



The plea of lis pendens in private international law



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Abstract

The topic of international judicial jurisdiction raises several practical issues, notably when the same case is presented before courts in different countries. This may lead to difficulties in enforcing judgments, prolonged procedures, fragmented parties, increased costs, and sometimes a failure to achieve fair justice for the parties involved. This has led to the creation of a legal mechanism known as the "referral of subject matter," where the court seized later refers the case to the court seized first. This mechanism is sometimes difficult to apply in the absence of specific legal provisions, such as international agreements or domestic laws, as jurisdiction is a matter of state sovereignty and the protection of the parties' rights. This study addresses the key challenges in applying this mechanism in private international law, relying on a descriptive, analytical, and comparative examination of the laws and judicial practices of Algeria, France, and Tunisia.

Keywords

Private International Law;
Conflict of Jurisdiction;
Plea of Unity of Subject
Matter;
International Agreements;
Enforcement of Judgments.

الكلمات المفتاحية

قانون دولي خاص;
تنازع إختصاص قضائي;
الدفع بوحدة الموضوع;
اتفاقيات دولية;
تنفيذ الأحكام.

الدفع بالإحالة لوحدة الموضوع في القانون الدولي الخاص ملخص

طرح موضوع الاختصاص القضائي الدولي عدة إشكالات على الصعيد العملي لعل أهمها حالة وجود نفس الدعوى أمام جهات قضائية لدول مختلفة، الأمر الذي قد يترتب عنه صعوبات في تنفيذ الأحكام الصادرة عن هذه الدعاوى ، طول الإجراءات، تشتت الخصوم وإرهاقهم ، زيادة النفقات، و قد ينتهي الأمر أحيانا إلى عدم تحقيق عدالة للأطراف ترضيهم، الأمر الذي أدى إلى خلق آلية قانونية تعرف بالدفع بالإحالة لوحدة الموضوع و المتمثلة في تخلي الجهة القضائية المرفوع إليها النزاع لاحق للجهة القضائية التي رفع أمامها النزاع أولا، هذا الدفع يصعب أحيانا تطبيقه إذا لم توجد نصوص قانونية خاصة سواء اتفاقيات دولية ،أو نصوص داخلية ، لأن مسألة الاختصاص القضائي تعتبر من الأمور المتعلقة بسيادة الدولة من جهة و حماية حقوق الخصوم من جهة أخرى هذه الدراسة تطرح أهم الإشكالات التي يثيرها تطبيق هذا الدفع في القانون الدولي الخاص معتمدين على دراسة وصفية ، تحليلية و مقارنة للقوانين و الاجتهادات القضائية في القانون الجزائري ، الفرنسي، و التونسي .

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Doi:

I- Introduction :

The plea of "unitary subject" or the plea of referral due to the existence of the same dispute in international private relations is a topic that has garnered significant attention in international agreements, both multilateral and bilateral. Among the most notable are the Brussels Convention of 1968 on jurisdiction and the enforcement of judgments in civil and commercial matters (European Union, 1968), which was later replaced by the Brussels Regulation (European Parliament & Council of the European Union, 2012) (Council of the European Union, 2019), the Lugano Convention of 2007 (European Union & European Free Trade Association, 2007), and the 1991 Legal and Judicial Cooperation Agreement among the Maghreb Union countries (Maghreb Union, 1991). It has also been widely discussed in comparative legislation and international jurisprudence. This interest stems from the importance of this plea in facilitating litigation procedures in disputes involving the same parties, subject matter, and cause, but brought before different international judicial bodies due to the foreign element in the relationship. This results in multiple courts having jurisdiction over the case, necessitating the relinquishment or withdrawal of one judicial authority in favor of another. The significance of this plea also lies in reinforcing the spirit of cooperation among nations, ensuring the proper administration of justice, and avoiding contradictory judgments, which can create enforcement challenges if each court insists on its jurisdiction. Moreover, this plea serves as a mechanism to combat forum shopping, preventing manipulations of international jurisdictional rules. Additionally, it contributes to saving time and costs for litigants, who might otherwise have to travel and bear substantial expenses for legal proceedings in foreign courts. It also benefits courts by enabling them to access evidence more effectively, particularly when the dispute occurred within the jurisdiction of the referred court. All these issues arise from the fact that international jurisdiction rules are unilateral and fall within state sovereignty matters. Therefore, national jurisdiction cannot be relinquished or assumed unless explicitly authorized by the legislator. Furthermore, the lack of a structured and effective judicial framework among nations regarding this issue results in both acceptance and rejection of the principle at the same time.

