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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

6th INTERCULTURAL WORKSHOP ON DEMOCRACY

**THE ROLE AND PLACE
OF INDEPENDENT BODIES
IN A DEMOCRATIC STATE**

Tunis, 13-14 November 2018

Hôtel Mövenpick Gammarth, El Marsa

CONCLUSIONS

Towards a Strengthened Democratic Governance in the Southern Mediterranean

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The 6th Intercultural Workshop for Democracy, devoted to the role and place of independent bodies in a democratic state, brought together the presidents of the independent bodies and various public authorities of Tunisia as well as from Algeria, Egypt, Jordan, Mauritania, Morocco and Qatar. Members of the Venice Commission and many experts, including from independent bodies from Belgium, Bosnia and Herzegovina, France, Ireland, Luxembourg, Mexico, Ukraine, as well as a representative of the Office of the United Nations High Commissioner for Human Rights contributed to the workshop.

Definition of independent bodies

Independent bodies are collective bodies entrusted by the Constitution or by specific laws with the supervision of sensitive sectors of political, social and economic life (for example, the protection and promotion of human rights, the prevention of torture, the fight against corruption, organisation of elections, telecommunications, media) with the aim of protecting them from political interests and influence, thus ensuring a high degree of public trust.

Legal basis for the establishment of independent bodies

Independent bodies must have a solid legal basis, either at the constitutional level or at the legislative level, which guarantees their independence. To ensure the best conditions for the exercise of their mandate, the constitutional and legislative basis must be adequate and complete.

Independence

Independent bodies must be independent of the executive, legislative and judicial branches of power. The essential condition for their proper functioning is the non-political nature of their function. This requires non-interference and the prevention of abuse and unfair pressure on the work of these bodies, not only by the authorities, but also by political parties and different entities of civil society.

One of the conditions for the success of the action of independent bodies is the capacity to intervene in an efficient and speedy manner in the sectors under their responsibility. To do so, they must benefit from the loyal collaboration of the government and other state authorities, and also of civil society.

The question of the budgets allocated to independent bodies is extremely important, because the budgetary system envisaged for their functioning and the procedure for its adoption have a paramount influence on their independence, and on the financing of their activities.

Selection and designation of the members of independent bodies

Members of independent bodies must be selected on the basis of their competence, their high reputation and their impartiality, in accordance with a public and transparent procedure, which guarantees their independence. The election of members by a qualified majority based on merit and with the participation of the civil society is important for the independence of these bodies.

Nature of the powers of independent bodies

The powers attributed to independent bodies have evolved from a regulatory function to a control-prevention- and protection function which, in their absence, would be the responsibility of the executive. The essential purpose of their action is to make the government accountable to the public.

The effective and impartial operation of independent bodies helps to increase the confidence of civil society in the management of sensitive sectors.

Interaction of independent bodies

The scope of intervention of independent bodies and their powers must be clearly defined by law. This regulation is particularly important where the powers of different bodies may overlap.

Cooperation with other national and international bodies

Cooperation and the exchange of experiences between international organisations and the various international and regional cooperation instruments are important for strengthening national independent bodies and supporting them in their mission as institutions involved in building a democratic State respectful of human rights and the principles of the rule of law that bring together the Member States of the Venice Commission.