condition contrary to the provisions of this law, the registrar must mention this.

The registrar who fails to make the aforementioned entries shall be liable to the penalty provided for in Article 9 of this law, notwithstanding any more severe penalties provided for in other texts.

#### Article 15

Anyone who acquires a real right over a building must, after completing the legal formalities, produce, together with the application for registration or enrollment of their real right, an extract from the civil status registers concerning them. The land registrar shall mention in their registers and in the

certificates he issues that the interested party has or has not chosen the community property regime.

Where the contract stipulates that the spouses or the beneficiary of the contract have decided to use the property as the family home or for family use, the land registrar must record this in their registers and mention it on the property certificates issued to the applicants.

If the deed contains an agreement on one of the optional community property regimes, the applicant for registration must produce a certified copy of the marriage certificate or the said agreement.

The land registrar must mention the subject matter of the agreement in his registers.

#### Title IV

### ADMINISTRATION AND MANAGEMENT OF COMMON PROPERTY

#### Article 16

Each spouse may undertake acts of preservation, administration, and use of the common property, as well as any useful acts of improvement, whether of a material or legal nature.

However, either spouse may, by providing evidence of mismanagement or squandering, obtain a temporary injunction relieving their spouse of the administration of the common property.

The spouse who has undertaken these acts is not, in this respect, accountable to his or her spouse.

#### Article 17

Without the consent of both spouses, the common property may not be transferred, encumbered with a real right, or leased

to third parties for a period exceeding three years, nor renew the lease for a total period exceeding three years.

However, when one of the spouses is unable to express his or her wishes, or when evidence of mismanagement or squandering has been established, the other spouse may obtain summary authorization to carry out one or more of the acts referred to in the first paragraph above, notwithstanding the consent of the other spouse.

The joint property may not be the subject of any gift, in whole or in part, except with the mutual consent of both spouses.

Title V  
DISSOLUTION  
OF THE COMMUNITY OF PROPERTY

Article 18

The community of property is dissolved by:

- The death of one of the spouses
- Divorce
- The disappearance of one of them
- Judicial separation of their property
- The agreement of both parties.

Article 19

The community continues until the liquidation of the common property.

Article 20

If one of the spouses manages or administers the joint property in such a way as to jeopardize the interests of his or her spouse

spouse or those of the family, the other spouse may ask the court to terminate the community property regime.

#### Article 21

Both spouses may modify the regime governing their joint property by mutual agreement, provided that at least two years have elapsed since the date of its establishment and that the agreement is recorded in an authentic instrument.

It shall not be enforceable against third parties until it has been approved by the president of the court of first instance of the spouses' place of residence and the necessary legal publicity has been given, in particular by transcription of the said deed in the civil status register of both spouses and its registration in the land registry, as provided for in Articles 7 and 15 of this law.

#### Article 22

When one of the causes for dissolution of the community arises, except in the case of agreement between the parties, the surviving spouse or the spouse seeking dissolution of the community must ask the court to appoint a liquidator who will draw up a list of the common property and the debts associated with it.

#### Article 23

The creditors of either spouse shall not have the right to seek the dissolution of the community in court.

In order to preserve their rights, they may intervene in the procedure for the division of common property initiated at the request of one of the spouses, and they may also file a third-party opposition to the judgment rendered in this case, in accordance with the conditions and procedure provided for in the Code of Civil and Commercial Procedure.

The spouses may agree on the liquidation of the joint property while the case is still pending.

This agreement is subject to court approval.

Creditors may request its modification in order to preserve their rights.

#### Article 24

The division and liquidation of joint property are subject to the provisions of Articles 116 to 130 of the Code of Real Rights insofar as they do not conflict with those provided for by this law.

#### Article 25

The division of joint property shall be made in equal shares between the two spouses, after payment of debts or deposit of the sums necessary for their settlement.

If it is impossible to divide the property in-kind, the court may decide to award the property to one of the spouses or to his or her heirs, taking into account his or her condition or that of the latter, with the recipient being responsible for paying its market value; failing that, the court shall order its sale by auction.

#### Article 26

Where the debts exceed the value of the joint property, each spouse shall remain liable for the payment of the outstanding portion, in proportion to his or her undivided share.

If, however, the debt is due, in whole or in part, to the negligence or fraud of one of the spouses, it shall be incumbent upon his or her spouse to sue him or her for recovery of the undue payment.

This law shall be published in the Official Journal of the Republic of Tunisia and enforced as a law of the State.

Tunis, November 9, 1998.

Zine El Abidine Ben Ali

Official Printing Office of the Republic of Tunisia

## PRENUPTIAL MEDICAL CERTIFICATE

Law No. 64-46 of November 3, 1964 (29 Jumada II 1384),  
establishing a prenuptial medical certificate <sup>(1)</sup>.

(JORT No. 53 of November 3, 1964, page 1275)

In the name of the people,

We, Habib Bourguiba, President of the Republic of Tunisia,

The National Assembly having adopted,

Promulgate the following law:

### Article 1

The registrar or notary chosen to draw up the marriage certificate may only proceed with the marriage ceremony after each of the future spouses has submitted a medical certificate dated within the last two months, certifying, without any further information, that the person concerned has been examined with a view to marriage.

The submission of the medical certificate referred to above shall be mandatory in the districts to be determined by joint order of the Secretaries of State for the Interior and for Public Health and Social Affairs, as soon as the technical conditions are met.

### Article 2

During the examination provided for in the previous article, the physician shall pay particular attention to contagious diseases, mental disorders, alcoholism, or any other diseases that are dangerous to the spouse or offspring, in particular tuberculosis and syphilis.

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<sup>(1)</sup> Preparatory work:

Discussion and adoption by the National Assembly at its session on  
October 14, 1964

### Article 3

The doctor shall only issue the certificate provided for in Article 1 above after reviewing the results of:

- 1°) a general clinical examination,
- 2°) an X-ray examination and, where applicable, a radiographic examination of the lungs,
- 3°) a serological examination.

The doctor will communicate his findings to the person concerned and explain their significance.

He shall refuse to issue the certificate if he considers the marriage undesirable, or shall postpone its issue until the patient is no longer contagious or his state of health is no longer prejudicial to his offspring.

### Article 4

The examinations referred to above may be carried out at the discretion of the persons concerned by doctors and in medical analysis laboratories approved for this purpose by the State Secretariat for Public Health and Social Affairs. They may also be carried out in public hospitals.

The examinations, tests, and issuance of the premarital medical certificate are entirely free of charge when they take place in hospitals.

### Article 5

In exceptional cases, the judge may exempt the future spouses, or one of them only, from submitting the medical certificate.

The certificate is not required from either of the future spouses in the event of imminent danger of death to one of them.

Article 6

A model prenuptial medical certificate shall be established by order of the Secretary of State for Public Health and Social Affairs.

Article 7

Civil registrars and notaries who fail to comply with the provisions of Article 1 of this law shall be prosecuted before the competent court of first instance and punished with a fine of 100 dinars.

This law shall be published in the Official Journal of the Republic of Tunisia and enforced as a law of the State.

Done at Gafsa, November 3, 1964 (29 Jumada II 1384).

