

[Unofficial Translation]

Republic of Tunisia
The Secretaries of State to the Minister of Interior and the Ministry of Justice
No. 3/BCA/D/85

The Secretaries of State to the Minister of Interior and the Ministry of Justice

To

Civil Status Officers

(Via: The Governors)

Subject: Directives on Civil Status

Attachments: -3-

Following the noticeable increase in irregularities observed in the Civil Status Service, it has become necessary to provide you with the following directives and clarifications for their adoption in the optimal performance of duties:

Explanations of Some Terms

Registration: Refers to any action undertaken by the Civil Status Officer, in person, that necessitates the initial establishment of an official certificate. This includes the issuing of a Birth Certificate, Marriage Certificate, or Death Certificate.

Annotation: Refers to the act of noting, on an existing official certificate pertaining to a specific person, a civil event that has occurred in the life of that person and for which a new certificate has been issued, such as marriage or death, or for which a judgment has been rendered, such as divorce or annulment of marriage, or which is required by an enactment, such as the acquisition of nationality. Such an event must be annotated on the aforementioned old certificate in compliance with the laws. All of this is to provide evidence of the changes that have occurred in the personal civil status of the certificate holder, as previously indicated.

Transcript: Refers to the act of incorporating a full copy into the Civil Status Registers. This includes the transcript of the full text of a judgment establishing confirmation of Marriage, or the full text of a judgment establishing confirmation of Birth, or the Notification of Marriage drafted by the notaries or by diplomatic agents and consuls in Tunisia concerning foreigners, pursuant to the provisions of Article 38 of the Code of Personal Status.

1. As for Registers:

The Civil Status Register must be signed and sealed by the District Judge before being utilized by the Civil Status Officer.

Given the accumulation of various tasks incumbent upon the District Judge, all Civil Status Officers must, prior to the exhaustion of the current year's register and starting from the month of August, submit the new register along with its two counterparts simultaneously to the District Judge for signature.

The Minutes recorded at the beginning of the register, regardless of its type, must be filled out and signed to determine the number of pages of the register, its year of use, and to specify the Civil Status Office where that register is to be used during the year concerned.

- The register is annual; therefore, it must only be used from the first of January until the end of December of each year.
- The register must be closed at the end of the year with a closing note stating the number of certificates issued in that register during the year, and, where applicable, the number of cancelled certificates in the register. The closing note must not be issued at the bottom of the last certificate, but on the next blank certificate following the last certificate issued at the end of the year.
- This note must be signed by the Civil Status Officer with the date December 31 of each year.
- The register must be issued in two counterparts for each year.
- If issuing a certificate on a page of the register becomes impossible for any reason, or if a certificate is inadvertently omitted from one of its pages, that page must be cancelled by a clear and definitive strike-through (or cross-out), and the cancellation must be recorded with a justified note dated and signed by the Civil Status Officer.
- Regarding the Alphabetical Register, a blank space of no less than one page must be left between every two letters, for the purpose of annotating, when necessary, the judgment confirming birth or death.
- The numbering for each letter must be done separately, starting from No. 1 and continuing, to allow for the sequencing in the numbering upon the annotation of the judgment's registration.
- The Civil Status Register is must not be moved outside the Archives Department unless authorized by a court order.
- At the beginning of each year, and before the end of January, the Civil Status Office must retain one counterpart of every register, regardless of its type, and the second counterpart must be forwarded to the District Court of First Instance, along with all documents pertaining to the certificates issued during the year.
- Every custodian of the register must be civilly liable for any alterations occurring in the register.
- Any alteration or falsification in civil status certificates, and any registration of such certificates on separate sheets and not in the registers designated for this purpose, must result in compensation for damages to the concerned party, in addition to the penalties stipulated in the Penal Code.

2. As for Requirements for Registration of Birth and Death:

- Registration of birth and death must not be contingent upon the submission of any document, such as a marriage contract, the parents' birth certificates, the deceased's birth certificate, or anything else not required by law. The Civil Status Officer must issue the certificates he receives based solely on the declarations made by the persons present before him.
- Birth or death must only be registered by the Civil Status Officer of the city where the birth or death occurred.
- The rule of jurisdiction must be observed, registration at the Municipality must only apply to births or deaths that occurred within the municipal area, and registration at the Delegation must only apply to births or deaths that occurred within its specific area and outside the municipal area.
- Regarding Foreign Judgments issued for divorce or ordering the rectification of civil status certificates, they must not be enforceable nor annotated on the civil status record unless they have acquired executory formula through a judgment of the Tunisian Court ratifying them, in accordance with the provisions of Articles 286 et seq. of the Code of Civil and Commercial Procedure.

