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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT CONSTITUTION
OF THE TUNISIAN REPUBLIC
(1 June 2013)

Unofficial translation

**Tunisian Republic
National Constituent Assembly**

**Draft Constitution
of the Tunisian Republic**

Tunis, 1 June 2013

PREAMBLE

In the name of God, the Merciful, the Compassionate,

We, the representatives of the Tunisian people, members of the National Constituent Assembly;

Taking pride in the struggles of our people to achieve independence and build the state and, subsequently, to rid themselves of tyranny, reflecting in this way their free will and achieving the goals of the revolution for freedom and dignity; out of loyalty to the blood of our martyrs and to the sacrifices made by Tunisian men and women over the generations; and with a view to putting an end to injustice, corruption and tyranny;

Building on the teachings of Islam and its outward-looking and moderate ends, on noble humanitarian values and on the principles of universal human rights; inspired by the cultural heritage accumulated throughout our history and by our enlightened reformist movement based on our Arab and Islamic identity and on the universal achievements of human civilisation, and out of commitment to the national achievements of the Tunisian people;

Working for a democratic and participatory republican form of government within a civil state governed by the rule of law, in which sovereignty belongs to the people and is exercised by them on the basis of peaceful alternation of power through free elections and the principle of the separation and balance of powers; in which the right to govern based on the principle of pluralism, administrative impartiality, good governance and free elections form the basis of political competition; in which the state guarantees respect for human rights and freedoms, the independence of the judiciary, equality in rights and responsibilities between all citizens, male and female alike, and between all regions and social categories;

Recognising the status of human beings as dignified beings; strengthening our cultural and civilizational affiliation to the Arab and Muslim nation on the basis of national unity founded on citizenship, brotherhood, solidarity and social justice; with a view to supporting the Maghreb Union, which constitutes a step towards Arab unity and complementarity between Muslim and African peoples and towards co-operation with the peoples of the world; for the victory of the oppressed everywhere, for the right of peoples to self-determination, for just liberation movements, in particular the Palestinian liberation movement, and to combat all forms of discrimination and racism;

Acknowledging the importance of preserving a healthy environment so as to ensure the sustainability of our natural resources and the continuance of a peaceful existence for future generations, and in order to carry out the will of the Tunisian people to be the makers of their own history, convinced that knowledge, work and creativity are noble human values, and to be a pioneering people aspiring to make a further contribution to civilisation on the basis of independent national decision-making, world peace and human solidarity;

In the name of the people, and with God's blessing, we proclaim the following Constitution.

CHAPTER I: GENERAL PRINCIPLES

Article 1

Tunisia shall be a free, independent and sovereign state; Islam shall be its religion, Arabic its language and a republic its form of government.

Article 2

Tunisia shall be a civil state based on citizenship, the will of the people and the rule of law.

Article 3

All sovereign power shall be vested in the people, who shall exercise it through their elected representatives or by referendum.

Article 4

The flag of Tunisia shall be red with, in its middle, a white circle in which shall appear a five-pointed red star surrounded by a red crescent, as provided for by law. The national anthem of the Tunisian Republic shall be, as specified by law, 'Humat Al-Hima' (Defenders of the Homeland). The motto of the Tunisian Republic shall be 'Freedom, Dignity, Justice, Order'.

Article 5

The Tunisian Republic shall form part of the Arab Maghreb; it shall work for its unity and take all necessary steps to achieve it.

Article 6

The state shall protect religion. It shall guarantee freedom of conscience, belief and worship. It shall protect religious sanctuaries and ensure the neutrality of mosques and places of worship with regard to any use for partisan purposes.

Article 7

The family shall be the basic unit of society, and the state must ensure its protection.

Article 8

Young people are a vital force in building the nation. The state shall ensure that young people are provided with the conditions necessary to develop their abilities and assume responsibilities and to extend and broaden their participation in social, economic, cultural and political development.

Article 9

All citizens shall have the sacred duty of preserving the unity of their country and defending the integrity of its territory. National service shall be mandatory for all citizens according to the statutory rules and requirements.

Article 10

Everyone shall have a duty to pay taxes and contribute to public expenditure according to a fair and equitable system. The state shall introduce mechanisms for guaranteeing tax collection, contribution to public expenditure and proper management of public funds, for preventing corruption and for combating tax evasion and avoidance.

Article 11

All persons taking office as President of the Republic or Prime Minister or sitting in the Assembly of People's Representatives or the independent constitutional authorities or holding any other senior post shall have a duty to declare their assets as provided for by law.

Article 12

The state shall pursue the goals of social justice, sustainable development, balance between regions and rational exploitation of national resources.

Article 13

The state shall undertake to support decentralisation and introduce it throughout the country within the framework of unity of the state.

Article 14

The public administration shall serve the interests of citizens and the community at large. Its organisation and operation shall be subject to the principles of impartiality, equality and public service continuity in accordance with the rules of transparency, integrity, efficiency and accountability.

