









Procedure file

Basic information		
CNS - Consultation procedure Decision	2023/0027(CNS)	Awaiting final decision
Authorisation addressed to France to negotiate a bilateral agreement with Algeria on matters related to judicial cooperation concerning family law matters		
Subject 4.10.02 Family policy, family law, parental leave 4.10.03 Child protection, children's rights 7.40.02 Judicial cooperation in civil and commercial matters		
Geographical area Algeria		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Legal Affairs	 CICUREL Ilana Shadow rapporteur  HALICKI Andrzej  GARCÍA DEL BLANCO Ibán  TOUSSAINT Marie  DZHAMBAZKI Angel  MAUREL Emmanuel	26/06/2023
Council of the European Union European Commission	Commission DG Justice and Consumers	Commissioner REYNDERS Didier	

Key events			
08/02/2023	Legislative proposal published	COM(2023)0064	Summary
13/03/2023	Committee referral announced in Parliament		
24/10/2023	Vote in committee		

10/11/2023	Committee report tabled for plenary, 1st reading/single reading	A9-0355/2023	Summary
12/12/2023	Results of vote in Parliament		
12/12/2023	Decision by Parliament	T9-0449/2023	Summary

Technical information

Procedure reference	2023/0027(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Decision
Legal basis	Treaty on the Functioning of the EU TFEU 081-p3
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Awaiting final decision
Committee dossier	JURI/9/11266

Documentation gateway

Legislative proposal	COM(2023)0064	08/02/2023	EC	Summary
Committee draft report	PE751.709	10/07/2023	EP	
Committee report tabled for plenary, 1st reading/single reading	A9-0355/2023	10/11/2023	EP	Summary
Text adopted by Parliament, 1st reading/single reading	T9-0449/2023	12/12/2023	EP	Summary
Commission response to text adopted in plenary	SP(2024)56	22/03/2024	EC	

Authorisation addressed to France to negotiate a bilateral agreement with Algeria on matters related to judicial cooperation concerning family law matters

PURPOSE: to authorise the negotiation of a bilateral agreement between France and Algeria on matters related to judicial cooperation concerning family law matters, which fall within the exclusive external competence of the EU.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: by letter dated 8 December 2016, France requested the Commission's authorisation to negotiate a bilateral agreement with Algeria on issues related to judicial cooperation in civil and commercial matters. The objective was to modernise and consolidate the three existing bilateral agreements of 1962, 1964 and 1980 currently in force.

While recognising the exceptional economic, cultural, historical, social and political ties between France and Algeria, the Commission remarked that, in its judicial cooperation with third States, the EU broadly relies on the existing multilateral framework, such as the one created by the Hague Conference on Private International Law (HCCH).

The Commission concluded that, against this backdrop, authorising a Member State to negotiate and conclude bilateral agreements with third countries in the area of civil justice falling outside the scope of Regulation (EC) No 662/2009 and Council Regulation (EC) No 664/2009 would be not in line with the EU policy in this field.

After a further exchange of letters, the issue was brought to the Commissions attention again in November 2019 and was discussed in depth several times.

France explained that the provisions concerning recognition and enforcement of decisions, service of documents and taking of evidence are to be applied also to matters concerning family law, in particular divorce, separation and annulment of marriage, parental responsibility, child abduction, maintenance obligations, matrimonial property rights and registered partnerships. Of particular importance for France was the recognition of divorce by mutual consent.

France provided information showing that it has a specific interest in negotiating a bilateral agreement with Algeria, due to the exceptional

economic, cultural, historical, social and political ties between France and Algeria. In particular, France provided data on the high number of Algerian citizens residing on its territory and French citizens living in Algeria and on the specific importance of commercial exchanges between the two countries.

Taking into account the new data provided by France, and the explanations given during several technical meetings which took place in the period 2019-2021, the Commission decided to reassess the situation.

The only option in line with the available legal framework and the EU policy in relation to judicial cooperation in civil matters, which is based on multilateralism and does not foresee the negotiation of an EU-Algeria agreement on this topic, is an authorisation to France to negotiate a bilateral agreement with Algeria.

The Commission concluded that an ad hoc authorisation under Article 2 TFEU to France could be considered. France may be authorised to negotiate (and at a later stage conclude) a bilateral agreement with Algeria in matters falling within the EU exclusive external competence, having considered the exceptional ties which link these two countries, provided that this would not constitute an obstacle to the development and the implementation of the Union's policies.

