

DISCLAIMER: This document was produced in 2005 and is a summary of the laws of Algeria that appertain to international parental child abduction, contact and relocation as they were at that time. **reunite** International Child Abduction Centre cannot vouch for the accuracy of this information for use in litigation and it is not intended to provide case specific advice.

SOMALIA

Overview

The situation in Somalia continues to be unstable and the government and legal system are not fully functioning in all parts of the country. The information in this chapter refers to the situation in place before 1991. Prior to this date family law in Somalia was governed by Law 23 of 1975, however reports from Somalia state that since the civil war started in 1991 the only law that is being applied is Sharia law.

Somalia has a Muslim majority and a Christian minority. The main school of Islamic jurisprudence is the Shafi School. Article 5 of the revised Constitution of 2001 reads that Islam is the religion of the nation, and the promotion of any religion in the territory of Somaliland, other than Islam, is prohibited. The laws of Somalia shall be based on the Sharia and any laws contrary to the Sharia shall not be valid.

Court Structure

The Constitution of 2001 sets out the structure of the judiciary, consisting of the courts and a Procuracy, in Articles 97-106. The lower courts are the District Courts, the Regional Courts and the Appeals. The highest judicial authority is the Supreme Court, which is the final court of appeal for civil, criminal, auditing and administrative matters. The Procuracy consists of the Attorney General and his deputies.

Filiation

Legitimacy is automatic if a child is born within marriage at least 180 days after the marriage was contracted and no more than one solar year after a

divorce or death of the husband. Outside these circumstances Article 60 of the Family Law 1975 permits the father to acknowledge paternity of a child.

Custody

The mother has priority in the right to custody of the children following the separation of the parents. Article 64 of the Family Code permits the mother to have custody of her male children until they reach the age of 10 and of her female children until they reach the age of 15. If the mother remarries she may lose custody of younger children, unless the father gives his consent to the continued custodianship of the mother. If the father is deceased then the mother will keep custody even if she remarries someone outside the prohibited degree, according to Article 67 of the Family Code. Article 69 establishes the right of the court to extend the period of custody if this is in the best interests of the child.

After the mother the father has the right to custody. If both parents are absent the court may appoint a custodian according to the best interests of the child. Article 65 states that custodians must be capable of safeguarding the child's best interests and be of sound mind.

Guardianship

The natural guardian of a child is the father, followed by the mother and grandfather. Majority is the age of 18.

Access

Both parents have the right to have contact with their children. The custodian may not travel abroad with the child except with the permission of the guardian. If a dispute over travel arises the court may be petitioned to resolve the issue.

Nationality

Article 4 of the 2001 Constitution reads that any person who is the descendant of a person residing in Somaliland on 26th June 1960 or earlier, shall be recognised as a citizen of Somaliland. Article 2 of the Citizenship Law No.22/2002 confirms this. A Somaliland citizen by birth will not lose citizenship upon acquiring a foreign nationality.

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