The adoption and application of the plea of referral for unity of subject matter can, at least to some extent, address the previously mentioned challenges. Recognizing this plea aligns with legislative policy aimed at promoting international judicial cooperation and ensuring stability and protection in private international relations. The objective of this study is to present the legal foundations of this plea and highlight its significance for both litigants and international courts. It also seeks to analyze the divergent positions of national legislation and comparative jurisprudence, particularly in cases where no specific legal provisions exist.

Based on the foregoing, this research paper aims to answer the following key question:

What are the main challenges posed by the concept of the plea of unity of subject matter within the scope of private international law?

To answer this question, we have adopted a descriptive and analytical methodology by examining the provisions of relevant international agreements and national laws. Additionally, we have employed a comparative approach to identify legislative differences between Algerian, French, and Tunisian law.

This study is structured around two main themes:

- The concept of the plea of unity of subject matter in private international law.
- Applications of the plea of unity of subject matter in selected national legal systems.

II - The Concept of the Plea of Lis Pendens in Private International Law:

To clarify the concept of the plea of lis pendens, it is necessary to define it (1) and then outline its conditions (2).

II.1. The Concept of the Plea of Lis Pendens by Referral:

Before defining the plea of lis pendens (B), it is essential to first define a procedural plea (A), given that the plea of lis pendens falls within the category of procedural or formal pleas.

II.1.1. Definition of a Procedural Plea:

The plea of lis pendens, also referred to as referral for unity of subject matter, arises when a case is filed before a competent court and, simultaneously, before another court that also has jurisdiction over the dispute. In such cases, the plea is raised to refer the matter to the court deemed more appropriate and equitable for the parties, ensuring justice is

served. The court before which the case was subsequently filed is then required to refer the dispute to the other court. However, this definition is somewhat imprecise, as international conventions do not explicitly recognize the fairness or suitability of a court as a criterion for referral. Moreover, in practice, applying this standard is challenging, given that jurisdiction is a sovereign matter, and each state considers itself competent to hear cases. If a state insists on exercising its jurisdiction, referral may not occur even if another court is better suited to adjudicate the dispute ([Zoudah, 2023, pp. 296-297](#)).

Procedural defenses are subject to specific provisions under Algerian law, which is applicable when such a defense is raised before Algerian courts, in accordance with Article 21 bis of the Algerian Civil Code ([Article 21, 1975](#)). According to the Algerian Code of Civil and Administrative Procedure ([Law No. 08-09, 2008](#)), procedural defenses must be raised before addressing the merits of the case and must be submitted all at once, as they cannot be fragmented⁽¹⁾. Failure to comply with this requirement results in the forfeiture of the right to raise them. As a general rule, procedural defenses do not pertain to public order but rather to the rights of the litigants. However, there are exceptions, such as procedural defenses related to substantive defects⁽²⁾. Any exception must be explicitly stated by law.

In principle, a judgment issued regarding a procedural defense is subject to appeal, as it is considered a final ruling ([Zoudah, 2023, p. 305](#)). However, as an exception, a ruling on a plea of *lis pendens* (unity of subject matter defense) is not subject to appeal⁽³⁾.