The President of the Tunisian Republic

Habib Bourguiba

Official Printing Office of the Republic of Tunisia

Official Printing Office of the Republic of Tunisia

## GENERALIZATION OF THE PRENUPTIAL CERTIFICATE THROUGHOUT THE TERRITORY OF THE REPUBLIC

Decree of the Ministers of the Interior and Public Health of July 28, 1995, extending prenuptial certificates throughout the territory of the Republic.

(JORT No. 63 of August 8, 1995, page

1645). The Ministers of the Interior and Public Health,

Having regard to Law No. 64-46 of November 3, 1964 (29 Jumada II 1384), establishing a prenuptial certificate, and in particular Article 1 thereof,

Having regard to the decree of June 24, 1965, relating to the districts in which the prenuptial certificate is mandatory, as supplemented by the decree of June 30, 1981.

Hereby decree:

### Article 1

The prenuptial certificate must be submitted to the civil registrars and notaries chosen to draw up marriage certificates throughout the territory of the Republic.

### Article 2

The provisions of the aforementioned decree of June 24, 1965, as supplemented by the decree of June 30, 1981, are hereby repealed.

Tunis, July 28, 1995.

The Minister of the

Interior Mohamed

Jegham

The Minister of Public Health

Hédi Mhenni

Having regard to  
Prime Minister Hamed  
Karoui

Official Printing Office of the Republic of Tunisia

## MODEL OF THE PRE-MARITAL MEDICAL CERTIFICATE

Decree of the Minister of Public Health of December 16, 1995, establishing the model prenuptial medical certificate and the information it must contain.

(JORT No. 103 of December 27, 1995).

The Minister of Public Health,

Having regard to Law No. 64-46 of November 3, 1964, establishing a prenuptial medical certificate, and in particular Article 6 thereof,

Having regard to the Decree of December 19, 1985, relating to the model prenuptial medical certificate,

Decrees:

Article 1

The prenuptial medical certificate must be drawn up in accordance with the model annexed to this decree.

Article 2

The aforementioned decree of December 19, 1985, is hereby repealed. Tunis, December 16, 1995.

The Minister of Public Health

Hédi Mhenni

Having regard

The Prime Minister

Hamed Karoui

Official Printing Office of the Republic of Tunisia

### Pre-nuptial medical certificate

I, the undersigned, doctor:

First and last name: .....

Doctor of Medicine, specialty: .....

Registration number with the Medical Association: .....

Practicing at: .....

Address: No. .... Street/Avenue: .....

City/town/governorate: ..... Certify

that I have examined, with a view to marriage, Mr./Ms.:

..... Born on: ..... in:

.....

residing at: .....

C.I.N. No. .... issued to: ..... on: .....

This certificate has been issued after conducting a thorough interview and clinical examination and reviewing the results of the following additional tests: (place a cross (x) in the corresponding box)

- Blood type

- Hepatitis B  Viral hepatitis C

- Chest X-ray

chest X-ray

- Other

Furthermore declares that they have:

- informed the person concerned of the results of clinical and additional tests and of measures to prevent or reduce the risk to him/her, his/her spouse, and his/her offspring.

- drawn the attention of the future spouse to the risks of possible rubella infection during pregnancy and informed her of the existence of a vaccine.

- emphasized the risk factors for certain diseases (diabetes, high blood pressure, , etc.)

- advised the person concerned to be vaccinated against hepatitis B.

- provided genetic counseling, including advice related to the relationship between the two prospective spouses, and advice on birth control methods, and emphasized the need for pregnancy monitoring.

In witness whereof, this certificate is issued to the interested party in person to serve and be valid as required by law.

Done at ..... On .....

Signature and stamp

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Note:

Any person who knows that they have a communicable disease and who, through their behavior, deliberately contributes to its transmission to others, is liable to imprisonment for one to three years (Law No. 92-71 of July 27, 1992, on communicable diseases: Articles 11 and 18).

## ORGANIZATION OF GUARDIANSHIP

Decree of July 18, 1957 (20 Dhul Hijjah 1376), on the organization of the appointment of guardians and the control of their administration and management accounts.

(JORT No. 58 of July 19, 1957).

*Praise be to God!*

We, Mohamed Lamine Pacha Bey, Possessor of the Kingdom of Tunisia.

Having regard to the decree of April 8, 1911 (9 Rabia II 1329) on the supervision of guardianship,

Having regard to the decree of October 15, 1921 (12 Safar 1340) on the organization of the management of guardians of legally incapacitated persons,

Having regard to the decree of June 22, 1938 (24 Rabia II 1357) on the method of appointing and designating mokadems of private habous, together with all the texts that have amended and supplemented it,

Having regard to the decree of August 3, 1956 (25 Doulhidja 1375) on the reorganization of the Ministry of Justice,

Having regard to the decree of the same date establishing the new law on the framework of the Ministry of Justice,

Having regard to the decree of August 13, 1956 (6 moharem 1376) promulgating the Personal Status Code,

Having regard to the opinion of the Council of Ministers,

On the proposal of Our Prime Minister, President of the Council,

We have issued the following decree:

## Chapter One

### Title I

#### ADMINISTRATION OF ESTATE PROPERTY

##### GUARDIANSHIP OF MINOR CHILDREN

###### Article 1

The adult heirs and the testamentary guardian of a deceased person who leaves minor heirs and a substantial estate are required to report the death within three days.

The declaration shall be made to the government commissioner\* of the competent court, or, where applicable, to the district judge, the governor, the delegate, or the sheikh of the district where the estate was opened. The administrative authority that received notice of the death shall inform the government commissioner\* or the district judge in writing within twenty-four hours.

###### Article 2

Upon receipt of the notice of death, the government commissioner\* or the cantonal judge shall immediately order the establishment of the certificate of death. He shall then, within a maximum period of twenty days, take all appropriate measures to have the estate inventoried in accordance with the regulations and to ensure its complete preservation.

###### Article 3

The certificate of death shall mention the names of all the heirs and, as accurately as possible, the ages of any minor heirs.

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\* Read: Public Prosecutor

The inventory shall be drawn up in the presence of the adult heirs, if any, and the executor, if any. In the absence of an executor, the government commissioner\* or the district judge shall, by simple decision, appoint a temporary guardian, chosen as far as possible from among the members of the family, to assist in the operation.

In urgent cases, the magistrate may intervene at any time to take the above measures.

The inventory lists:

a) all assets belonging to the estate, described as accurately as possible,

b) all charges, debts, or obligations whose existence is declared or noted.

If, during the process, claims are made, the notaries shall make mention of them in the inventory itself, and the claimed assets shall remain in the inventory until a decision is made concerning them.

The inventory is then closed and signed by the notaries, as well as by the guardian and the adult heirs.

Once closed, it is submitted to the government commissioner\* or the district judge.

Any element of the estate discovered after the inventory has been closed must be declared to the judge hearing the case and be the subject of an additional mention in the inventory report.

#### Article 4

The district judge shall forward to the government commissioner\* all the documents handed over to him during the inventory proceedings, and the latter shall have them transcribed in a special register, in order of date and for each estate separately:

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\* Read: Public Prosecutor

1) the names of the deceased, the adult heirs, and the names and ages of the minor heirs,

2) a full breakdown of the assets and liabilities of the estate, as recorded in the inventory,

3) the account of the provisional management since the death of the deceased.

