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Responses to Information Requests

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17 April 2018

DJI106089.E

Djibouti : Appearance and information found on a sharia marriage certificate (acte charien de mariage), including language used; whether a signature of the spouses and witnesses is required for the document to be valid (2017-April 2018)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

Information on sharia marriage certificates was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

1. Islamic Marriage and Its Registration

The US Department of State's *Report on International Religious Freedom for 2016* states that in Djibouti, "[t]he government legally recognized Islamic marriages conducted under the auspices of the Ministry of Islamic Affairs and civil marriages conducted under the auspices of the Ministry of Interior for non-Muslims and interfaith couples" (US 15 Aug. 2017, 3).

According to the Djibouti Reciprocity Schedule by the US Department of State, the issuing authorities for the "[a]cte de [c]harria de [m]a[r]riage" (sharia marriage certificate) are:

- For civil marriages performed prior to 1973 - Commandant du Cercle of the respective region (Dikhil, Ali Sabieth, Tajourah, Arta, Obock, and Djibouti City)
- For civil marriages performed after 1973 - Mairie de Djibouti
- Muslim marriages outside Djibouti city - Khadi of the region in which the marriage took place.
- Muslim marriages within Djibouti Ville in different locations: 1st Arrondissement, 2nd Arrondissement, 3rd Arrondissement and 4th/5th Arrondissement. (US n.d.)

According to civil registration and vital statistics data on Djibouti, compiled by UNICEF, civil registrars are "the official authorities in charge of registering a marriage" and "the legal informant to register the marriage" can be a notary officer or a judge (UN Nov. 2017). The same source reports that the place of registration is either the civil registration office or the place of celebration of the marriage (UN Nov. 2017). UNICEF mentions that there is a "legal obligation to register marriages" and that an "official marriage certificate" is then issued (UN Nov. 2017). The Djibouti Reciprocity Schedule states that "[c]ertified copies [of marriage certificates] are available" and that "there are no [a]lternate [d]ocuments" (US n.d.). The same source adds that the applicants seeking to obtain marriage certificates should contact the "issuing offices for the area the marriage took place," adding that the issuing authority personnel title is "Préfets" (US n.d.).

According to UNICEF, Law No. 152/AN/02/4th on the Family Code (*Loi no152/AN/02/4ème portant Code de la Famille*) is part of the legal framework for marriage registration in Djibouti (UN Nov. 2017).

Article 7 of the Family Code states the following:

[translation]

In the Republic of Djibouti, marriage is carried out before the Al Ma'doun Al Char-i in the presence of two honourable witnesses.

The status and responsibilities of the Al Ma'doun Al Char-i will be set out by legislation.

Marriage of Djiboutians abroad is celebrated before diplomatic or consular officers or

according to local legislation.

Marriage shall be entered into only with the consent of the two spouses and the woman's guardian.

The presence of two honourable witnesses and the fixing of the dowry to the woman's benefit are required for the marriage to be valid. (Djibouti 2002a)

1.1 Role of Al Ma'doun Al Char-i

Law No. 169/AN/02/4th L Concerning the Organization and Authority of the Al-Ma'adoun Al Chari or Status of the Al Ma'adoun Al Chari (*Loi no 169/AN/02/4ème L Portant organisation et compétence d'Al-Ma'adoun al chari ou statut d'Al Ma'adoun al chari*) states the following:

[translation]

Article 2:

The ma'adoun al-chari is the only individual authorized to certify marriages and preside over divorce by mutual consent. He is also responsible for issuing certain certificates as determined by the present Act.

Article 3:

Each ma'adoun has authority over a geographic area determined by decree.

Article 4 :

The ma'adoun is appointed by decree of the Council of Ministers, on a proposal of the Minister of Justice and in accordance with the conditions prescribed by this Law.

Article 5:

The ma'adoun is able to:

- Conduct marriages in accordance with the provisions set out in the Family Code and issue the related certificates.
- Receive declarations of divorce by mutual consent and issue the related certificates, as per the attached form.
- Help spouses reconcile conjugal disputes. (Fact and law).

...

Article 13:

The ma'adoun must prepare five copies of the certificates mentioned in the previous article, according to the template included. Two copies will be given to the two spouses, one sent to the civil status official, one to the jurisdiction responsible for status of the individual and the fifth will be filed in the ma'adoun's office archives, all within one month from the date they were drafted.