II.1.2. Definition of the Plea of Lis Pendens:

The defense of the unity of the subject matter, or referral for the unity of the subject, is defined as the situation that arises when a lawsuit is filed before a competent court, and also filed before another competent court for the same dispute. However, since one of the courts is considered fairer or more suitable for the parties, a referral to the better-suited court is made, and the other ([Miligi, 1992, p. 264](#)) court is required to transfer the case to the better court. In reality, this definition is not entirely accurate because the issue of the court's fairness or suitability is not specified by international agreements, which instead adopt a criterion based on time or precedence. Furthermore, it is difficult to apply because jurisdiction is a sovereign matter, and every country considers itself competent. In cases where a country insists on its jurisdiction, no referral would occur, even if it were not the best court to adjudicate the dispute. The defense of referral is also defined as a mechanism that resolves the conflict between two lawsuits filed before courts of two different states, where one judicial body refuses to accept the case on the grounds that it has already been filed before a court of another ([Achour, 2013, p. 293](#)) state. This definition is somewhat inaccurate because the defense of the unity of the subject matter is not raised solely by the court, but also by request from the parties. In our view, this definition remains applicable only in the presence of an international agreement that obligates the two judicial bodies to relinquish jurisdiction, or the existence of specific internal provisions (in private international law). This is because the situation differs from the defense of the unity of the subject matter in domestic relations, where the dispute is between two judicial bodies within the same state.

II.2. Conditions for Raising the Plea of Lis Pendens:

The conditions governing the plea of *lis pendens* can be inferred from international conventions, legislative provisions, and judicial decisions. These conditions generally include:

- **The existence of two consecutively filed lawsuits before two competent courts in different states:** This condition means that in order for the plea to be accepted, a case must have been brought before a court of one country before it is brought before another court ([Al-Asadi & Khayit, 2016, p. 179](#)). The jurisdiction of both courts means that both the first and second courts are internationally competent to hear the dispute according to the rules of international jurisdiction of their respective laws. However, there is another opinion that advocates for referring to the rules of jurisdiction according to the law of the court before which the plea is raised in order to determine whether or not the first court has jurisdiction, and its validity is that this solution ensures that the jurisdiction of the court before which the plea is made is not diminished ([Al-Asadi & Khayit, 2016, p. 179](#)).
- **The case must still be pending before both courts:** The plea of *lis pendens* is inapplicable if one of the cases has already been resolved by a final judgment or has otherwise been extinguished due to procedural time limits, withdrawal, dismissal, or any other legal reason.
- **Identity of parties, subject matter, and cause of action:** Identity of parties refers to the requirement that the litigants in both lawsuits must be the same individuals, meaning that the plaintiff and defendant must be identical in both actions. In this context, the Court of Seine in France, in its judgment of May 5, 1959, rejected

a plea of *lis pendens* on the grounds that the foreign plaintiff who had filed a lawsuit abroad had named different defendants.

Identity of subject matter means that the relief sought in the first lawsuit must be the same as that sought in the second lawsuit. For example, if the first lawsuit seeks the ownership of a specific property, the second lawsuit must also claim ownership of the same property. This can be verified through the plaintiff's claims as stated in the statement of claim. Identity of cause of action signifies that the legal basis justifying the claim must be identical in both lawsuits ([El Roubi, 2013, p. 370](#)).

The plea must be raised in accordance with legal requirements: This means that the plea must be invoked following the procedural rules of the court where the case is pending. Compliance with statutory deadlines is essential, and the plea must be filed through a properly formatted legal submission, failing which it may be dismissed on procedural grounds.

Absence of exclusive jurisdiction by either court: If one of the courts has exclusive jurisdiction—such as in cases where jurisdiction is tied to the location of immovable property—the plea of *lis pendens* is inadmissible. In such cases, if the second court is the court of the *situs* (location) of the property, jurisdiction cannot be relinquished. Similarly, if jurisdiction has been determined through a contractual jurisdiction clause, the plea cannot be upheld ([European Union, 1968](#)).

Additional conditions have also been established by judicial precedents, such as the requirement that the judgment issued by the court to which the case is referred must be enforceable. This condition has been affirmed in several rulings by French courts, as will be discussed later.

III– Applications of Subject-Matter Referral in National Laws:

The national laws of various countries have shown divergent positions regarding the adoption of subject-matter referral in private international law. This principle has also evolved within the jurisprudence of individual states. To illustrate this, we will examine its applications in a selection of legal systems, namely French law (A), Algerian law (B), and Tunisian law (C).