#### Article 5

As soon as this transcription has been made, the testamentary guardian shall administer the minor's property.

In the absence of a testamentary guardian, the guardianship judge referred to in Article 11, upon referral by the government commissioner\*, shall appoint the provisional guardian or another person as guardian of the minor.

The testamentary guardian, or the appointed guardian, shall administer the minor's property in accordance with the law and in the minor's best interests.

#### Article 6

Every testamentary guardian, or other guardian, shall, at the end of March and at the end of October each year, submit to the government commissioner\* his or her accounts of income and expenditure, accompanied, as far as possible, by supporting documents.

The government commissioner\*, or his delegate, shall carefully examine these accounts, have them transcribed into a special register, and approve them if they are in order.

Article 7. (Paragraph 3 is amended by Article 7 of Law No. 89-23 of February 27, 1989)

The guardianship judge shall authorize, by written order, the legal guardian or testamentary guardian to perform acts that require prior authorization from him, in accordance with the texts in force.

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\* Read: Public Prosecutor

Similarly, he shall hear any dispute relating to the approval of the accounts of the legal or testamentary guardian and any proceedings seeking their replacement, at the request of any interested party.

At the request of the interested parties or the public prosecutor, he also hears cases concerning the appointment of guardians for absent persons, children without a father or testamentary guardian, persons suffering from dementia or mental disability, and procedures for the limited emancipation of minors in accordance with the provisions of Articles 83, 154, 158, and 160 of the Personal Status Code. He places persons sentenced to imprisonment under guardianship in accordance with the provisions of Article 30 of the Penal Code.

#### Article 8

When, following the rendering of accounts by a testamentary guardian or other guardian, the government commissioner finds that funds belonging to minors are available, he shall order their immediate payment into the current account of those minors at the Caisse des Dépôts et Consignations.

#### Article 9

A testamentary guardian or other guardian who refuses to render accounts as required or to deposit the remaining sums in his or her possession shall be liable, after formal notice in each case, to six months' imprisonment and a fine of 100,000 francs, without prejudice, where applicable, to the application of Article 30 of the Penal Code. formal notice, to six months' imprisonment and a fine of 100,000 francs, without prejudice, where applicable, to the application of Article 297 of the Penal Code.

#### Article 10

When a minor heir reaches the age of majority or has been emancipated, the <sup>government</sup> commissioner\* shall summon him and his guardian. In the presence of all parties, he shall draw up the management account in the aforementioned register.

The emancipated heir shall then be sent, in the legal form, into possession of his or her estate. The guardian shall then be discharged and a note shall be made in the management register, which shall be closed and signed by the government commissioner\*.

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Read: Public Prosecutor

If other minors remain, the guardian shall keep the register and continue to administer their shares of the estate until all of them have, successively and in the manner described above, reached the age of majority. The register shall then be filed in the court archives.

#### Article 11

The duties of guardianship judge are performed at the Tunis Court of First Instance by a magistrate with the rank of vice-president of that court. In other courts of first instance, these duties are performed either by the president or by a magistrate delegated by the president.

The guardianship judge shall rule in the first instance and shall hear cases brought by any interested party or on the basis of a request submitted free of charge by the government commissioner\*. The procedure shall be conducted in accordance with the rules of the Code of Civil Procedure. Appeals against judgments handed down by the guardianship judge shall be lodged with the court of first instance where that magistrate sits. Such appeals shall not have suspensive effect, unless the president of the court decides otherwise.

#### Title II<sup>(1)</sup>

### ADMINISTRATION OF THE GUARDIAN OF A PERSON SENTENCED TO IMPRISONMENT UNDER ARTICLE 30 OF THE CRIMINAL CODE, OF AN ABSENT PERSON, AND OF A PERSON DISQUALIFIED ON GROUNDS OF INSANITY OR MENTAL INCOMPETENCE

Article 12 (Amended by Article 7 of Law No. 89-23 of February 27

February 1989)

The guardian must, through the services of two notaries and within ten days of notification of his appointment, à l'inventaire des biens du condamné à

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Read: Public Prosecutor

(1) The title of Title II was amended by Article 7 of Law No. 89-23 of February 27, 1989.

imprisonment under Article 30 of the Criminal Code, of persons who are absent or legally incompetent due to insanity or mental deficiency.

The inventory lists:

- 1) all movable and immovable property,
- 2) all charges, debts, or obligations whose existence is declared or noted,

If, during the operation, claims are made, they shall be mentioned by the notaries after the assets in question have been listed, but the claimed assets shall be retained until a court decision has been made concerning them.

Furthermore, if anything is owed to the ward by legal prohibition, the guardian must declare it in the inventory, failing which they shall forfeit their rights.

The inventory is submitted to the government commissioner \*, and the guardian keeps a copy.

Any assets discovered after the inventory has been closed must be recorded in an additional inventory report to be appended to the first.

Article 13. (Amended by Article 7 of Law No. 89-23 of February 27 February 1989).

A person sentenced to imprisonment under Article 30 of the Criminal Code retains the right to exercise exclusively personal rights that are not contrary to the interests of the sentence.

Article 14

The guardian shall administer the property of his wards referred to above in accordance with the law and with due diligence.

He must keep a register in which he records, through two notaries, all income and expenditure incurred by him.

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Read: Public Prosecutor.

Article 15. (Amended by Article 7 of No. 89-23 of 27 February 1989).

The guardian may not bring legal action relating to the real estate rights of the person sentenced to imprisonment under Article 30 of the Penal Code, nor may he or she respond as a defendant in such an action without the written authorization of the guardianship judge.

#### Article 16

The guardian of a legally incapacitated person may not perform on behalf of that person any acts that are prohibited to guardians of minor children.

Under no circumstances may he or she, without the authorization of his or her ward, bring legal proceedings when these involve the exercise of exclusively personal rights.

#### Article 17

The following shall be sent into possession of their property in the manner prescribed in Article 10 of this decree: persons under legal interdiction, as soon as their sentence has been served; persons who have been absent, upon their return, and persons who are insane or mentally deficient, when they are no longer under guardianship.

### Chapter II

#### General provisions

#### Article 18

The provisions of this decree shall apply to guardians regardless of the cause and manner of their appointment.

#### Article 19

The government commissioner\* or his delegate shall supervise the management and accounts of guardians and administrators under the following conditions:

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\* Read: Public Prosecutor

1) he shall receive and investigate complaints from devolutionary heirs or persons under guardianship against their administrators or guardians, and shall then refer them to the guardianship judge, where appropriate,

2) He shall summon these administrators or guardians at the appropriate time, bringing with them their journals and all documents produced in support of their management.

3) He permanently supervises the notaries appointed to the accounts and provides them with all necessary instructions.

4) He shall carry out a thorough verification of the accounts submitted by the notaries and, where necessary, shall have the necessary corrections made.

#### Article 20

Any testamentary guardian, or other guardian, and any administrator who, after formal notice has been duly given, fails without valid excuse to fulfill the obligations imposed on them by this decree shall be automatically replaced, without prejudice to any legal action that may be taken.