Any failure to comply with these requirements will result in a fine of 30,000 francs [approximately C\$215] for the ma'adoun.

Article 14:

The ma'adoun must maintain a marriage registry, a divorce registry and a registry for each certificate that falls under his authority as well as a reconciliation registry.

He alone is responsible for updating and storing these registries.

All registries must be numbered and initialled by a judge who specializes in this area. (Djibouti 2002b)

Article 1 of Decree No. 2004-0223/PR/MJAPM Regulation for the Profession of Assistants to a Maadoun Al-Chari (*Décret n°2004-0223/PR/MJAPM réglementant la profession d'assistants de Maadoun Al-Chari*) provides that:

[translation]

Article 1:

When necessary, in locations that are far removed from the capital and district capitals, a maadoun may be replaced by a designated officer who can perform marriages in accordance with the provisions set out in articles 7 and 8 of the Family Code.

He is responsible for sending all of the information regarding any marriages performed to the area maadoun within one month. (Djibouti 2004)

2. Marriage Certificates

Article 8 of the Family Code states the following:

[translation]

The marriage certificate must include the following:

1. the names, profession, age, birth date and location, residence and nationality of each spouse;
2. the names, profession, residence and nationality of their fathers and mothers;
3. a statement from the two witnesses to the effect that neither of the future spouses are subject to any of the hindrances set out in this legislation;
4. the names of any former spouses, if applicable, and the date of death or divorce that resulted in the dissolution of that marriage, as well as the date and location of the previous marriage, the death of a spouse of the divorce that resulted in the dissolution of that marriage; and
5. if applicable, consent or authorization as required by law and details about the dowry.

Article 9:

Within one month of completing the marriage certificate, judges are responsible for sending the marriage certificate to the registrar in their riding using the template annexed to this law.

Any infraction of the provisions set out in the previous paragraph will result in a fine of 30,000 francs[.] (Djibouti 2002a)

The template annexed to the Family Code could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Required Signatories for a Marriage Certificate

Information indicating whether the signature of the spouses and witnesses is required for a marriage certificate to be valid was scarce among the sources consulted by the Research Directorate.

Article 12 of the Law No. 169/AN/02/4th L states the following: [translation] "The ma'adoun must register the details about a marriage, divorce or when a couple resumes marital life in the presence of the parties, guardians and witnesses and sign it with them" (Djibouti 2002b).

According to Article 17 of the Family Code, [translation] "[t]he man and the woman can be wed in person or by proxy. A person who gives their consent to the marriage of a minor can also do so by proxy. The guardian can also exercise their rights by proxy" (Djibouti 2002a).

4. Language and Appearance of Marriage Certificates

Information on the appearance and the language of marriage certificates was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

L'aménagement linguistique dans le monde [1] states that [translation] "the Djiboutian administration uses French in its forms and documents" and that "[t]he use of Arabic language is not yet very common" (L'aménagement linguistique dans le monde 23 Dec. 2015). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The Djibouti Reciprocity Schedule mentions that the colors blue and black appear on the marriage certificates (US n.d.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Note

[1] L'aménagement linguistique dans le monde is a website hosted by the Chair for the Development of Research on French-Speaking Culture in North America (Chaire pour le développement de la recherche sur la culture d'expression française en Amérique du Nord, CEFAN) at the Laval University; it presents the particular language situations and policies of different states and territories around the world (L'aménagement linguistique dans le monde n.d.).

References

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United States (US). 15 August 2017. Department of State. "Djibouti." __ *International Religious Freedom Report for 2016*. [Accessed 9 Apr. 2018]

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Additional Sources Consulted

Oral sources: Bender Djedid; Djibouti – Embassies in Paris and in Washington; lawyer and lecturer whose research interests include family law in Djibouti.

Internet sites, including: Djibouti – Cour des comptes; E-Gouvernement, embassy in France; mairie de Djibouti-ville, ministère de la Justice et des Affaires pénitentiaires; European Union – Public Register of Authentic Travel and Identity Documents Online; France – Embassy in Djibouti; Keesing Reference System; Women Living Under Muslim Laws.

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