Birth and death must be registered within the statutory time limits. If notification is not made within the statutory time limit, registration with the Civil Status Officer must only be possible by virtue of an order issued by the President of the Court of First Instance in the judicial district where the birth or death occurred.

The time limits are:

- a. For Birth: Only Ten Days. The French text of the second paragraph of Article 22 of the Civil Status Code, which raises the registration period for birth to fifteen days if the birth occurred outside the municipal area, must not be relied upon.
- b. For Death: Three days.

If the death occurred in a hospital, prison, or in execution of a death sentence, the registration period is twenty-four hours.

If the death resulted from an accident, it must be reported immediately to the competent authorities (Police or National Guard).

- Notification of birth must only be made by the father, or by physicians, midwives, or anyone who witnessed the delivery.

As for death, notification may be made by any relative of the deceased, without distinction between male and female, or by any person who has information regarding the deceased's civil status that would ensure the optimal issuing of the death certificate.

- Regarding Foundlings, the Civil Status Officer must issue a separate memorandum documenting the circumstances, time, and place where the child was found. This

memorandum must be signed by the person who presented the foundling to the Civil Status Officer for registration, and by the Civil Status Officer.

A birth certificate must then be issued after assigning a name to the concerned party. It is prohibited to mention in that certificate that the child is of unknown father or mother, or any other note of this kind.

It must also be annotated in the Notes section of the certificate regarding the memorandum that was issued on the subject, stating its date. Immediately upon completion of these procedures, the Civil Status Officer must notify the Prosecutor's Office in the area to undertake any investigations deemed appropriate on the matter.

3. Method of Issuing the Certificates

After the conditions for Registration are met, the issuing of the Certificate must commence.

- The Certificate must be issued directly in both counterparts of the Register simultaneously, in the presence of the informant.

It is strictly prohibited to issuing certificates outside the register using any external forms, whatever their nature, as it has been observed that Civil Status Officer sometimes issuing certificates outside the register on various forms, such as informational cards, which are later copied into the Civil Status Register onto certificates previously signed in blank by the informant at the time of notification.

Furthermore, all such forms currently existing in the Civil Status Offices must be destroyed so that, henceforth, certificates are issued directly in the register in implementation of Article 20 of the Civil Status Code.

- Certificates must be issued sequentially with serial numbers. If the completion of a Certificate becomes impossible for any reason, it must be cancelled, and this must be noted in the remarks section of the said certificate, with a note that is dated and signed by the Civil Status Officer.
- Certificates must be issued in the Arabic language. However, for Tunisian Israelites and foreigners who do not bear an Arabic first name or surname, the surnames and first names must be written, in addition to Arabic, in Latin letters according to the spelling dictated by the concerned party.
- Certificates must be written in permanent, indelible ink. It is prohibited to change the ink within the same certificate, and its use is also prohibited...
- Names and surnames must be vocalized to avoid ambiguity in pronunciation, and the vocalization must be according to the pronunciation, where applicable.
- Dates in the certificates must be written in words (or letters) without numerals. However, these dates may be mentioned in numerals in the section designated for remarks should the need for a remark arise.
- The certificate is individual and personal. It is not permissible, for example, to register the birth of twins in a single certificate; a certificate must be issued for each one of them.

- A stillborn fetus must only be registered as a death.
- The dates of birth for the father and mother in Birth Certificates, and for the deceased in Death Certificates, must be mentioned when known. Otherwise, the concerned person must be identified by stating the year, as is done for the age of the informant.
- All informational items must be answered with full diligence and completely. It is sufficient to answer the questions present in the certificate without addition.
- It is prohibited to assign non-Arabic names to newborns, and it is prohibited to assign the surname as a first name. Furthermore, it is prohibited to assign to newborns the surnames of leaders or their names and surnames simultaneously, and it is not permissible to name newborns with names that are objectionable, contrary to morality, or ambiguous.
- The current surname must be recorded in the certificate, regardless of any change or substitution that may affect that surname pursuant to the Family Law.
- It is prohibited to feminize the surname. A female newborn whose surname is, for example, "Al-Akkari," must not be registered with the surname "Akkaria," but must be registered with the surname "Al-Akkari" only.
- The Civil Status Officer must not be a party to the certificate issued by him; hence, he is prohibited from being an informant or a witness to that certificate. However, he may issue a certificate of a relative, regardless of the degree of kinship, provided that the informant or witness is another person.
- After the completion of the issuing of the certificate according to the above instructions and before any signature, the Civil Status Officer must read out the certificate in the presence of those who were present, to rectify any error or deficiency in the issuing. To remedy any omissions, writing between the lines is prohibited, whenever needed to add one or more words, this must be added in the remarks section.
- All strike-throughs must be ratified in the remarks section, stating the number of words struck through.
- Erasure within the body of the certificate is absolutely prohibited.
- After rectification, where necessary, all remaining blank space on the certificate must be struck through.
- After striking out the blank space, the certificate must be signed by all parties.
- Regarding certificates issued based on notification from the Hospital or the Police, there is no need for them to be signed by the informant, let alone by the bearer of the notification. In this case, the signature must be limited to that of the Civil Status Officer.
- Finally, the certificate must be signed by the Civil Status Officer, and signing with a seal is prohibited.
- Once the certificate bears all the legal signatures, its cancellation or rectification must only be by virtue of a court judgment.