The same shall apply to any testamentary guardian, or other guardian, and any administrator found to be incompetent or unfaithful.

#### Article 21

The fees of notaries, the remuneration of guardians and administrators, and the deductions made from the income of minors shall remain as fixed by the regulations in force on the date of this decree.

#### Article 22

Final judgments of interdiction and appointment of administrators must be published in the "Journal Officiel."

### Article 23

Any guardian or administrator who changes their residence or elected domicile must notify the government commissioner\* responsible for supervising their management.

### Article 24

All texts and provisions contrary to this decree are repealed.

### Article 25

The Prime Minister, President of the Council, the Minister of Justice, and the Minister of Finance shall each be responsible for the implementation of this decree in their respective areas of competence.

Sealed, July 18, 1957 (20 Dhul Hijjah 1376).

The Prime Minister,  
President of the  
Council. Habib  
Bourguiba

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\* Reud: Public Prosecutor

## GUARDIANSHIP AND ADOPTION

Law No. 58-27 of March 4, 1958 (12 Chaabane 1377) relating to public guardianship, informal guardianship, and adoption.

(JORT No. 19 of March 7, 1958)

In the name of the people,

We, Habib Bourguiba, President of the Republic of Tunisia, Having regard to the Code of Obligations and Contracts,

Having regard to the Penal Code,

Having regard to the Personal Status Code,

Having regard to the Decree of July 12, 1956 (3 Dhul Hijjah 1375) establishing the personal status of non-Muslim and non-Jewish Tunisians, amended by the Decree of June 24, 1957 (27 Dhul Qa'dah 1376) and

Law No. 57-39 of September 27, 1957 (2 Rabia II 1377),

Having regard to the decree of July 18, 1957 (10 Moharram 1377) on the organization of the appointment of guardians and the supervision of their administration and management accounts,

Having regard to the opinion of the Secretaries of State for Justice, the Interior, and Public Health,

We hereby enact the following law:

### *Section I - Public guardianship*

#### Article 1

The public guardian of a child found or abandoned by its parents shall be:

1) the administrator of the hospital, hospice, nursery, director of the rehabilitation center or children's shelter, in cases where the child has been entrusted to one of these institutions.

2) the governor, in other cases,

#### Article 2

The public guardian has the same rights and obligations towards the ward as the father and mother.

The State, the municipality, or the public institution, as the case may be, shall be civilly liable for the acts committed by the children referred to in Article 1.

### Section II - *Unofficial guardianship*

#### Article 3

Informal guardianship is the act by which an adult with full legal capacity, or a support organization, takes responsibility for a minor child, providing care and support.

#### Article 4

The act of informal guardianship is a contract drawn up before a notary between: on the one hand, the informal guardian and, on the other hand, the father and mother of the ward or one of them if the other is unknown or deceased, or, failing that, the public guardian or his representative.

The act of informal guardianship is approved by the cantonal judge.

#### Article 5

The unofficial guardian has, with regard to the ward, the rights and obligations provided for in Articles 54 et seq. of the Personal Status Code.

He or she shall also be civilly liable for the acts of the ward under the same conditions as the father and mother.

## Article 6

The ward retains all rights arising from his or her parentage, in particular his or her name and inheritance rights.

## Article 7

Informal guardianship shall terminate when the ward reaches the age of majority.

The Court of First Instance may, at the request of the unofficial guardian, the ward's parents, or the public prosecutor, terminate the unofficial guardianship contract, taking into consideration the interests of the minor.

### *Section III - Adoption*

## Article 8

Adoption is permitted under the conditions set out in the following articles.

Article 9. (Amended by Law No. 59-69 of June 19, 1959).

The adopter must be an adult of either sex, married, and enjoying full civil capacity.

He or she must be of good moral character, of sound mind and body, and able to provide for the needs of the adoptee.

The judge may, when the interests of the child so require, exempt a widowed or divorced adopter from the marriage requirement.

In this case, the judge may gather all relevant information in order to assess the reasons for and conditions of the adoption, taking into account the interests of the child.

## Article 10

The age difference between the adopter and the adoptee must be at least 15 years, except in cases where the adoptee is the child of the adopter's spouse.

A Tunisian citizen may adopt a foreign national.

Article 11. (Amended by Law No. 59-69 of June 19, 1959)

In all cases, and taking into account the provisions of the second and third paragraphs of Article 9, the consent of the spouse is required.

Article 12. (Amended by Law No. 59-69 of June 19, 1959)

The adoptee must be a minor child of either sex.

However, during a transitional period ending on December 31, 1959, it shall be permissible to adopt a child of full age, provided that the child has remained dependent on the adopter since reaching full age and consents to the adoption.

Article 13

The adoption is formalized by a judgment rendered by the cantonal judge sitting in his chambers in the presence of the adopter, his or her spouse, and, where applicable, the father and mother of the adoptee, or the representative of the administrative authority vested with public guardianship of the child, or the unofficial guardian.

The cantonal judge, after ensuring that the conditions required by law are met and having noted the consent of the parties present, shall render the adoption judgment.

The judgment thus rendered shall be final.

An extract from the adoption judgment shall be sent within 30 days to the registrar with territorial jurisdiction, who shall transcribe it in the margin of the adopted person's birth certificate.

Article 14

The adoptee shall take the name of the adopter. The adoptee may change their first name, which shall be noted in the adoption judgment at the request of the adopter.

#### Article 15

The adoptee shall have the same rights and obligations as a legitimate child.

The adopter shall have, with regard to the adoptee, the same rights as those recognized by law for legitimate parents and the same obligations as those imposed on them.

However, if the natural parents of the adoptee are known, the impediments to marriage referred to in Articles 14, 15, 16, and 17 of the Personal Status Code shall remain in force.

#### Article 16

The Court of First Instance may, at the request of the public prosecutor, withdraw custody of the adoptee from the adopter who has seriously failed in his or her obligations and entrust it to another person, taking into account the interests of the child.

#### Article 17

This law shall be published in the Official Journal of the Republic of Tunisia and enforced as a law of the State.

Done at Tunis on March 4, 1958 (12 Sha'ban 1377).

The President of the Tunisian Republic.

Habib Bourguiba

Official Printing Office of the Republic of Tunisia

## FAMILY NAMES OF ABANDONED CHILDREN OR CHILDREN OF UNKNOWN PARENTAGE

Law No. 98-75 of October 28, 1998, relating to the attribution of a surname to abandoned children or children of unknown parentage<sup>(1)</sup>.

(JORT No. 87 of October 30, 1998)

On behalf of the people,

The House of Representatives having adopted,

The President of the Republic hereby promulgates the following law:

Article 1 (Amended by Law No. 2003-51 of July 7, 2003).

A mother who has custody of her minor child and whose parentage is unknown must give the child a first name and her surname or request authorization to do so, in accordance with the provisions of the law regulating civil status. In addition, within a period not exceeding six months from the date of birth, she must ask the president of the competent court of first instance or his vice-president to assign the child a father's first name, a grandfather's first name, and a surname, which in this case must be the mother's surname.

The request shall be submitted to the president of the court of first instance in whose jurisdiction the birth certificate was issued. If the birth took place abroad and the mother is of

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<sup>(1)</sup> Preparatory work: Discussion and adoption by the Chamber of Deputies at its meeting on October 20, 1998.