III.1. Applications of the Principle in French Law:

We will analyze its application at the legislative level (1) and the judicial level (2).

III.1.1. At the French Legislative Level:

Here, we distinguish between specific provisions governing this principle that stem from collective legal instruments, such as international conventions and European regulations, and general provisions derived from domestic legislation.

A. At the Level of Specific Collective Legal Texts:

The principle of subject-matter referral finds its foundation in several key legal texts, the most notable of which include:

a. Brussels Regulation (2012-2015) (Bruxelles I bis):

This regulation, concerning jurisdiction, recognition, and enforcement of judgments in civil and commercial matters, enshrines the principle of subject-matter referral in cases involving a foreign element. Article 29 stipulates that when identical claims—having the same subject matter, cause of action, and parties—are brought before courts in different member states of the regulation, the court seized subsequently must automatically stay proceedings until the jurisdiction of the first-seized court is established. The rationale behind this requirement is to prevent situations of denial of justice. An automatic relinquishment of jurisdiction without confirming the competence of the first-seized court could result in both courts being deemed incompetent. Therefore, the second court does not immediately relinquish jurisdiction; rather, it suspends proceedings until the jurisdiction of the first court is confirmed under its rules of international jurisdiction, after which it may then withdraw from the case.

The term "established jurisdiction" in this article signifies that the objection to jurisdiction has been exhausted either because a ruling has been made on it, or the procedural deadlines have elapsed. In other words, if the judge does not refuse jurisdiction *ex officio*, if none of the parties raises the issue within the procedural timeframe applicable to the judge,

or if the objection has been raised and the judge has ruled on their jurisdiction, then due process must be observed, including adherence to appeal deadlines.

b. Brussels Regulation (2019-1111) (Bruxelles II ter):

This regulation, which governs jurisdiction, recognition, and enforcement of decisions in matrimonial matters and parental responsibility, entered into force on August 1, 2022. The principle of subject-matter referral is explicitly established in Article 20.

Under both of these Brussels regulations, the plea for subject-matter referral is binding on the judge. However, in practice, this is not always absolute. This was evident in the 2019 LIBIRATO case, where the facts unfolded as follows:

A husband filed a lawsuit before Italian courts seeking legal separation and custody of the child. Subsequently, the wife initiated an identical lawsuit before Romanian courts. The husband raised a plea of inadmissibility based on Article 19 of the Brussels II bis Regulation, which mandates that the court seized later must relinquish jurisdiction in favor of the court first seized. However, the Romanian courts dismissed this plea and issued a judgment granting the wife a divorce and awarding her child custody.

This ruling illustrates that the judge disregarded the provisions of the regulation and did not relinquish jurisdiction, despite the Court of Justice of the European Union (CJEU) criticizing the Romanian courts' rejection of the subject-matter referral plea, which led to the issuance of conflicting judgments. Nevertheless, the first-seized court cannot object to recognizing the ruling issued by the second-seized court solely on the grounds of a breach of subject-matter referral rules.

c. The French-Moroccan Convention of August 10, 1981:

This convention, concerning personal status, family law, and judicial cooperation ([French-Moroccan Agreement, 1987](#)), also incorporates the principle of subject-matter referral in Article 11. However, it is noteworthy that the conditions governing the plea for subject-matter referral under this convention differ from those outlined in the Brussels Regulations mentioned above.

B. At the Level of General Provisions in Domestic Legislation:

The French legislator has not explicitly enshrined the plea of subject-matter referral in private international law in a manner that applies uniformly to all relationships involving a foreign element. Consequently, in the absence of specific provisions applicable under the Brussels Regulations or bilateral agreements governing subject-matter referral, recourse is made to general legal provisions. These are primarily found in Article 100 of the French Code of Civil Procedure, which grants French judges discretionary authority in determining whether to apply this plea.

