



Country fact sheet for the CRC

TUNISIA

REPORT N°	<ul style="list-style-type: none"> ▪ Fourth, fifth and six periodic report for the CRC
PRE-SESSION/SESSION	<ul style="list-style-type: none"> ▪ Pre-sessional: 84th (September 2019) ▪ Sessional: 84th (May 2020)
LAWS (THC-1993, DOMESTIC LAWS)	<p>International framework</p> <ul style="list-style-type: none"> ▪ Convention on the Rights of the Child: 30 January 1992 (ratification) ▪ Optional Protocol to the UNCRC on the sale of children: 13 September 2002 (ratification) ▪ State not party to the 1993 or 1996 Hague Conventions <p>Regional framework</p> <ul style="list-style-type: none"> ▪ African Charter on the Rights and Welfare of the Child (1990): 16 June 1995 (signature) <p>National framework</p> <ul style="list-style-type: none"> ▪ Tunisian Law 2016-61 of 3 August 2016 on preventing and combating human trafficking ▪ Tunisia's Constitution of 2014 (Article 47) ▪ Act No. 2003-51 of 7 July 2003, amending and supplementing Act No. 98-75 of 28 October 1998 on the need to assign a family name to children who have been abandoned or whose paternity is unknownⁱ ▪ Code for the Protection of the Child (CPE) of 9 November 1995 ▪ Act No. 67-47 of 21 November 1967 on family placement ▪ Tunisian Nationality Code, decree on revision of the Tunisian Nationality Code ratified through Act No. 63-7 of 22 April 1963 ▪ Act No. 58-27 of 4 March 1958 on public guardianship, legal guardianship (kafalah) and adoption, some articles of which were amended through Act No. 59-69 of 19 June 1959 ▪ Code of Personal Status promulgated by the Decree of 13 August 1956 ▪ Act No. 2016-61 on preventing and combating human trafficking
GENERAL SITUATION OF CHILDREN DEPRIVED OF THEIR FAMILY	<p>Prevention of separation and family reintegration</p> <p><i>Existing policies and strategies</i></p> <p>Since its independence in 1956, Tunisia has considerably improved human development indicators and economic and social well-being.ⁱⁱ</p> <ul style="list-style-type: none"> ▪ Integrated state policy for child protection (PPIPE) and action plan (2016-2020); ▪ Family and alternative care systems strengthening strategy (launched in 2018 as part of the PPIPE, with the target of deinstitutionalisation); ▪ Other strategies introduced: early childhood development strategy, through a partnership with UNICEF and the World Bank, and a family development plan aimed at supporting families in difficulty. <p>However, this progress is threatened by the deep economic and budgetary crisis affecting the country since 2011 and the increasingly limited resources allocated to child protection. According to the 2015 INS survey on household consumption, budget and standard of living, one child in five is poor.ⁱⁱⁱ</p>

	<p>Family reintegration</p> <p>In 2012, the Ministry of Women, Family, Childhood and Seniors (MAFF) launched a family reintegration programme for children placed in integrated centres for children and young people (CIJEs) as a result of poverty.</p> <p>One of the roles of the Ministry of Social Affairs (MAS) is to provide social follow-up for biological families in the form of listening, guidance and social support, especially where the family is taking the child back. Families also receive monthly payments on a long-term basis.^{iv}</p> <p>Out of 252 children admitted to the National Institute of Child Protection (INPE) in 2017, 82 have been reintegrated into their families (INPE 2018 strategy). However, children reintegrated from CIJEs sometimes appear at risk due to a lack of routine follow-up that takes into account the reasons, which led to the placement.^v</p>
<p>ALTERNATIVE CARE OPTIONS</p>	<p>According to a local contact, the main type of care for children deprived of their family is informal placement within the extended family, because of the cultural emphasis on family solidarity. However, there are currently no statistics available on these placements.</p> <p>Care options for children separated from their families</p> <p>Article 96 of the CPE acknowledges various forms of alternative care. In addition, the Code of Personal Status recognises these as independent alternatives that have been defined in specific legislation.</p> <ul style="list-style-type: none"> ▪ Family placement or foster care <p>Situation in which a family (with no biological link to the child) commits to temporarily take care of and bring up one or more children who have no family support, until their legal and social situation is determined. The family receives state financial aid and multidisciplinary support. The placement may turn into legal guardianship (<i>kafalah</i>) or even adoption, in accordance with the Law of 4 March 1958. A family placement can last between one day and two years, for temporary placement, or longer in special cases of long-term placement (<i>e.g.</i> for disabled children). According to a local contact, these conditions are determined by the CPE; there is currently an issue of inconsistency with Act No. 67-47 of 21 November 1967 on family placement. To address this, an initiative has been launched as part of the deinstitutionalisation project to establish terms and conditions for foster care, which align the two documents. The socio-legal and medical authorities jointly assess the application by the foster family, through a multidisciplinary team. In addition, a medical authority psychologist matches the child with the foster family, and a social worker provides follow-up. The foster family is supervised to ensure they provide good care for the child, and in return they receive an allowance and support for the child.</p> <ul style="list-style-type: none"> - The INPE has a centralised database of foster families. According to the June 2018 strategy, there are currently 49 foster families for short-term placements and 79 for long-term placements; nearly all are in the Greater Tunis area. (91% in 2016). <ul style="list-style-type: none"> ▪ Institutional care <p>State care institutions</p> <ul style="list-style-type: none"> ✚ INPE (0 to 6 years old): children abandoned or found in public places routinely taken into state guardianship and placed at INPE. In 2017, 252 children were admitted to INPE.^{vi} ✚ CIJE (6 to 18 years old): children <u>attending school</u>, with no physical or mental disability, who are experiencing social problems inherent to the temporary or permanent absence of their parents. In 2017, 418 children were placed in CIJEs.^{vii} ✚ The Tunis Centre for the Social Protection of Children (over 6 years old): children experiencing significant family problems, but with no disabilities (96 children placed in 2017^{viii}) and the Essnad Centre, which welcomes abandoned children over 6 years of age, who have disabilities (56 children placed in 2017^{ix}).