Tunisian nationality, the application shall be submitted to the president of the court of first instance in Tunis.

After the expiry of the period provided for in Article 22 of the law regulating civil status, the registrar must notify the public prosecutor that the child's birth certificate does not include the father's first name, the grandfather's first name, the family name, and the child's nationality. After the expiry of the period provided for in the first paragraph of this article, the public prosecutor must ask the president of the court of first instance for authorization to complete the birth certificate by assigning the child of unknown parentage a father's first name, a grandfather's first name, and a surname, which must be that of the mother.

Article 2 (Amended by Law No. 2003-51 of July 7, 2003).

If none of the parents of abandoned children or children of unknown parentage have requested that they be assigned identity details within six months of their being taken into care by the competent authorities, the public guardian, as determined by the law on public guardianship, informal guardianship, and adoption, shall, in accordance with the provisions of the law regulating civil status, assign a first name to children of unknown parentage. He must also ask the president of the competent court of first instance to assign to any abandoned child or child of unknown parentage a father's first name, a grandfather's first name, a patronymic name, and a mother's first name, as well as a father's first name and a patronymic name to the mother. The child's patronymic name must be that of the father.

Notwithstanding the time limits provided for in the Code of Civil and Commercial Procedure, a third party who has been seriously and directly harmed either because of the attribution, pursuant to the provisions of this law, of all elements of identity except the first name, to the child whose filiation is unknown, or to cause of

the assignment of only a few elements, may apply to the president of the competent court of first instance to request, in accordance with the procedures for revoking orders on application, the removal of the first names and family names assigned to him or her, within three months of the date on which he or she became aware of them. The public prosecutor may, within the same time limit and in accordance with the same procedures, request the revocation of the order issued in violation of Article 4 bis of this law.

If the request is admissible, the president of the competent court of first instance shall order the removal of the first name or surname that has caused harm to third parties and shall replace the removed elements with other elements of identity.

Article 3 (Amended by Law No. 2003-51 of July 7, 2003).

Any person over the age of "eighteen" <sup>1</sup>may ask the president of the competent court of first instance to assign her a first name, a surname, her father's first name, her grandfather's first name, and her mother's first name, as well as her father's first name and her mother's surname, or some of these elements, if she does not have them. The applicant's family name must be that of the father if the mother has not given him her own.

Article 3 bis (Added by Law No. 2003-51 of July 7, 2003).

The person concerned, the father, the mother, or the public prosecutor may refer the matter to the competent court of first instance

<sup>(1)</sup> The expression was replaced by Article 2 of Law No. 2010-39 of July 26, 2010, on the unification of the age of civil majority.

to request that the father's surname be given to a child of unknown parentage whose paternity has been proven by confession, testimony, or genetic analysis.

The person concerned, the father, the mother, or the public prosecutor may also refer the matter to the competent court of first instance to request that the mother undergo genetic testing to prove that she is the mother of the child whose parentage is unknown.

In the event of refusal to comply with the order prescribing genetic testing, the court shall rule on the case on the basis of the numerous, consistent, serious, and precise presumptions at its disposal.

A child whose paternity has been established is entitled to child support and to rights of supervision, including guardianship and custody, until the age of majority and beyond the age of majority in cases determined by law.

The father and mother shall remain liable to the child and to third parties throughout the legal period for all matters relating to the rules of liability, in accordance with the law.

The provisions of Article 5 of this law shall apply when maternity is proven.

Article 3b (Added by Law No. 2003-51 of July 7, 2003).

The judgment, rendered by the court pursuant to Article 3 bis of this law, must include authorization to include in the civil registry of the place where the birth was registered the first name of the father or the first name of the mother or both, and the surname of each of them, as well as the first names, nationalities, professions, and addresses of both parents.

The public prosecutor shall forward the judgment rendered in accordance with this article, which has become final, to the registrar of the district where the birth was registered.

The registrar shall enter the operative part of the judgment in the civil status registers. He or she is prohibited from making any comments in the margins of the copies issued pursuant to this law. A receipt certifying the execution of the judgment shall be sent to the public prosecutor.

The time limit for appealing against judgments rendered on the basis of this article is one month from the date of the pronouncement of said judgments. The appeal shall be filed with the clerk of the court that rendered the judgment.

Article 4 (Amended by Law No. 2003-51 of July 7, 2003).

Subject to the provisions of Article 26 of the law regulating civil status, civil registry officials are prohibited from including in birth certificates any information that could reveal the true identity of abandoned children or children of unknown parentage.

The holder of a birth certificate who has reached the age of thirteen may, for legitimate reasons, request the president of the competent court of first instance, in accordance with legal procedures, for authorization to learn the truth about his or her identity. In the event of death, such a request may be made by one of his or her first-degree descendants.

Article 4 bis (Added by Law No. 2003-51 of July 7, 2003).

The attribution of family names shall be carried out in accordance with the provisions of Law No. 59-53 of May 26, 1959, making

it compulsory for every Tunisian to acquire a surname.

It is prohibited to assign first names or family names that could reveal to third parties the true origin of the identity of persons whose parentage is unknown. The same applies to any use of first names, family names, and elements of identity of famous or renowned persons, whether during their lifetime or after their death. When assigning first names and family names, the specific characteristics of the region where the registration took place shall be taken into account, while avoiding confusion with other first names and family names that are common in that region.

Any judgment resulting in the loss of an element of a person's identity, in accordance with the two preceding paragraphs, must substitute other elements of identity for the said elements.

The birth certificate of a child of unknown parentage or an abandoned child to whom elements of identity have been assigned pursuant to the provisions of Articles 1, 2 and 3 of this law shall state that the father and mother who did not declare the birth are of Tunisian nationality. The paternal grandfather and maternal grandfather shall also be considered to be of Tunisian nationality.

#### Article 5

The rules relating to impediments to marriage provided for in Articles 14, 15, 16, and 17 of the Personal Status Code, where paternity is proven, shall apply to abandoned children or children of unknown parentage who have been given a surname under this Act.

#### Article 6

The provisions of this law shall have retroactive effect with regard to situations prior to the date of its entry into force; however, maintenance shall only be payable from the date of its entry into force.

The provisions of Law No. 85-81 of August 11, 1985, relating to the assignment of a surname to children of unknown parentage or abandoned children are repealed.

This law shall be published in the Official Journal of the Republic of Tunisia and enforced as a law of the State.

Tunis, October 28, 1998.

Zine El Abidine Ben Ali

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\* Article 3 of Law No. 2003-51 of July 7, 2003, provides that:

"The provisions of this law shall apply to cases pending before the courts of first instance. Judgments rendered prior to the date of entry into force of this law shall be subject, with regard to the means and time limits for appeal and enforcement procedures, to the provisions of the law applicable on the date of its promulgation.

The provisions of this law apply to situations prior to the date of its entry into force. However, child support is only payable to the mother, if her maternity is proven in accordance with the provisions of Article 3 bis of this law, from the date of its entry into force.