Article 15

The state shall guarantee the neutrality of educational institutions with regard to any use for partisan purposes.

Article 16

The state shall have sole power to establish armed forces, national security forces and any other forces, pursuant to the law and in the public interest.

Article 17

The national army shall be an armed military force based on discipline, whose structure and composition shall be organised according to the law and which shall be responsible for defending the nation, its independence and territorial integrity. It shall be required to observe absolute neutrality. The national army shall support the civil authorities according to statutory requirements.

Article 18

The national security forces shall be responsible for preserving public order, ensuring the safety and protection of individuals, institutions and property, and impartially enforcing the law whilst respecting freedoms.

Article 19

International treaties approved by the Assembly of People's Representatives and subsequently ratified shall have a status superior to legislation but inferior to the Constitution.

CHAPTER II: RIGHTS AND FREEDOMS

Article 20

All citizens shall have equal rights and duties. They shall be equal before the law without discrimination. The state shall guarantee its citizens individual and collective rights and freedoms. It shall ensure that they have the conditions of a decent life.

Article 21

The right to life shall be sacred and shall not be violated except in extreme cases specified by law.

Article 22

The state shall protect the dignity of individuals and their physical integrity and shall prohibit all forms of physical and psychological torture. The crime of torture shall not be subject to the statute of limitations.

Article 23

The State shall protect privacy, the inviolability of the home and the confidentiality of correspondence, communications and personal data. All citizens shall have the right to choose their place of residence and to move freely within the country as well as to leave it. No restrictions may be placed on these rights and freedoms except in cases provided for by law and on the basis of a judicial decision.

Article 24

It shall be prohibited to strip citizens of their Tunisian nationality, exile or extradite them or prevent them from returning to their country.

Article 25

The right of political asylum shall be guaranteed in accordance with the law, and it shall be prohibited to extradite individuals who have been granted political asylum.

Article 26

All defendants shall be presumed innocent until proven guilty through a fair trial affording all the safeguards necessary for their defence at every stage of the proceedings.

Article 27

Sentences shall be personal and shall be delivered only on the basis of legislation existing prior to the offence unless subsequent legislation is more favourable to the defendant.

Article 28

A person may not be arrested or placed in detention unless *in flagrante delicto* or on the basis of a judicial decision. Detainees shall immediately be informed of their rights and of the charge brought against them. They shall have the right to be represented by a lawyer. The duration of the arrest or detention shall be specified in law.

Article 29

All detainees shall be entitled to humane treatment that preserves their dignity. When enforcing custodial sentences, the state shall consider the interests of the family and ensure that the detainee is rehabilitated and reintegrated in society.

Article 30

Freedom of opinion, thought, expression, information and publication shall be guaranteed. Freedom of expression, information and publication may be restricted only by legislation that protects the rights of third parties, their reputation, their safety or their health. These freedoms cannot be subject to any prior control.

Article 31

The right to access information shall be guaranteed provided that national security and the rights set out in the Constitution are not compromised.

Article 32

Academic freedom and freedom of scientific research shall be guaranteed. The state shall provide the resources necessary for development of scientific and technological research.

Article 33

Electoral rights, the right to vote and the right to stand as a candidate shall be guaranteed in accordance with the law.

Article 34

The freedom to establish political parties, trade unions and associations shall be guaranteed. The law shall specify the procedures for setting up political parties, trade unions and associations without infringing the substance of this freedom. Political parties, trade unions and associations shall undertake in their statutes and activities to respect the Constitution, the law and financial transparency, and to reject violence.

Article 35

The right to organise, including the right to strike, shall be guaranteed.

Article 36

Freedom of assembly and peaceful demonstration shall be guaranteed; it shall be exercised in accordance with the procedural requirements provided for in law; such requirements shall not infringe the substance of this freedom.

Article 37

Health shall be a right for every human being. The state shall ensure prevention and health care and provide the resources necessary to guarantee the safety and quality of health services. The state shall ensure free health care for persons with no means of support or on low incomes. It shall guarantee the right to welfare cover as provided for by law.

Article 38

Education shall be compulsory up to the age of sixteen. The state shall guarantee the right to free public education at all stages, and shall seek to provide the necessary resources to offer quality teaching, education and training, and to establish and support the Arabic language.

Article 39

Every citizen shall have the right to work. The state shall take all necessary steps to guarantee this right in fair and decent conditions.

Article 40

The right to property, including intellectual property, shall be guaranteed and shall be exercised within the limits of the law.

Article 41

The right to culture shall be guaranteed. The freedom of creativity shall be guaranteed. The state shall encourage creative cultural endeavour and support the deep-rooted traditions, diversity and revival of national culture where it enshrines the values of tolerance and rejection of violence, openness to different cultures and dialogue between civilisations. The state shall protect the cultural heritage and guarantee the rights of future generations.

Article 42

The state shall support sport and endeavour to provide the necessary resources for the pursuit of sports and leisure activities.

Article 43

The right to water shall be guaranteed. It shall be a duty of the state and society to preserve water and use it rationally.