4. As for Marriage

When the Civil Status Officer is requested to conclude a marriage contract, they are faced with the application of two laws:

First: Articles 31, 32, 36 bis, and 38 of the Civil Status Code.

Second: Articles 3, 5, 6, 7, 8, 12, 14, 15, 16, 17, 18, 19, 20, 34, 35, and 36 of the Code of Personal Status.

In view of the necessary diligence required for the conclusion of a marriage contract to ensure it meets the requirements and is fully effective, we draw attention to the fact that marriage is only validly concluded upon the fulfillment of the following conditions:

1. The Consent of the Spouses.
2. Two competent witnesses other than the guardian.
3. Identify a dowry for the wife.
4. Each of the spouses is free and clear from all legal impediments.
5. Reaching the legal age for marriage.

In this regard, we deem it useful to provide you with the following clarifications:

First: Dowry:

Its amount must be mentioned in the marriage contract, and it must be specified whether it is advance and its receipt acknowledged, or deferred.

Second: Legal Impediments

The Waiting Period (Iddah):

- **Obligation of the Iddah:**

- a. The Iddah is mandatory for every woman whose husband has divorced her after consummation, or who has died before or after consummation, pursuant to Article 34 of the Code of Personal Status.
- b. The wife of a missing person, pursuant to Article 36 of the said Code.
- c. The Iddah must also result from a marriage declared void according to Article 36 bis of the Civil Status Code.

- **Duration of the Iddah:**

A divorced woman who is pregnant must observe an Iddah period of three full months.

A woman whose husband has died must observe an Iddah period of four months and ten full days. However, for a pregnant woman, her Iddah is until she gives birth, as stipulated in Article 35 of the Code of Personal Status.

The Iddah of the wife of a missing person is the Iddah of death, i.e., four months and ten days, after the judgment of missing status is rendered.

In the case of a void marriage declared annulled, the mandatory Iddah is three months.

1. Commencement of the Iddah:

For the divorced woman, the Iddah commences from the date the judgment becomes final, i.e., after the exhaustion of the appeal methods. The divorce judgment becomes final upon the lapse of one month from its date of issuance, pursuant to the provisions of the second paragraph of the new Article 41 of the Civil Status Code.

For the woman whose husband has died, the duration of the Iddah is calculated from the date of death.

The Iddah of the wife of a missing person commences from the date the judgment of missing status is issued.

In the case of a void marriage, the Iddah commences from the date the annulment judgment is issued, pursuant to Article 36 bis of the Civil Status Code.

Third: The Legal Age for Marriage:

Seventeen years for the wife and twenty years for the husband.

Concluding the marriage contract below the prescribed age is subject to special authorization from the Judge. Furthermore, the marriage of a minor is contingent upon the consent of the Guardian, and the marriage of a legally incompetent person is contingent upon the consent of the Guardian.

If a Guardian is party to the contract, he must sign the contract, or it must be noted that signing was impossible, without resorting to the use of a thumbprint.

Fourth: Marriage of Foreigners:

The marriage contract for foreigners in Tunisia must be drafted in accordance with Tunisian laws, based on a certificate from their consul attesting to their eligibility to marry (Article 38 of the Civil Status Code).

Fifth: Annotation of Items and Documents:

The contract must annotate:

1. All items stipulated in Article 32 of the Civil Status Code.
2. All authorizations and documents submitted with the contract.

Furthermore, the marriage contract must only be concluded after the submission of:

1. The Legal Medical Certificate, which, as of the date of issue of this document, has become mandatory for the following specified municipalities: Tunis, La Marsa, Sidi Bou Said, Carthage, La Goulette, Bardo, Manouba, Ariana, Ben Arous, Ezzahra, Megrine, Rades, Hammam-Lif, Bizerte, Menzel Bourguiba, Beja, Souk El Arba, Kairouan, Kasserine, Sfax, Gafsa, Medenine, Djerba, Gabes.

2. Birth certificate of each spouse, to accurately record the date of birth for each of them in the contract.

In addition, the marriage of a widower/widow is contingent upon the submission of the death certificate of the previous spouse.