Official Printing Office of the Republic of Tunisia

## GUARANTEE FUND FOR ALIMONY AND DIVORCE ANNUITIES

Law No. 93-65 of July 5, 1993, establishing a guarantee fund for alimony and divorce pensions<sup>(1)</sup>.

(JORT No. 50 of July 6, 1993, page 931) In

the name of the people,

The Chamber of Deputies having adopted,

The President of the Republic promulgates the following law:

### Article 1

A fund is hereby established to guarantee the payment of alimony or divorce settlements owed under a court ruling to divorced women and their children, in accordance with the conditions set forth in this law.

This fund, called the "Alimony and Divorce Pension Guarantee Fund," shall be managed by the National Social Security Fund.

### Article 2

Divorced women and their children in whose favor final judgments have been rendered relating to alimony or divorce settlements and whose enforcement has not taken place due to the recalcitrant debtor may submit a

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<sup>(1)</sup> Preparatory work:

Discussion and adoption by the House of Representatives at its session on June 22, 1993.

request to the alimony and divorce pension guarantee fund to collect the amounts owed to them. The recalcitrant nature of the debtor is proven when the latter is subject to legal action for abandonment of the family in accordance with the provisions of Article 53 bis of the Personal Status Code.

The fund pays the amounts of alimony or maintenance to their beneficiaries on a monthly basis within a period not exceeding fifteen days from the date of submission of the application meeting the legal requirements.

#### Article 3

The alimony and divorce pension guarantee fund shall be subrogated to the rights of the beneficiaries of alimony or divorce pension vis-à-vis the person liable for the amounts due under a judgment. It shall be entitled to recover these amounts up to the limit of what it has paid.

#### Article 4

The claims of the maintenance and divorce pension guarantee fund shall enjoy the general privilege of the Treasury. The fund shall recover these claims by means of enforcement measures established by the National Social Security Fund and made enforceable by the Minister of Social Affairs. These enforcement measures shall be enforceable notwithstanding any opposition.

#### Article 5

The amount of alimony or divorce pension owed under a judgment that has not been paid by the debtor to the alimony and divorce pension guarantee fund shall be increased by a late payment penalty to be paid by the debtor to that fund. This late payment penalty shall be calculated on the basis of the legal interest rate applicable in civil matters. It shall run from the date of the fund's formal notice to the debtor.

The fund shall also be entitled to recover the costs of recovering the debt from the debtor.

#### Article 6

The amounts of alimony or divorce maintenance paid by the alimony and divorce maintenance guarantee fund are increased by 5% as management fees for the benefit of the National Social Security Fund. The amount of this increase shall be paid by the debtor of the alimony or divorce maintenance together with the principal debt.

#### Article 7

The alimony and divorce pension guarantee fund is financed by the following resources:

- A contribution from the state budget;
- Alimony or divorce pension payments and late payment penalties recovered from debtors, as well as debt recovery costs;
- Income from investments of the fund's capital;
- Donations and bequests;
- Other resources allocated to the fund.

#### Article 8

The National Social Security Fund is entitled to take all measures and bring any legal action necessary to protect the rights of the alimony and divorce pension guarantee fund.

It must be summoned in all cases where it is a party to the proceedings.

#### Article 9

The maintenance and divorce pension guarantee fund shall cease to pay maintenance or divorce pension amounts in all cases where there is no longer any reason

to make such payments. Anyone who has unduly received amounts from the fund shall be required to repay them without delay.

Any person who, in bad faith, has received or attempted to receive sums unduly is liable to the penalties provided for in Article 291 of the Penal Code. The maintenance and divorce allowance guarantee fund retains its right to obtain damages in an amount at least equal to that paid by the said fund.

#### Article 10

The procedure for intervention by the alimony and divorce pension guarantee fund is established by decree.

This law shall be published in the Official Journal of the Republic of Tunisia and enforced as a law of the State.

Tunis, July 5, 1993.

Zine El Abidine Ben Ali

INTERVENTION BY THE GUARANTEE FUND FOR  
ALIMONY AND DIVORCE ANNUITIES

DECREE No. 93-1655 of August 9,  
1993, relating to the procedure for  
intervention by the guarantee

Decree No. 93-1655 of August 9, 1993, relating to the  
procedure for intervention by the guarantee fund for  
alimony and divorce pensions.

(JORT No. 62 of August 20, 1993, page

1301) The President of the Republic,

On the recommendation of the Minister of Social Affairs,

Having regard to the Personal Status Code promulgated by the  
Decree of August 13, 1956, and in particular Article 53 bis thereof,

Having regard to Law No. 93-65 of July 5, 1993, establishing a  
guarantee fund for alimony and divorce pensions, and in particular  
Article 10 thereof,

Having regard to the opinion of the

Minister of Justice, Having regard to

the opinion of the Administrative

Court. Decrees:

Article 1

Applications for alimony or divorce maintenance shall be  
addressed by the persons referred to in Article 2 of the aforementioned  
Law No. 93-65 of July 5, 1993, to the regional office of the National  
Social Security Fund located in the district of the court of first  
instance to which the public prosecutor has referred a complaint of  
family abandonment.

Article 2 (Amended by Decree No. 2006-826 of March 23, 2006)

Applications for alimony or divorce maintenance must be accompanied by the following documents:

- a copy of the divorce decree,
- a certificate stating that no appeal or cassation has been lodged against the divorce decree,
- a copy of the judgment granting alimony or divorce maintenance,
- a record of the service of the judgment granting alimony or divorce maintenance to the debtor,
- the report of the attempt to enforce the judgment granting alimony or divorce maintenance,
- a certificate of registration of the family abandonment case with the cantonal judge with territorial jurisdiction,
- an extract from the civil registry for each beneficiary of the judgment awarding alimony or divorce maintenance,
- a copy of the judgment awarding custody of the children if custody is granted to persons other than the parents.

Article 3 (Amended by Decree No. 2006-826 of March 23, 2006)

The National Social Security Fund shall examine the application and, where the legal conditions are met, shall decide to cover the amounts of alimony or divorce pension. The period for which the amounts awarded are covered shall not exceed eight months of a calendar year. Payment of these amounts shall commence within the period specified by law and shall be made monthly by postal order, postal transfer, or bank transfer.

However, in the event of a repeat offense by the recalcitrant debtor and without prejudice to proceedings for non-payment of alimony or divorce pension provided for in Article 53 bis of the Personal Status Code, the National Social Security Fund shall continue to pay the amounts of alimony and divorce maintenance to the beneficiaries as soon as they have presented proof of the debtor's repeat offense, without the period of payment of the amounts awarded exceeding the period provided for in the first paragraph of this article.

Article 4 (Amended by Decree No. 2006-826 of March 23, 2006)

The National Social Security Fund shall inform the debtor by registered letter of the decision to cover the alimony or divorce pension. This letter shall also contain a formal notice to the debtor to pay the amounts owed to the fund within one month, failing which recovery shall be effected by the liquidation statements referred to in Article 4 of Law No. 93-65 of July 5, 1993, establishing a guarantee fund for alimony and divorce payments.

The fund is entitled to bring a civil action.

Article 5

At the end of the period specified in Article 4 above, the National Social Security Fund shall issue an enforcement order against the debtor, which shall be made enforceable by the Minister of Social Affairs.