Article 44

The right to a healthy and balanced environment shall be guaranteed.

Article 45

The state shall protect women's rights and support their attainments. The state shall ensure equality of opportunity between women and men in assuming responsibilities. The state shall take the necessary steps to eliminate violence against women.

Article 46

Children shall be entitled to have dignity, health, care, education and teaching guaranteed by their parents and the state. The state shall ensure legal, social, material and moral protection for all children without discrimination.

Article 47

The state shall protect persons with disabilities against all forms of discrimination. Any citizen with disabilities shall be entitled to benefit, depending on the nature of his or her disability, from all measures ensuring his or her full integration into society.

Article 48

The law shall determine the restrictions on the rights and freedoms guaranteed by this Constitution and on how they are exercised, without this affecting their essence. Such legislation shall be adopted only to protect the rights of others or for reasons of public security, national defence or public health. The courts shall ensure that rights and freedoms are protected from any violations.

CHAPTER III: THE LEGISLATURE

Article 49

The people shall exercise legislative authority through their representatives in the Assembly of People's Representatives or by referendum.

Article 50

The seat of the Assembly of People's Representatives shall be in Tunis. However, in exceptional circumstances it may hold its sessions at any other location within the territory of the Republic.

Article 51

The Assembly of People's Representatives shall have administrative and financial independence within the framework of the state budget. It shall draft its rules of procedure and adopt them by an absolute majority of its members. The state shall provide the Assembly of People's Representatives with the human and material resources necessary to enable every member to perform his or her duties properly.

Article 52

Any voter who has held Tunisian nationality for at least ten years, who is at least twenty-three years of age on the day his or her nomination papers are submitted, and who is not covered by any statutory disqualifications shall be eligible for election to the Assembly of People's Representatives.

Article 53

Any citizen of Tunisian nationality who has reached the age of eighteen and meets the requirements specified by electoral law shall be eligible to vote.

Article 54

Members of the Assembly of People's Representatives shall be elected by free, fair, transparent, direct and secret universal suffrage according to the rules and requirements provided for in electoral law.

Article 55

The Assembly of People's Representatives shall be elected for a five-year term during the last sixty days of the parliamentary term. If elections cannot be held because of imminent danger, the term of the Assembly shall be extended by a law.

Article 56

The Assembly of People's Representatives shall meet every year in ordinary session starting in the month of October and ending in the month of July. The first session of the parliamentary term of the Assembly of People's Representatives shall begin within fifteen days of the announcement of the final results of the elections at the request of the Speaker of the outgoing Assembly.

If the beginning of the first session of the parliamentary term of the Assembly of People's Representatives coincides with its recess, an extraordinary session shall be opened for a vote of confidence in the government to be taken.

During its recess the Assembly of People's Representatives shall meet in extraordinary session, if so requested by the President of the Republic or the Prime Minister or by one third of its members, for the purpose of considering a specific agenda.

Article 57

When taking office, every member of the Assembly of People's Representatives shall take the following oath: 'I swear by Almighty God to serve the nation faithfully, uphold the Constitution and bear full allegiance to Tunisia.'

Article 58

At its first session the Assembly of People's Representatives shall elect a Speaker from among its members. The Assembly of People's Representatives shall set up standing committees and special committees, in which the responsibilities shall be divided on the basis of proportional representation. The Assembly of People's Representatives may set up commissions of inquiry. All authorities shall assist such committees in the performance of their duties.

Article 59

The opposition shall be an essential component of the Assembly of People's Representatives; it shall have rights enabling it to perform its tasks in parliamentary work and guaranteeing it appropriate and effective representation in the Assembly's bodies and activities both internally and externally. These rights shall include the right to set up and chair a commission of inquiry every year. It shall also be the opposition's duty to participate actively and constructively in parliamentary work.

Article 60

Votes in the Assembly shall be cast in person and may not be delegated.

Article 61

The right to initiate legislation shall be exercised through private members' bills introduced by at least ten members and through government bills introduced by the President of the Republic or the Prime Minister. The Prime Minister shall have the power to table treaty approval bills and finance bills. The government bills tabled shall take precedence.

Article 62

Private members' bills and proposed amendments tabled by members shall not be admissible if their adoption is prejudicial to the state's financial balance as established in the Finance Act.

Article 63

The Assembly of People's Representatives shall pass institutional bills by an absolute majority of its members and ordinary bills by a majority of the members present, provided that this majority is not less than one third of the members of the Assembly. An institutional bill shall not be debated by the Assembly of People's Representatives until fifteen days have elapsed from its referral to the competent committee.