CONTENT: under the proposed decision, France would be empowered to negotiate an agreement with Algeria on matters related to judicial cooperation concerning family law matters, provided that the following negotiating guidelines are followed:

- inform Algeria that the European Commission shall take part in the negotiations as an observer and will be informed of any progress and results achieved during the various stages of the negotiations;
- encourage Algeria to consider accession to the core Conventions developed by the Hague Conference on Private International Law and start a serious analysis of the reasons which has prevented Algeria to do so for the time being;
- inform Algeria that, after the conclusion of negotiations, an authorisation from the European Parliament and the Council of the European Union is required before the Parties are allowed to conclude the agreement;
- inform Algeria that the authorisation from the European Parliament and the Council of the European Union to conclude the agreement, following a proposal from the Commission, may provide that the agreement may have a limited validity in time (for instance, five years) and may have to be reconsidered afterwards;
- insert a provision to the effect that the decisions recognised in France under this agreement cannot subsequently circulate in other EU Member States;
- ensure that the provisions concerning the right to refuse the service of documents are aligned with the provisions of Article 12(3) of the Service of Documents recast Regulation, meaning the addressee may refuse service of documents either at the time of service or within two weeks of the time of service;
- inform Algeria that, depending on the development of negotiations, other negotiating directives may be needed in due course.

Due to the EU competence on most of the matters, France should regularly report to the Commission on the conduct of negotiations. Both France and the Commission will keep the Working Party on Civil Law Matters informed on developments on a regular basis.

Authorisation addressed to France to negotiate a bilateral agreement with Algeria on matters related to judicial cooperation concerning family law matters

The Committee on Legal Affairs adopted, under a special legislative procedure (consultation), the report by Ilana CICUREL (Renew, FR) on the proposal for a Council decision on an authorisation addressed to France to negotiate a bilateral agreement with Algeria on matters related to judicial cooperation concerning family law matters.

The committee recommended that the European Parliament approve the Commission's proposal subject to amendments.

Members stated that France should be entitled to negotiate an agreement with Algeria on matters relating to judicial cooperation in civil matters concerning family law, provided that the following negotiating directives are followed:

- inform Algeria that the European Commission may take part in the negotiations as an observer and will be informed of any progress and results achieved during the various stages of the negotiations;
- inform Algeria that, after the conclusion of negotiations, an authorisation from the Council of the European Union is required before France is allowed to conclude the agreement;
- inform Algeria that the authorisation from the Council of the European Union to conclude the agreement, following a proposal from the Commission, may provide that the agreement may have a limited validity in time, possibly with a system of a tacit renewal to be indicated in the decision of the European Parliament and of the Council on the conclusion of the agreement;
- insert a provision providing for full or partial denunciation of the agreement or direct replacement of the relevant provisions in the agreement in the event of the conclusion of a subsequent agreement between the Union or the Union and its Member States, on the one hand, and Algeria, on the other hand, or Algeria's accession to the relevant Hague Conventions;
- insert a provision to the effect that the decisions recognised in France under this agreement cannot subsequently circulate in other EU Member States under Union law;
- ensure that the provisions of the agreement negotiated with Algeria comply with the relevant Union acquis and Hague Conventions.

Authorisation addressed to France to negotiate a bilateral agreement with Algeria on matters related to judicial cooperation concerning family law matters

The European Parliament adopted by 604 votes to 0, with 5 abstentions, a legislative resolution on the proposal for a Council decision on an authorisation addressed to France to negotiate a bilateral agreement with Algeria on matters related to judicial cooperation concerning family law matters.

The European Parliament approved the Commission's proposal subject to amendments.

Members underlined France's particular interest in negotiating a bilateral agreement with Algeria, given the exceptional economic, cultural, historical, social and political ties between both countries.

The resolution stated that France should be entitled to negotiate an agreement with Algeria on matters relating to judicial cooperation in civil matters concerning family law, provided that the following negotiating directives are followed:

- inform Algeria that the European Commission may take part in the negotiations as an observer and will be informed of any progress and results achieved during the various stages of the negotiations;
- encourage Algeria to consider accession to the core Conventions concerning family law matters developed by the Hague Conference on Private International Law and start an analysis of the most appropriate means to remove the obstacles which have prevented Algeria to do so for the time being;
- inform Algeria that, after the conclusion of negotiations, an authorisation from the Council of the European Union is required before France is allowed to conclude the agreement;
- inform Algeria that the authorisation from the Council of the European Union to conclude the agreement, following a proposal from the Commission, may provide that the agreement may have a limited validity in time, possibly with a system of a tacit renewal to be indicated in the decision of the European Parliament and of the Council on the conclusion of the agreement;
- insert a provision providing for full or partial denunciation of the agreement or direct replacement of the relevant provisions in the agreement in the event of the conclusion of a subsequent agreement between the Union or the Union and its Member States, on the one hand, and Algeria, on the other hand, or Algeria's accession to the relevant Hague Conventions;
- ensure that the provisions of the agreement negotiated with Algeria comply with the relevant Union acquis and Hague Conventions.