For the plea of subject-matter referral to be upheld, the judge must verify the following conditions:

- Prior recourse to a foreign court: The date of filing the initial lawsuit must be established, based on the registration of the case or the first procedural action taken.
- Identity of the dispute: The cases must involve the same parties, subject matter, and legal grounds.
- Absence of a final ruling by the foreign court: The foreign court must not have already adjudicated the case.
- Recognition of the foreign judgment: The expected ruling from the foreign court must meet the criteria for recognition under French law.
- Absence of exclusive jurisdiction of the French courts: The judge must assess whether relinquishing the case aligns with the proper administration of justice.

In practice, these conditions have been established by French case law and are applied in the absence of specific statutory provisions governing subject-matter referral.

III.1.2. At the Level of French Jurisprudence:

French jurisprudence has exhibited varying positions regarding the subject-matter referral plea, as it initially rejected it on the grounds of conflicting with state sovereignty, particularly from the early 19th century until 1962. However, in

the 1960s, the concept of relinquishing jurisdiction based on subject-matter referral began to emerge, as the French courts accepted this plea in cases where the same dispute was brought before foreign courts, as evidenced in the Verdier case, decided on May 5, 1962 ([Dame Zins, 1962](#)). The case revolved around Mr. Verdier, a French national, who was married to Ms. Zins, an American national. They were married in Paris in 1918, later separated physically, and Ms. Zins moved to the United States, where she resided. In 1952, Mr. Verdier filed for divorce in France, but Ms. Zins contested the jurisdiction of the French court, arguing that she had been residing in the United States for several years. However, the court rejected her plea and asserted its jurisdiction on the grounds that the marriage had been contracted in France, that the husband was domiciled in France, and that Paris was considered the legal domicile of the wife in accordance with Article 59 of the French Code of Civil Procedure. Ms. Zins appealed the decision, but her appeal was dismissed as it had been filed beyond the legal deadline, and the case proceeded before the French court. Meanwhile, Mr. Verdier initiated the same divorce proceedings before the courts of California, where his wife resided. Ms. Zins, in turn, raised a subject-matter referral plea before the Tribunal de la Seine, requesting that the court relinquish its jurisdiction in favor of the California courts, which were already handling the same dispute. However, the Tribunal de la Seine rejected the plea and ruled in favor of divorce on the grounds of Ms. Zins' fault. The Court of Appeal upheld the ruling, leading Ms. Zins to appeal to the French Court of Cassation, arguing that her subject-matter referral plea had been ignored. The Court of Cassation ruled that the subject-matter referral plea cannot be accepted in favor of a foreign court if it is proven that the dispute was initially brought before the French courts and that these courts had already established exclusive jurisdiction, barring any concurrent jurisdiction with a foreign court under French conflict-of-jurisdiction rules.

This ruling illustrates that the French judiciary did not entirely reject the subject-matter referral plea but dismissed it in this case due to the lack of conditions required for its acceptance, (particularly the prior jurisdiction of the French courts over the American courts and the existence of exclusive jurisdiction preventing shared jurisdiction with foreign courts).

The judiciary continued to develop the idea of referring to the principle of "unitary subject" as an attempt to consolidate coordination between different legal systems. This was explicitly accepted in the ruling issued on November 26, 1974 ([Court of Cassation, 2025](#)), and in later rulings, such as the Cassation Court's decision on October 19, 2016 ([Court of Cassation, 2016](#)). The facts of the case involve a divorce between Mr. X and Mrs. Y. Mr. X was born in France and holds both French and Algerian nationality. He married an Algerian woman in Algeria, and, on the other hand, he has been working in France for years and has a pension income. At the time of marriage, he was residing in France. After administrative approval, his wife joined him in 2007, and the couple had a child. They lived together in France until 2010, when they went on a three-week holiday to Algeria, as confirmed by Mrs. Y and evidenced by the flight tickets (round trip). Mr. X did not provide any justification that the couple decided to settle in Algeria, as there were no administrative actions indicating that. These reasons led the French judiciary to consider that Mr. X's divorce petition filed in the Algerian courts had no substantial connection to Algeria, despite their Algerian nationality. The divorce ruling based solely on the husband's will contradicts French public policy and therefore cannot be enforced in France due to the lack of legal conditions outlined in Article 1 of the Franco-Algerian agreement of 1964 ([Algerian-French Agreement, 1965](#)). As a result, Mr. X's plea of lack of jurisdiction of French courts due to the concurrent international case in the Algerian courts was rejected. Thus, the French judge could not refer the case to the Algerian courts because the conditions stipulated by French law, particularly those related to the jurisdiction of the first court according to French rules of jurisdiction, were not met, and the decision would not be enforceable in France.