Three centres for social guidance and support (CEOS), created by MAS and established in Tunis, Sousse and Sfax: cares for homeless people, including children usually accompanied by their family, and provide basic protection, medical assistance and psychological support. In 2016, the CEOS provided care for 385 children (including 57 infants), with a staffing ratio of 14 managers to every 100 children.^x

Non-profit care institutions

- SOS Children's Villages: 440 children were accommodated in these villages in 2017.^{xi}
- Non-profit regional nurseries offering children placements of one day to two years (Réseau Amen Enfance Tunisie and other NGOs).^{xii}
- UVA: 205 children placed in 2017.^{xiii}

In total, 1,467 children were placed in institutions in 2017 (2,500 in 2011).

A significant decrease in the number of temporary and long-term admissions of infants to INPE was recorded between 2010 and 2017, due to considerable improvement to the accommodation capacity of UVAs and their expansion, allowing a smoother rate of turnover. A **deinstitutionalisation programme** led by MAFF was introduced in 2012, to reintegrate children into their family with the help of basic financial support. Several other initiatives had previously been introduced, including the establishment of foster care in 2002 and the transformation of large institutions into accommodation units for 8 to 10 children based on a family model. As regards **leaving residential care** on reaching adulthood, it seems CIJEs could do with developing a new approach guided by the principles of gradual independence and support at a distance for young people leaving CIJEs, SOS Children's Villages and the Centre for the Social Protection of Children^{xiv}.

▪ **Kafalah**

This involves a contract signed before a solicitor, between the legal guardian and the parents, or one parent if the other is unknown or deceased, or by default the state guardian or their representative. The **deed of legal guardianship** is certified by the district court. This involves a child who is a minor. According to a local contact, institutional practices make it preferable, in the case of abandoned children, for the child to already have a family name, as the kafalah family will not give him or her their family name and in order to avoid assigning a fictitious name. According to INPE,^{xv} the Commission for adoption, kafalah and foster care is responsible for decisions on applications from families. The selection criteria are the same as those for families applying to adopt. As mentioned, children who are placed in kafalah or adoption are those born outside marriage, where the father's name is usually unknown.

The child who is placed retains all rights arising from filiation, in particular his or her name and inheritance rights (Article 6, Section II).

The kafalah contract is for a limited duration and ends when the child reaches adulthood (Article 7, Section II). The kafalah contract may be terminated at any time by the High Court, at the request of the legal guardian, the parents of the ward or the public authorities, taking into consideration the best interests of the child (Article 7, Section II).

In 2017, of the 252 children admitted to INPE, 110 were adopted, 60 were placed in kafalah and 82 were reintegrated into their families. In terms of statistics on failures of kafalah, it is notable that in 2016, two children refused to stay with their adoptive/kafalah family, and 36 reported cases of breaches to children's rights involved children cared for under kafalah.

ADOPTION

Tunisia is the only country in the Maghreb to recognise adoption, under the Act of 4 March 1958 amended by the Act of 19 June 1959 (although it is explicitly excluded from Islamic law). In terms of intercountry adoption, Tunisia has not ratified the 1993 Hague Convention but there are relevant bilateral agreements with Belgium and Canada.^{xvi}

The institution of adoption has specific differences to kafalah.