Article 6

Recipients of alimony or divorce pension payments from the alimony and divorce pension guarantee fund are required to submit new civil status certificates to the regional office of the National Social Security Fund with territorial jurisdiction once a year and whenever necessary.

Recipients of alimony or divorce pension whose family abandonment cases are still pending before the courts are also required to provide

a certificate concerning the outcome of the proceedings once every quarter and whenever necessary.

Article 7. (Amended by Decree No. 98-671 of March 16, 1998).

The National Social Security Fund shall cease to pay alimony or divorce maintenance when a judgment dismisses an action for abandonment of family.

The payment of alimony or divorce pension shall also cease in all cases where the legal conditions are no longer met, in particular in the event of the remarriage of the divorced woman or in the event of the transfer of custody of her children to another person, or when her children reach the age of majority, or, beyond that age, until the end of their studies, provided that they do not exceed the age of 25.

However, the fund shall continue to pay alimony to the daughter as long as she has no resources or is not dependent on her husband, as well as to disabled children who are unable to earn a living, regardless of their age.

Article 8

Anyone who has unduly benefited from sums of money from the maintenance and divorce allowance guarantee fund must repay them without delay. The National Social Security Fund may recover these sums by means of enforcement in accordance with the procedure for the repayment of maintenance or allowance sums awarded to beneficiaries.

Article 9

The Ministers of Justice and Social Affairs shall be responsible, each in their respective areas of competence, for the implementation of this decree, which shall be published in the Official Journal of the Republic of Tunisia.

Tunis, August 9, 1993.

Zine El Abidine Ben Ali

CREATION OF A CERTIFICATE OF  
CONFORMITY BETWEEN THE ORIGINAL NAME  
AND THE ASSIGNED NAME

Law No. 2001-31 of March 29, 2001, establishing a certificate of conformity between the original name and the assigned name.

In the name of the people,

The Chamber of Deputies having adopted,

The President of the Republic promulgates the following law:

Article 1

A certificate of conformity between the original name and the assigned name is hereby created, certifying that the two names refer to the same person.

This certificate must include the triple name of the person concerned and their original surname, date and place of birth, birth certificate number, as well as the name assigned to them and the reference according to which the assignment took place.

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<sup>(1)</sup> Preparatory work:

Discussion and adoption by the House of Representatives at its meeting on March 19, 2001.

This certificate must also certify that the two names mentioned above apply to the same person.

The template for the certificate is established by order of the Minister of Justice.

#### Article 2

The certificate referred to in Article 1 of this law shall be issued by the district judge in whose jurisdiction the registrar who issued the birth certificate of the person concerned is located.

#### Article 3

The application for the certificate of conformity shall be submitted to the clerk of the competent cantonal court on plain paper, accompanied by supporting documents.

Tunisians residing abroad may submit applications for the acquisition of the said certificate to the agents of the diplomatic and consular representations of Tunisia closest to their places of residence, who shall forward them to the competent cantonal judge.

#### Article 4

The certificate of conformity shall have the same probative value as extracts from civil status records.

This law shall be published in the Official Journal of the Republic of Tunisia and enforced as a law of the State.

Tunis, March 29, 2001.

Zine El Abidine Ben Ali

MODEL CERTIFICATE OF CONFORMITY BETWEEN  
THE ORIGINAL NAME AND THE ASSIGNED NAME

Decree of the Minister of Justice of May 17, 2001,  
establishing the model certificate of conformity between  
the original name and the assigned name.

The Minister of Justice,

Considering Law No. 57-3 of August 1, 1957, regulating civil status,

Having regard to Law No. 59-53 of May 26, 1959, making it  
compulsory for every Tunisian to acquire a surname,

Having regard to Law No. 2001-31 of March 29, 2001,  
establishing a certificate of conformity between the original name and the  
assigned name.

Decrees:

Sole Article

The certificate of conformity between the original name and the  
assigned name shall be drawn up in accordance with the model  
annexed to this decree.

Tunis, May 17, 2001.

*The Minister of Justice*

Béchir Tekari

*Having regard*

*The Prime Minister*

Mohamed Ghannouchi

## **Modèle du certificat de conformité Entre le nom originaire et le nom attribué**

En application de la loi n° 2001/31 du 29 mars 2001

**Portant création d'un certificat de conformité**

**Entre le nom originaire et le nom attribué**

*Vu la demande présentée par le (la) nommé(e) \_\_\_\_\_ au greffe  
du tribunal (ou à la représentation diplomatique ou consulaire de Tunisie à \_\_\_\_\_)  
en date du \_\_\_\_\_ selon laquelle son nom originaire est \_\_\_\_\_ et  
qu'on lui a attribué(e) le nom \_\_\_\_\_ et ce en vertu d'une décision  
rendue par la commission du nom patronymique homologuée par le Décret n° \_\_\_\_\_  
en date du \_\_\_\_\_ et a sollicité l'obtention d'un certificat de conformité entre les deux  
noms sus-visés.*

*Vu les pièces justificatives jointes à la demande (\*)*

*Le juge cantonal de (du) \_\_\_\_\_ certifie que*

**Le (la) nommé(e)**

**Prénom :** (de l'intéressé(e), son père et de son grand père) \_\_\_\_\_

**Nom :** (originaire) \_\_\_\_\_

**Né (e) à** \_\_\_\_\_ le \_\_\_\_\_

**Titulaire de l'acte de naissance n°** \_\_\_\_\_ année \_\_\_\_\_

*a acquis le nom patronymique \_\_\_\_\_ en vertu d'une décision de la  
commission du nom patronymique à la Délégation de (du) \_\_\_\_\_ Gouvernorat de  
(du) \_\_\_\_\_ homologuée par le Décret n° \_\_\_\_\_ en date du \_\_\_\_\_  
et que le nom \_\_\_\_\_ et le nom \_\_\_\_\_ concernent une même personne.*

*Ce certificat est délivré pour servir ce que de droit.*

\_\_\_\_\_ le \_\_\_\_\_ année \_\_\_\_\_

**Le juge cantonal**

*\* En plus du Décret d'attribution cette demande doit être accompagnée de toutes pièces justificatives prouvant clairement que les deux noms indiqués à la demande s'appliquent à une même personne.*

TABLE OF CONTENTS

Subject	Articles	Page
Decree of August 13, 1956 (6 Moharem 1376) promulgating promulgating the Personal Status Code .....	1 to 6	5
PERSONAL STATUS CODE	1 to 213	
BOOK ONE: MARRIAGE	1 to 28	7
1°) Engagements .....	1 to 2	7
2°) Marriage.....	3 to 11	7
3°) Dowry .....	12 to 13	9
4°) Impediments to marriage .....	14 to 20	9
5°) Nullities of marriage .....	21 and 22	11
6) Reciprocal obligations of spouses .....	23 and 24	12
7°) Disputes between spouses .....	25 to 28	12
BOOK TWO: DIVORCE .....	29 to 33	15
BOOK THREE: THE WAITING PERIOD .....	34 to 36	19
BOOK FOUR: ON THE FOR MAINTENANCE .....	37 to 53 Bis	21
BOOK FIVE: CUSTODY .....	54 to 67	25
BOOK SIX: CHILDHOOD .....	68 to 76	29
BOOK SEVEN: PROVISIONS RELATING TO THE CHILD FUNDS .....	77 to 80	31
BOOK EIGHT: PROVISIONS RELATING TO TO MISSING PERSONS .....	81 to 84	33
BOOK NINE: SUCCESSION.....	85 to 152	35
Chapter One: General Provisions .....	85 to 88	35
Chapter II: Heirs .....	89 and 90	36
Chapter III: Compulsory heirs .....	91 to 98	37
Chapter IV: Terms and conditions affecting shares shares allocated to reservation holders in competition with other heirs .....	99 to 112	40
Chapter V: Universal heirs .....	113 to 121	46
Chapter VI: Eviction in inheritance matters "Hajeb" .....	122 to 143 Bis	48