It is observed that although the French judiciary accepts the principle of referring to the unitary subject, it is strict in applying it with countries that do not have bilateral or multilateral agreements with it.

III.2. Application of the Principle in Algerian Law:

The Algerian legislator has not addressed the plea of "unitary subject" in private international law, but rather discussed it within the framework of domestic relations, as indicated in Article 53 of the Algerian Civil Code (C. A. M. J). Since Algeria ratified the 1991 Legal and Judicial Cooperation Agreement between the Maghreb Union countries, the Algerian judge is obligated to adhere to it whenever its scope of application is met.

III.2.1. The Plea of "Unitary Subject" in the 1991 Legal and Judicial Cooperation Agreements:

This agreement touches upon the idea of referring to the "unitary subject" in Article 36, which states that if related lawsuits involving the same persons, subject, and cause are raised before several courts competent according to the jurisdictional rules set out in the agreement, the jurisdiction will lie with the court where the case was first filed. This is without prejudice to the rules of exclusive jurisdiction mentioned in Article 33 of the agreement, such as cases where the second court has exclusive jurisdiction due to the presence of real estate under its jurisdiction.

Thus, the Algerian judge is obligated to relinquish jurisdiction based on this agreement if the conditions set forth are met, which include the same dispute, two courts competent under the jurisdictional rules of the agreement, and precedence, without exclusive jurisdiction being involved.

III.2.2. The Plea of "Unitary Subject" in the Civil and Administrative Procedures Law:

As previously mentioned, the provisions in this law are general rules to be referred to in the absence of specific laws, based on the idea of extending the rules of domestic judicial jurisdiction to the realm of international relations, insofar as they align with the nature of the issue. According to Article 21 bis of the previously mentioned Civil Code, and referring to Article 53 of the Civil and Administrative Procedures Law (C.E.M.A.), the "unitary subject" principle applies when the same dispute is raised before two courts of the same level of jurisdiction. When these conditions are met, the second court where the dispute is filed must relinquish its jurisdiction in favor of the first court upon the request of one of the parties. The judge may also voluntarily relinquish jurisdiction if it is evident to them, meaning they have discretionary authority to raise this plea on their own initiative.

It is believed that the matter here concerns what the judge deems appropriate for resolving the dispute, such as determining whether the first court is more suitable for the case, whether it has exclusive jurisdiction, or whether other considerations are at play.

The relinquishment is made by a ruling from the court, which is non-appealable and binding on the court to which the case is referred. However, we believe that the mandatory nature of the ruling for the first court cannot be applied on the international level, as a court cannot be forced to have jurisdiction over a particular case unless there is an international agreement. This would be considered an infringement on the sovereignty of the state. On the other hand, the mandatory nature according to Article 57 of the C.E.M.A. is specific to the case of a ruling by connection, not the plea of "unitary subject." The first court, to which the case is referred, is already competent, and the case is filed before it, meaning there is no need for compulsion.

III.3. Application of the Principle in Tunisian Law:

We can distinguish the application of this principle at the level of legislative texts (1) and at the level of Tunisian jurisprudence (2).

III.3.1. At the Level of Legislative Texts:

Tunisian law does not explicitly address the plea of "unitary subject" in cases involving foreign elements, even though it has regulated the issue of international judicial jurisdiction in the Private International Law Code. However, when referring to Article 15 of the Tunisian Code of Civil and Commercial Procedures ([Law No. 130, 2010](#)), we find that it addresses this plea. Since its scope of application is not specified, it can be relied upon in the field of private international law.

It is believed that the Tunisian legislator, when drafting the rules concerning conflicts of international judicial jurisdiction, did not intend to recognize this plea. Otherwise, it would have explicitly mentioned it, as it did when it outlined the plea of lack of jurisdiction in Article 10 of the Private International Law Code. However, the Tunisian judge is still obligated to apply the plea if there are international agreements ratified by Tunisia in this field.