Subsidiarity principle: the law is silent regarding the placement of a Tunisian child in another country. In practice, the placement of Tunisian children appears to have been authorised through case-law. Following controversy about the placement of Tunisian children with foreign applicants, this option has been offered to mixed couples resident abroad where one of the

	<p>partners is Tunisian. According to a local contact, priority is given to applicants who are Tunisian nationals.</p> <p>Although the 1958 Act makes no reference to religious affiliation, procedure requires that applicants are Muslim. Adoption applications from foreign nationals, or even Tunisians, who are not Muslim are therefore ineligible.^{xvii}</p> <p>Adoption creates filiation ties between the child and the adoptive family. An adoptee has the same rights and responsibilities as a natural child. However, the law does not specify whether ties are severed between the child and their biological family. Adoption is reversible.</p> <p><i>According to a local contact, despite the rapid decrease in adoption over recent years, it still seems to be the preferred form of placement for stakeholders in the decision-making process (adoptive family, family court, child protection officer and INPE). However, changing social and cultural paradigms in Tunisians' perceptions of adoption can be seen in the gradual increase in kafalah, which is seen by some to be more compatible with religious teaching.</i></p>
<p>RISKS</p>	<ul style="list-style-type: none"> ▪ Family support and prevention of separation <ul style="list-style-type: none"> ➤ Despite various family support initiatives developed as part of the deinstitutionalisation policy, there still seems to be a lack of child-centred family policy and child-sensitive social protection, which should be linked to family and child policies. ➤ In terms of family reintegration, there still seems to be a need for a routine follow-up system that takes into account the reasons that led to the placement. ▪ Foster care <ul style="list-style-type: none"> ➤ Placement in foster care remains highly centralised and still needs to be developed throughout the country. As reflected in the decreased rate of foster care, there is a lack of adequate remuneration to provide for children. ➤ There is also a lack of communication and lack of follow-up mechanisms. ▪ Institutional care <ul style="list-style-type: none"> ➤ Conditions for children in institutions are often unsatisfactory in terms of individual attention, staff stability and interaction with children, communication and coordination between institution staff and biological families, etc. ➤ There appears to be no routine development of an individual plan for each child. ➤ There also needs to be more attention to supporting young people leaving residential care. ➤ Although facilities are moving towards deinstitutionalisation, this process should be subject to careful planning by the Ministries responsible for residential care, in conjunction with frontline professionals. ➤ In addition, although the number of children placed in institutions has reduced as reported above, the 2018 strategy needs to be accompanied by a strategy for proper family support and family strengthening. ▪ Kafalah <ul style="list-style-type: none"> ➤ There is a lack of data, as well as information, concerning the potential consents required and the way they are obtained, as well as the potential costs involved. ➤ Kafalah is sometimes abused for the purposes of domestic exploitation of children. ▪ Adoption <ul style="list-style-type: none"> ➤ Twenty cases of breaches of children's rights, in connection with adopted children, were reported in 2016.^{xviii}
<p>POTENTIAL QUESTIONS</p>	<ul style="list-style-type: none"> ▪ Does the country have any planned action to harmonise practices throughout the country and improve coordination between the various actors involved? ▪ How does the country plan to advance its efforts to strengthen preventive measures, such as supporting parents and addressing socioeconomic problems and ongoing discrimination? ▪ What actions is the country planning to take to improve follow-up for children reintegrated into their family? ▪ Is the country considering creating a national network of foster families, with the aim of increasing their numbers and ensuring adequate professionalism and geographical coverage to meet the demand for placements, demonstrated for example by the number of births outside marriage?

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| | <ul style="list-style-type: none">▪ In light of failings in the care of children in institutions and in the implementation of individual life plans, what measures is the country planning to adopt to improve the situation?▪ As regards kafalah, would it be possible to stipulate the preparation received by kafalah children, to ensure they are protected as fully as possible?▪ Given the major problems faced by children in care and adoption, and the reported breaches of children's rights, are there any plans for improved supervision and enhanced follow-up for this option?▪ When kafalah ends at the age of 18, is there any planned support for these young adults?▪ Lastly, as the kafalah contract may be terminated at any time, how should the child be informed, prepared and supported in facing a potential new separation? |
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ⁱ See <https://blogavocat.fr/space/chems-eddine.hafiz/content/l%E2%80%99adoption-internationale-et-la-kafala---932ade69-a956-422f-a541-a153313832ea> (in French).

ⁱⁱ Information provided by a local contact.

ⁱⁱⁱ *Supra* ii

^{iv} *Supra* ii

^v *Supra* ii

^{vi} *Supra* iii

^{vii} *Supra* iii

^{viii} *Supra* iii

^{ix} *Supra* iii

^x *Supra* ii

^{xi} *Supra* iii

^{xii} Private facilities funded by donations and sometimes through MAS subsidy. An association coordinating the nurseries was set up in 2010 and has been meeting monthly as a network since 2012.

^{xiii} *Supra* iii

^{xiv} *Supra* ii

^{xv} See <http://www.inpe.tn/en/faq.php>.

^{xvi} State report from Tunisia to the Committee on the Rights of the Child:

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fTUN%2f4-6&Lang=en

^{xvii} *Supra* xliii

^{xviii} *Supra* xviii