Chapter VII: Special cases .....	144 to 146	53
Chapter VIII: Miscellaneous issues .....	147 to 152	54
<b>Subject</b>	<b>Articles</b>	<b>Page</b>
<b>BOOK TEN: THE PROHIBITION AND EMANCIPATION.....</b>	153 to 170	57
Minority .....	153 to 159	57
Dementia and mental weakness .....	160 to 163	58
Prodigality .....	164 to 166	59
Common provisions .....	167 to 170	59
<b>BOOK ELEVEN: WILLS AND TESTAMENTARY DISPOSITIONS .....</b>	171 to 199	61
Chapter One: General Provisions .....	171 to 177	61
Chapter II: The testator .....	178 to 180	62
Chapter III: The legatee .....	181 to 184	62
Chapter IV: Legacies .....	185 to 190	63
Chapter V: Mandatory bequests .....	191 and 192	64
Chapter VI: Acceptance and Repudiation of legacies .....	193 to 196	65
Chapter VII: On the lapse of legacies .....	197 to 199	66
<b>BOOK TWELVE: DONATIONS .....</b>	200 to 213	67
Chapter One: General Provisions .....	200	67
Chapter II: Conditions of the donation .....	201 to 206	67
Chapter III: Effects of the donation .....	207 to 208	68
Chapter IV: Revocation of the donation .....	209 to 213	69
<b>APPENDIX</b>		71
<b>REGULATION OF CIVIL STATUS</b>		73
Law No. 57-3 of August 1, 1957, regulating civil status .....	1 to 66	73
Chapter I: General provisions .....	1 to 21	74
Chapter II: Birth certificates .....	22 to 30	79
Chapter III: Marriage certificates and their transcription .....	31 to 39	82
Chapter IV: Transcription of judgments pronouncing divorce or recording the nullity of marriage .....	40 to 42	85

Chapter V: Death certificates .....	43 to 58	86
Chapter VI: Civil status records concerning soldiers and sailors in certain special cases	59 to 62	92
Subject	Articles	Page
Chapter VII: Rectification of civil status records .....	63 to 66	94
Decree of the Ministers of Justice and the Interior of May 7, 1999, amending the decree of September 27, 1985 relating to the standardization of civil status documents .....	1 and 2	99
TERRITORIAL JURISDICTION OF CERTAIN CATEGORIES OF REGISTRARS THE CIVIL REGISTRY		107
Decree No. 86-132 of January 22, 1986 determining the territorial jurisdiction of certain categories of civil registry officers.....	1 to 5	107
REGIME OF COMMUNITY PROPERTY BETWEEN SPOUSES		109
Law No. 98-94 of November 9, 1998, relating to the the community property regime between spouses.....	1 to 26	109
Title I: General provisions .....	1 to 9	109
Title II: Community property	10 to 13	111
Chapter I: Joint property .....	10 to 12	111
Chapter II: Debts encumbering the common property .....	13	112
Title III: Legal publicity .....	14 to 15	113
Title IV: Administration and management of common property .....	16 to 17	114
Title V: Dissolution of the community of property .....	18 to 26	115
PRENUPTIAL MEDICAL CERTIFICATE		
Law No. 64-46 of November 3, 1964 (29 Jumada II 1384), establishing a prenuptial medical certificate .....	1 to 7	911
GENERALIZATION OF THE THROUGHOUT THE TERRITORY OF THE REPUBLIC		123

Decree of the Ministers of the Interior and Public Health of July 28, 1995, on the generalization of the prenuptial certificate throughout the territory of the Republic.....	1 and 2	123
<b>Subject</b>	<b>Articles</b>	<b>Page</b>
<b>MODEL OF THE PRE-MARRIAGE MEDICAL CERTIFICATE</b>		125
Decree of the Minister of Public Health of December 16, 1995, establishing the model prenuptial medical certificate and the information it must contain .....	1 and 2	125
<b>ORGANIZATION OF GUARDIANSHIP</b>		129
Decree of July 18, 1957 (20 Dhul Hijjah 1376), on the organization of the appointment of guardians and the supervision of their administration and management accounts.....	1 to 25	129
Chapter One ..... Title		
I: Administration of estate assets guardianship of minor children	1 to 17	130
Title II: Administration by the guardian of a person sentenced to imprisonment under Article 30 of the Criminal Code, an absent person, and a person interdicted due to insanity or mental incapacity .....	1 to 11	130
Chapter II: General provisions .....	12 to 17	134
	18 to 25	134
<b>GUARDIANSHIP AND ADOPTION</b>		
Law No. 58-27 of March 4, 1958, on public guardianship, informal guardianship, and adoption ..... Section I: Public guardianship .....	1 to 17	139
Section II: Informal guardianship..... Section III: Adoption .....	1 and 2	139
	3 to 7	140
	8 to 17	141
<b>FAMILY NAME OF ABANDONED CHILDREN OR CHILDREN OF UNKNOWN PARENTAGE</b>		
Law No. 98-75 of October 28, 1998, on the attribution of a surname to abandoned children or children of unknown parentage.....	1 to 6	145

<p style="text-align: center;"><b>GUARANTEE FUND FOR ALIMONY AND DIVORCE PENSIONS</b></p> <p>Law No. 93-65 of July 5, 1993, establishing a guarantee fund for alimony and divorce settlements.....</p>	1 to 10	153
<b>Subject</b>	<b>Articles</b>	<b>Page</b>
<p style="text-align: center;"><b>INTERVENTION BY THE GUARANTEE FUND FOR ALIMONY AND DIVORCE PENSION PENSION GUARANTEE FUND</b></p> <p>Decree No. 93-1655 of August 9, 1993, relating to the procedure for intervention by the pension guarantee fund pension alimentaire et de la rente de divorce.....</p>	1 to 9	159
<p style="text-align: center;"><b>CREATION OF A CERTIFICATE OF BETWEEN THE ORIGINAL NAME AND THE NAME ASSIGNED</b></p> <p>Law No. 2001-31 of March 29, 2001, establishing a certificate of conformity between the original name and the assigned name.....</p>	1 to 4	163
<p style="text-align: center;"><b>MODEL CERTIFICATE OF CONFORMITY BETWEEN THE ORIGINAL NAME AND THE NAME ASSIGNED</b></p> <p>Decree of the Minister of Justice of May 17, 2001, establishing the model certificate of conformity between original name and the assigned name.....</p>	Article single	165
Table of contents.....		167

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