

Law No. 41-10 setting the conditions and procedures for benefiting from the Family Mutual Aid Fund

Reference: Dahir No. 1-10-191 of 7 Moharrem 1432 (13 December 2010) promulgating Law No. 41-10 setting the conditions and procedures for benefiting from the Family Mutual Aid Fund, as amended by Law No. 64-15

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Practice areas: Family law

The Family Mutual Aid Fund pays an advance on maintenance to destitute divorced women and their children where the debtor does not pay, is insolvent or cannot be found. Law 41-10 sets out the beneficiaries, the procedure before the family court and the State's right of recourse against the debtor.

Beneficiaries and conditions

- A destitute divorced woman and her children who hold an unenforced maintenance (nafaqa) judgment.
- Law 64-15 extended eligibility to other categories, including children whose parents are destitute and women whose marriage has been dissolved.
- The applicant must show that enforcement of the maintenance judgment has failed.

Procedure and recovery

- The application is filed with the family justice section of the Court of First Instance, which rules in summary proceedings.
- Payment is made by the Caisse de Dépôt et de Gestion (CDG) on behalf of the Fund.
- The State then takes action against the maintenance debtor to recover the sums advanced.
- Payments stop as soon as the debtor resumes payment or the conditions are no longer met.

Points to watch

- The application requires proof of enforcement efforts: a report of non-payment, a search for the employer, an unsuccessful seizure.
- The amount advanced is capped and does not replace recovery proceedings against the debtor.
- Any resumption of payment by the debtor must be reported, failing which the sums received must be repaid.

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