Article 64

Ordinary laws shall be used for legislation relating to:

- Creation of categories of public institutions and state enterprises and legislation governing their transfer;
- Nationality;
- Civil and commercial obligations;
- Proceedings in the various categories of court;
- Definition of indictable offences and the applicable penalties, and definition of summary offences when they carry custodial sentences;
- General amnesties;
- The tax base, tax rates and tax collection procedures, save where these matters have been delegated to the Prime Minister under finance acts or tax laws;
- Arrangements governing currency issue;
- Government borrowings and financial commitments;
- Definition of senior posts;
- Declaration of assets;
- Basic safeguards granted to civil servants and military personnel;
- Arrangements governing ratification of international treaties;
- Finance acts, budget acts, closing of the budget and approval of development plans;
- Basic principles governing property and rights in rem, education, scientific research and culture, public health, the environment, town and country planning, energy, labour law and social security.

Institutional laws shall be used for legislation relating to:

- Approval of treaties;
- Organisation of the courts and the judiciary;
- Organisation of the media, the press and publishing;
- Organisation of political parties, associations, professional bodies and trade associations and the funding thereof;
- Organisation of the national army;
- Organisation of the internal security forces and Customs;
- Electoral law;

- Extension of the term of the Assembly of People's Representatives under Article 55;
- Extension of the President's term of office under Article 74;
- Human rights and freedoms;
- Personal status;
- Fundamental duties of citizens;
- Local governance;
- Organisation of constitutional authorities.

General regulatory power may be used for matters not covered by the parliamentary legislative sphere.

Article 65

The law shall specify government revenue and expenditure as provided for in the act laying down the principles of the budget.

The Assembly of People's Representatives shall pass finance bills and the closing of the budget as provided for in the act laying down the principles of the budget.

The finance bill shall be presented to the Assembly no later than 31 October and passed no later than 20 December. The Constitutional Court shall rule on the constitutionality of this finance bill within a period not exceeding one week. If the finance bill has not been passed by 31 December, it can be implemented in renewable quarterly instalments, by government decree.

Article 66

Trade agreements, treaties relating to international regulation or the borders of the state, treaties committing the state financially or concerning the status of individuals, and treaties concerning legislative provisions shall be submitted to the Assembly of People's Representatives for approval. Treaties shall come into force only after being ratified.

Article 67

No member of the Assembly of People's Representatives may be subject to civil or criminal proceedings during his or her term of office or be arrested or tried for opinions expressed, proposals made or acts carried out in the course of his or her parliamentary duties.

Article 68

If a member of the Assembly of People's Representatives invokes immunity from criminal jurisdiction in writing, that member cannot be prosecuted or arrested for an indictable offence during his or her term of office as long as his or her immunity has not been withdrawn. In cases of *flagrante delicto*, the member may be placed under arrest. The Speaker of the Assembly shall be informed immediately and the member shall be released if the Bureau of the Assembly so requests.

Article 69

If the Assembly is dissolved or in recess, the Prime Minister may issue legislative decrees which shall be submitted to the Assembly for approval at its next ordinary session. The electoral system shall be excluded from legislative decrees.

The Assembly of People's Representatives may, with a majority of three fifths of its members, pursuant to a law, and for a specified reason, delegate authority to the Prime Minister to issue legislative decrees in the parliamentary legislative sphere; these shall be submitted to the Assembly for approval at the end of the relevant period.

CHAPTER IV: THE EXECUTIVEArticle 70

Executive power shall be exercised by the President of the Republic and a government led by a Prime Minister.

SECTION ONE: THE PRESIDENT OF THE REPUBLICArticle 71

The President of the Republic shall be the head of state. He shall embody its unity, guarantee its independence and continuity and ensure compliance with the Constitution.

Article 72

The official seat of the Presidency of the Republic shall be in Tunis. In exceptional circumstances, however, it may be transferred temporarily to any other location within the territory of the Republic.

Article 73

It shall be the right of any voter, male or female, having Tunisian nationality by birth and being of the Muslim faith to stand for the office of President of the Republic. On the date when the nomination papers are submitted, the candidate shall have no other nationality and shall be no less than forty and no more than seventy-five years of age. The candidate shall be endorsed by a given number of members of the Assembly of People's Representatives or by elected heads of local authorities or by registered voters, as provided for in electoral law.

Article 74

The President of the Republic shall be elected for a five-year term, during the last sixty days of the presidential term of office, by free, fair, transparent, direct and secret universal suffrage and by an absolute majority of votes cast.

If this majority is not obtained in the first round of the ballot, a second round shall be held within two weeks of the announcement of the final results of the first round. The two candidates having obtained the largest number of votes in the first round shall stand in the second round.

If either of the candidates dies during the first round or, for compelling reasons, is unable to continue with the candidacy, a new call for nominations shall take place, with new dates for the election. If either of the candidates withdraws, dies or is otherwise unable to continue the candidacy during the second round, this candidate shall be replaced by the candidate with

the next largest number of votes in the first round.

If the election cannot be held on the appointed date on account of war or imminent danger, the presidential term of office shall be extended by virtue of a law.

No person may hold office as President of the Republic for more than two complete terms, whether successive or separate.

Article 75

The elected President of the Republic shall take the following oath before the Assembly of People's Representatives: 'I swear by Almighty God to protect the independence of the homeland and its territorial integrity, uphold Tunisia's Constitution and its legislation, conscientiously safeguard its interests and bear it allegiance.'