As for the divorced person, their marriage is contingent, notwithstanding the documents mentioned above, upon the submission of a certificate annotating the divorce, pursuant to the Circular No. 280 issued by the Secretary of State to the Minister of Justice on January 28, 1959. This certificate must be issued by the Civil Status Officer who carried out the annotation of the divorce judgment. Therefore, it is prohibited to rely on the judgment itself to marry the divorced person, even if supported by a certificate from the court indicating that the judgment was not appealed.

It should be noted that concluding the marriage of a soldier is contingent upon a permit from the Secretary of State to the National Defense, pursuant to the provisions of Article 23 of the Decree of January 10, 1957.

Regarding the marriage of the National Guard, it is contingent upon a permit from the Commander of the National Guard, pursuant to the provisions of Article 11 of Decree No. 148 and No. 65 of March 25, 1965, setting the special statute related to the National Guard.

On another note, we point out that all documents submitted to the Civil Status Officer upon the conclusion of the marriage contract must be signed simultaneously by the applicant and the Civil Status Officer, pursuant to Article 12 of the Civil Status Code.

Furthermore, a marriage contract can only be concluded by the Deputy Mayor if they hold a general delegation in the civil status matters.

On this occasion, we draw the Mayor's attention to the necessity of granting a delegation of authority in civil status matters to their permanently residing Deputy at the Municipal Center, to avoid disrupting the workflow, especially concerning marriage during the Mayor's absence. We also emphasize that Mayors must sign all civil status documents promptly and remedy any delay in this regard before the upcoming municipal elections.

Mayors:

Pending the review of the capacity of Civil Status Officer enjoyed by the mayors, and in an effort to curb the frequent irregularities observed in the Civil Status Service and to address the delay in providing courts with the counterparts of the registers used, particularly by the Delegations, it has been decided that Delegations must use the same registers currently in use by Municipalities, according to the models sent to them with Circular No. 154 dated September 1, 1958. The Delegation must henceforth undertake the drafting of all civil status Certificates, allocating a separate register for each sheikdom for births and deaths. Each register shall contain one hundred certificates, which shall be filled out according to the notifications presented by the mayors systematically every week.

The mayors' duty shall, in the future, be limited to receiving announcements of births and deaths within the statutory time limits stipulated in Articles 22 and 43 of the Civil Status Code, and notifying the Delegation, which shall undertake their registration in the new designated register and complete the necessary procedures concerning them.

The mayor shall receive the said announcements within the specified time limits in their capacity as Civil Status Officer and record them in the special extract register, which must be prepared according to the two forms included herewith (No. 1 for birth and No. 2 for death).

This register shall contain one hundred pages, including information that corresponds entirely to the items present in the certificates, all of which must be answered with full diligence. The pages must be signed by the mayor and the informant who meets the required qualifications under the law.

The mayor must submit the extracts from the register (births or deaths) to the Delegation in a timely manner, based on which the certificates shall be drafted in the special register for the Sheikdom concerned. The mayor shall sign the certificates in the space designated for the informant's signature. In this capacity, the mayor becomes the sole informant for the birth or death before the delegate.

The extracts relied upon by the mayor to record the notifications of birth or death at the Delegation must be returned to them after the certificate has been fully drafted and immediately upon being signed by both the delegate and the mayor in the capacity mentioned.

The mayor's retention of the extracts and their stubs facilitates their retrieval for verification, confirmation, and providing the required information to the concerned parties when necessary.

Other documents, such as medical certificates, must remain attached to the Civil Status Certificate and be deposited with the clerk's office of the Court of First Instance along with the register counterpart, after being signed by both the submitting mayor and the delegate, in accordance with the provisions of Article 12 of the Civil Status Code.

We draw your attention to the fact that the costs for the birth and death extract register and the new Civil Status Registers shall be borne by the Regional Council.

The Governors are requested to take the necessary measures to implement the prescribed procedures concerning the mayors in their capacity as Civil Status Officers, starting from January 01, 1966.

In conclusion, we find it beneficial to alert the Civil Status Officers to the attention, care, and vigilance required by their duty in applying the texts governing Civil Status, as it is a fundamental pillar upon which the organization of the nation's life, its progress, the preservation of the family, and the protection of lineage rely, notwithstanding its major importance in the governmental sphere. The government, which strives to raise the citizen's standard of living in all fields, relies entirely on the statistics derived from the Civil Status

Registers to base all its planning in various social, cultural, economic, and even political domains.

For all these considerations, we urge the Civil Status Officers to exert greater effort to facilitate civil status matters in accordance with the law and to ensure the implementation of the provisions of this Circular.

You shall receive herewith a copy of the Civil Status Code after the new amendments have been introduced.

Regards,

Tunisia, December 12, 1965.

**Secretary of State to the
Minister of Interior**

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Ministry of Justice**