III.3.2. At the Level of Tunisian Jurisprudence:

Tunisian courts have shown resistance to the plea of "unitary subject" and have rejected relinquishing jurisdiction to foreign courts through several rulings. Notable examples include the decision issued by the Civil Court of Tunis on February 25, 1959, which refused to apply the referral principle, as well as the rulings on February 5, 1960, and November 4, 1960, from the same court ([Achour, 2013, pp. 294-295](#)).

Years later, the Tunisian Court of Cassation in a ruling on May 12, 1973, maintained this stance in a divorce case between a Tunisian and a French national. The facts of the case involved a dispute between the couple, leading the wife to leave Tunisia and settle in France with her children. She filed for divorce in French courts, which granted it and awarded custody of the children to her. The husband appealed before the Judicial Council, and before the ruling was issued, he returned to Tunisia with the children and filed for divorce there, requesting custody of the children. The wife raised the plea of lack of jurisdiction of Tunisian courts, citing the prior jurisdiction of the French courts. However, this argument was rejected by the Court of Appeal, which upheld jurisdiction based on the rules of jurisdiction in private international law, emphasizing the independence of the judiciary and the protection of the state's sovereignty without considering what had happened elsewhere. The same approach was followed by the Primary Court of Tunis in its ruling on May 6, 1976.

IV-Conclusion:

Through our discussion of the principle of the plea of "unitary subject" in the context of private international law, we conclude that it is not universally accepted by all countries, as they seem cautious about adopting it universally with all states. The principle still requires specific legal texts due to the pressing need for this plea in order to establish judicial cooperation. Since it involves matters related to state sovereignty, some key conclusions reached are:

- The application of this plea encounters no difficulty when there is an international agreement, whether bilateral or multilateral, or when specific domestic provisions are in place.
- Adopting the plea would save time and costs for litigants and result in enforceable judgments. On the other hand, rejecting it may lead to conflicting rulings that are difficult to execute or could cause a temporary refusal of enforcement until a decision is made by the court with jurisdiction over the case.
- Extending domestic provisions concerning the plea of "unitary subject" in internal matters is insufficient for its application in the field of private international law.
- Relying on the "most appropriate court" standard could lead to the dilemma of deciding which entity has the authority to rule on jurisdiction, and adherence to this idea results in maintaining jurisdiction rather than relinquishing it, as the French judiciary has ruled in many instances.
- The application of the plea of "unitary subject" can harm the party whose court relinquishes jurisdiction in favor of the other party's court, especially in cases of mandatory relinquishment due to the existence of an agreement. This may result in unexpected judgments due to differences in legal systems, and as we know, issues of judicial jurisdiction affect the applicable law, which could lead to a ruling that does not meet the expectations of the party involved.

For these reasons, we propose the following recommendations:

- It is necessary for the Algerian legislator to establish specific provisions on international judicial jurisdiction, similar to the approaches taken by the Tunisian, Swiss, and Italian legislators, and to give importance to the plea of "unitary subject" in private international law.
- Efforts should be made to conclude widely scoped agreements that regulate the issue of relinquishing jurisdiction based on the "unitary subject" principle in order to foster international judicial cooperation that provides guarantees to protect the parties and facilitates international judicial work, ensuring the enforcement of its rulings.

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Note:

- [1]. Article 50 of the Code of Civil and Administrative Procedure (C.E.M.E.): Procedural objections must be raised all at once before presenting any defense on the merits or an objection of inadmissibility, otherwise, they shall be deemed inadmissible.
- [2]. Article 65 of the Code of Civil and Administrative Procedure (C.E.M.E.): The judge shall automatically raise the issue of lack of legal capacity and may also raise, on his own initiative, the lack of authorization of the representative of a natural or legal person.
- [3]. Article 57 of the Code of Civil and Administrative Procedure (C.E.M.E.): Judgments issued on the grounds of unity of subject matter or connection are binding on the judicial body or formation to which the case is referred and are not subject to any appeal.