The President of the Republic cannot combine his or her office with any party responsibilities.

Article 76

The President of the Republic shall be responsible for representing the state. He or she shall have the power to lay down general policy in the fields of defence, foreign relations, and national security as it relates to protection of the state and national territory from internal and external threats, consistent with general government policy.

He or she shall also have the power to:

- Dissolve the Assembly of People's Representatives where the Constitution so provides;
- Chair the National Security Council;
- Be commander-in-chief of the armed forces;
- Declare war and conclude peace following approval by a majority of three fifths of the members of the Assembly of People's Representatives, and send forces abroad with the consent of the Prime Minister and the Speaker of the Assembly of People's Representatives. However, the Assembly shall meet to consider the matter within a period of no more than sixty days;
- Take the measures required by exceptional circumstances and announce them pursuant to Article 79;
- Ratify treaties and order them to be published;
- Award decorations;
- Grant pardons.

Article 77

The President of the Republic shall have the power to:

- Appoint and dismiss the Mufti of the Tunisian Republic;

- Make appointments to and dismiss incumbents from senior public posts in the Office of the President of the Republic and affiliated institutions it. The senior public posts in question shall be specified by law.
- Make appointments to and dismiss incumbents from senior military, diplomatic and national-security posts, provided that the relevant parliamentary committee has not objected to the appointments within a period not exceeding twenty days. The senior posts in question shall be specified by law.
- Appoint the governor of the Central Bank on a proposal from the Prime Minister and after approval by a majority of the members present in the Assembly of People's Representatives, provided that this majority is no less than a third of its members. He or she shall be removed from office by the same procedure or if a third of the members of the Assembly of People's Representatives so request and a majority of those present approve, provided that this majority is no less than a third of the members of the Assembly.

Article 78

The President of the Republic may address the Assembly of People's Representatives.

Article 79

In the event of imminent danger threatening the nation's institutions, security or independence and impeding the proper functioning of the public authorities, the President of the Republic may take the measures necessitated by this exceptional situation subsequent to consulting the Prime Minister and the Speaker of the Assembly of People's Representatives. He or she shall announce these measures in an official statement to the people.

These measures shall be designed to ensure the swiftest possible return to properly functioning public authorities. Throughout this period the Assembly of People's Representatives shall be deemed to be in permanent session. In such circumstances, the President of the Republic may not dissolve the Assembly of People's Representatives and no motion of censure may be tabled against the government.

At any time thirty days after these measures have entered into force, the Constitutional Court may, if so requested by the Speaker of the Assembly of People's Representatives or by thirty members of that assembly, ascertain whether the exceptional situation still exists. The Court's decision shall be delivered in public within a period not exceeding fifteen days.

Such measures shall cease to apply once the circumstances which engendered them have come to an end. The President of the Republic shall deliver a message to this effect to the nation.

Article 80

The President of the Republic shall promulgate laws and order them to be published in the Official Gazette of the Tunisian Republic within no more than fifteen days from the date on which they were forwarded to him or her by the Constitutional Court.

With the exception of finance bills and constitution bills, the President of the Republic may, within a period of ten days from the forwarding of the bill by the Speaker of the Assembly of People's Representatives, send the bill back, with reasons, for a second reading. If the bill is passed by an absolute majority of the members of the Assembly, the President of the Republic shall promulgate it and order it to be published within no more than fifteen days from the date on which it was forwarded by the Constitutional Court.

Article 81

The President of the Republic may, in exceptional circumstances, put to a referendum bills that have been passed by the Assembly of People's Representatives and are not in breach of the Constitution concerning approval of international treaties, human rights and freedoms or personal status, pursuant to a decision by the Constitutional Court.

In choosing a referendum, the President of the Republic shall be deemed to have waived his or her right to send a bill back. If the referendum results in approval of the bill, the President of the Republic shall promulgate it and order it to be published within a period of no more than fifteen days from the date on which the referendum results were announced.

Electoral law shall specify the arrangements for organising the referendum and announcing its results.

Article 82

If the President of the Republic is temporarily unable to discharge his or her duties, he or she may delegate his or her authority to the Prime Minister for a period not exceeding thirty days, renewable only once. The President of the Republic shall inform the Speaker of the Assembly of People's Representatives of this temporary delegation of authority.

Article 83

Should the office of President of the Republic become temporarily vacant for reasons that make delegation of authority impossible, the Constitutional Court shall meet immediately and confirm the temporary vacancy. The Prime Minister shall immediately take over the functions of President of the Republic; this period of temporary vacancy shall not exceed sixty days.

If the vacancy exceeds sixty days or if the President of the Republic tenders his or her notice in writing to the president of the Constitutional Court or in the event of death or permanent incapacity or any other cause of definitive vacancy, the Constitutional Court shall meet immediately and confirm the definitive vacancy. It shall send a statement to this effect to the Speaker of the Assembly of People's Representatives, who shall immediately be vested with the functions of interim President of the Republic, for a period ranging from a minimum of forty-five days to a maximum of ninety days.

Article 84

In the event of definitive vacancy, the interim President of the Republic shall take the constitutional oath before the Assembly of People's Representatives or, if necessary, before the Bureau of the Assembly, or before the Constitutional Court if the Assembly has been dissolved.

Article 85

During the temporary or definitive vacancy the interim President shall discharge the presidential duties, but he or she shall not be entitled to initiate amendment of the Constitution, call a referendum, dismiss the government or dissolve the Assembly of People's Representatives. During the period of the interim presidency a new President of the Republic shall be elected for a full presidential term and no motion of censure against the government may be tabled.

Article 86

The President of the Republic shall enjoy judicial immunity for the whole of his or her term of office. All statutes of limitations and disqualification periods with regard to his or her person shall be suspended. Proceedings may be resumed once his or her term of office has ended. Proceedings cannot be brought against the President of the Republic for acts performed in performing his or her duties.

Article 87

The Assembly of People's Representatives may, on the initiative of the majority of its members, table a motion, with reasons, to end the term of office of the President of the Republic on the grounds of a clear violation of the Constitution. The decision shall be approved by two thirds of the members of the Assembly. In this case, the matter shall be referred to the Constitutional Court, which shall rule on the issue. If it finds against the President, the Constitutional Court shall confine its ruling to removing him or her from office, without ruling out possible prosecution if necessary. A decision to remove the President of the Republic from office shall deprive him or her of the right to stand in any other election.

SECTION TWO: THE GOVERNMENTArticle 88

The government shall consist of a Prime Minister and of ministers and state secretaries chosen by the Prime Minister. The appointment of the Minister of Foreign Affairs and the Minister of Defence shall be made in consultation with the President of the Republic.

Within one week of the announcement of the final results of the election, the President of the Republic shall instruct the candidate of the political party or electoral coalition having obtained the largest number of seats in the Assembly of People's Representatives to form a government within a one-month period, which may be extended only once. If the number of seats is equal, the appointment shall be based on the number of votes obtained.

If the said period expires without a government having been formed, or if the Assembly of People's Representatives fails to pass a vote of confidence in the government, the President of the Republic shall initiate consultations within a ten-day period with political parties, coalitions and parliamentary groups with a view to entrusting the figure considered most suitable with the task of forming a government within a maximum period of one month.

If, within four months of the appointment of the first candidate, the members of the Assembly of People's Representatives fail to pass a vote of confidence in the government, the President of the Republic can order the Assembly of People's Representatives to be dissolved and a new general election to be held within a minimum period of forty-five days and a maximum period of ninety days.

The government shall present a summary of its programme to the Assembly of People's Representatives in order to win a vote of confidence. If the government wins the vote of confidence by the Assembly, the President of the Republic shall appoint the Prime Minister and the members of the government.

The Prime Minister and the members of the government shall take the following oath before the President of the Republic: 'I swear by Almighty God to work faithfully for the good of Tunisia, uphold the country's Constitution and its legislation, conscientiously safeguard its interests and bear it allegiance.'

Article 89

Membership of the government may not be combined with membership of parliament. Electoral law shall specify the procedures for replacement. The Prime Minister and members of the government may not engage in any other occupation.

Article 90

The Prime Minister shall decide general state policy and ensure its implementation.

Article 91

The Prime Minister shall have the power to:

- Establish, modify or abolish ministries and state secretariats, and determine their powers and prerogatives, after discussion in the Council of Ministers;
- Dismiss from office and receive the resignation of one or more members of the government;
- Establish, modify or abolish public institutions, state companies and administrative services, and determine their powers and prerogatives, after discussion in the Council of Ministers;
- Make appointments to and dismiss incumbents from senior public posts. The posts in question shall be specified by law.

The Prime Minister shall notify the President of the Republic of decisions taken under the above-mentioned powers. The Prime Minister shall head the administration and conclude international treaties of a technical nature.

The government shall ensure that legislation is enforced. The Prime Minister may delegate some of his or her authority to ministers. If the Prime Minister is temporarily unable to discharge his or her duties, he or she shall delegate his or her authority to one of his or her ministers.

Article 92

The Prime Minister shall chair the Council of Ministers. The Council of Ministers shall be convened by the Prime Minister, who shall set the agenda. The President of the Republic shall chair meetings of the Council of Ministers in the fields of defence, foreign relations, and national security as it relates to protection of the state and national territory from internal and external threats, and he or she may attend other meetings of the Council of Ministers. If he or she does attend, he or she shall chair the meeting. All government bills shall be discussed by the Council of Ministers.

Article 93

The Prime Minister shall exercise general regulatory power and issue individual decrees that he or she shall sign after discussion by the Council of Ministers. The decrees issued by the Prime Minister shall be government decrees. Regulatory decrees shall be countersigned by the minister concerned. The Prime Minister shall endorse ministerial decisions of a regulatory nature.

Article 94

The government shall be accountable to the Assembly of People's Representatives.

Article 95

Any member of the Assembly of People's Representatives may put written and oral questions to the government in accordance with the Assembly's rules of procedure.

Article 96

A motion of censure may be moved against the government if at least one third of the members of the Assembly of People's Representatives make a reasoned request to this effect to the Speaker of the Assembly. The motion of censure may not be voted on until fifteen days after it has been tabled with the Speaker of the Assembly.

A vote of no confidence in the government shall be passed by an absolute majority of the members of the Assembly, subject to nomination of a replacement candidate for Prime Minister, whose nomination shall be approved by the same vote. In this case, the replacement candidate will be instructed by the President of the Republic to form a government. If an absolute majority is not achieved, no further motion of censure against the government may be tabled until six months have elapsed.

The Assembly of People's Representatives may hold a vote of no confidence in a member of the government further to a reasoned request to this effect submitted to the Speaker of the Assembly by at least one third of its members; this vote of no confidence shall be passed by an absolute majority.

Article 97

Resignation by the Prime Minister shall be deemed to be resignation of the whole of the government. The resignation shall be submitted in writing to the President of the Republic, who shall notify the Speaker of the Assembly of People's Representatives.

The Prime Minister may request a vote of confidence from the Assembly of People's Representatives for the government to continue its work; this vote shall be passed by an absolute majority of the members of the Assembly of People's Representatives. If the Assembly passes a vote of no confidence in the government, the latter shall be deemed to have resigned.

In either case, the President of the Republic shall entrust the most suitable figure with the task of forming a government under the terms of Article 88.

Article 98

If the post of Prime Minister becomes definitively vacant for whatever reason, apart from the two cases of resignation or no confidence, the President of the Republic shall entrust the candidate of the ruling party or coalition with the task of forming a government within a period of one month. If this period expires without a government having been formed, or if the government fails to win a vote of confidence, the President of the Republic shall nominate the most suitable figure to form a government, which shall present itself to the Assembly of People's Representatives in order to win a vote of confidence as provided for in Article 88.

The outgoing government shall continue to manage day-to-day affairs under one of its members chosen by the Council of Ministers and appointed by the President of the Republic until the new government takes office.

Article 99

Any disputes as to the powers of the President of the Republic and the Prime Minister shall, at the request of the first party to raise the matter, be referred to the Constitutional Court, which shall settle the dispute within one week.

CHAPTER V: THE JUDICIARY

Article 100

The judiciary shall be independent and guarantee delivery of justice, supremacy of the Constitution, the rule of law, and protection of rights and freedoms. Judges shall be independent. In the performance of their duties they shall be subject only to the authority of the Constitution and the law.

Article 101

Judges shall have competence, display impartiality and fairness and be accountable for any failure in the performance of their duties.

Article 102

Judges shall enjoy judicial immunity; they cannot be prosecuted or arrested unless their immunity has been withdrawn. In cases of *flagrante delicto* they may be arrested and the Judicial Council to which they are subject shall decide on the action to be taken regarding the application to withdraw immunity.

PART I: JUDICIAL, ADMINISTRATIVE AND FINANCIAL COURTS

Article 103

Judges shall be appointed by presidential decree with the assent of the Supreme Judicial Council.

Article 104

Judges may not be transferred without their consent, and they cannot be dismissed or suspended from office or be subject to disciplinary action except in circumstances and under safeguards laid down in law and by a reasoned decision of the Supreme Judicial Council.

Article 105

Everyone shall have the right to a fair hearing within a reasonable time, and court users shall be equal in the eyes of the law. The right to take part in court proceedings and the rights of the defence shall be guaranteed. The law shall facilitate access to justice and ensure legal aid for the most underprivileged. Court hearings shall be public unless otherwise provided for by law.

Article 106

Any interference in the operation of the judicial system shall be prohibited.

Article 107

The different categories of court shall be established by a law. Establishment of special courts and enactment of exceptional procedures likely to infringe the principles of a fair trial shall be prohibited. Military courts shall have jurisdiction over military crimes. Their jurisdiction, structure, operation and procedures, and the rules governing their judges, shall be determined by law.

Article 108

Judgments shall be delivered and enforced in the name of the people, and failure to enforce them or any interference with their enforcement without legal grounds shall be prohibited.

SECTION ONE: SUPREME JUDICIAL COUNCILArticle 109

The Supreme Judicial Council shall consist of four bodies: the Judiciary Council, the Administrative Judicial Council, the Financial Judicial Council and the Judicial Councils Commission. Half of each of these bodies shall consist of elected judges, forming the majority, and judges appointed ex officio. The other half shall consist of non-judges. The Supreme Judicial Council shall elect its chair from among those of its members having the status of senior judges. The jurisdiction of each of these four bodies, together with their composition, organisation and procedures, shall be determined by law.

Article 110

The Supreme Judicial Council shall enjoy financial and administrative independence. It shall function independently and shall draw up its draft budget, which it shall discuss before the relevant committee of the Assembly of People's Representatives.

Article 111

The Supreme Judicial Council shall ensure the proper functioning of the judicial system and respect for its independence. The Judicial Councils Commission shall propose reforms and give its opinion on government bills concerning the judicial system, submission of which to the Commission shall be mandatory; the three councils shall have jurisdiction in disciplinary and career matters relating to judges. The Supreme Judicial Council shall prepare an annual report which it shall submit to the Speaker of the Assembly of People's Representatives, the President of the Republic and the Prime Minister. This report shall subsequently be published.

SECTION TWO: THE JUDICIARY

Article 112

The judiciary shall consist of a Court of Cassation, courts of appeal and courts of first instance. The prosecution service shall form part of the judiciary and shall enjoy the same safeguards. Public prosecutors shall discharge their duties in accordance with state prosecution policy in compliance with procedures laid down in law.

The Court of Cassation shall draw up an annual report which it shall submit to the President of the Republic, the Speaker of the Assembly of People's Representatives, the Prime Minister and the Chair of the Supreme Judicial Council. The said report shall be published.

The law shall specify the organisation of the judiciary, its powers, procedures and the rules governing its members.

SECTION THREE: THE ADMINISTRATIVE JUDICIARY

Article 113

The administrative judiciary shall consist of the Supreme Administrative Court, administrative courts of appeal and administrative courts of first instance. The administrative judiciary shall have jurisdiction in cases of abuse of authority by the administration and in all administrative cases. It shall act in an advisory capacity in accordance with the law. The Supreme Administrative Court shall draw up an annual general report which it shall submit to the Speaker of the Assembly of People's Representatives, the President of the Republic, the Prime Minister and the Chair of the Supreme Judicial Council; the report shall subsequently be published. The law shall specify the rules governing the organisation and jurisdiction of the administrative judiciary, its procedures and the rules governing its members.

SECTION FOUR: THE FINANCIAL JUDICIARY

Article 114

The financial judiciary shall consist of the Auditor-General's Department with its various bodies. The Auditor-General's Department shall supervise the sound management of public funds pursuant to the principles of legality, efficiency and transparency. It shall rule on the accounts of Treasury accountants. It shall evaluate accounting methods and punish any failures relating to them. It shall assist the legislature and the executive in supervising the execution of finance laws and closing of the budget. The Department shall draw up an annual general report which it shall submit to the President of the Republic, the Speaker of the Assembly of People's Representatives, the Prime Minister and the Chair of the Supreme Judicial Council. The report shall subsequently be published. Where necessary, the Auditor-General's Department shall draw up special reports that may be published [These reports are made public].

The law shall specify the rules governing the organisation, jurisdiction and procedures relating to the Auditor-General's Department, together with the rules governing its members.

PART II: THE CONSTITUTIONAL COURT

Article 115

The Constitutional Court shall be an independent judicial body consisting of twelve members chosen from among competent persons having at least fifteen years of experience, two thirds of whom shall be law specialists. The President of the Republic, the Speaker of the Assembly of People's Representative, the Prime Minister and the Supreme Judicial Council shall each nominate six candidates, two thirds of whom shall be law specialists. The Assembly of People's Representatives shall elect twelve members from half of the candidates nominated by each body, by a three-fifths majority, for a single nine-year term. If the requisite majority is not obtained, a further vote shall be held to elect the remaining candidates by the same majority. If the necessary majority is not obtained, fresh candidates shall be nominated and a new election held using the same method. One third of the members of the Court shall be replaced every three years. Any vacancies in the composition of the Court shall be filled by the same method used to establish it, taking into account the field of specialisation and the body nominating the candidate. The members of the Court shall elect from among their number a president and vice-president who shall be law specialists.

Article 116

Membership of the Constitutional Court shall not be combined with the discharge of any other duties.

Article 117

The Constitutional Court shall have exclusive jurisdiction to review the constitutionality of:

- All government bills referred to it by the President of the Republic prior to promulgation;
- Constitution bills referred to it by the Speaker of the Assembly of People's Representatives under Article 142;
- Constitution bills referred to it by the Speaker of the Assembly of People's Representatives for the purpose of reviewing observance of procedures for amending the Constitution;
- International treaties referred to it by the President of the Republic prior to promulgation of the approval act;
- Laws referred to it by the courts, further to an objection of unconstitutionality, at the request of one of the parties to a court case, in circumstances and according to procedures laid down in law;
- The rules of procedure of the Assembly of People's Representatives, referred to it by the Speaker.

The Constitutional Court shall exercise the other powers granted to it under the Constitution.

Article 118

Decisions of the Court shall be adopted by a majority. In the event of a tie, the President shall have the casting vote. Decisions of the Court shall state the reasons on which they are based and shall be binding on all authorities. They shall be published in the Official Gazette of the Tunisian Republic.

Article 119

Any bill that is in violation of the Constitution shall be referred back to the President of the Republic and from there to the Assembly of People's Representatives for a second reading and for amendment pursuant to the decision of the Constitutional Court. Prior to its promulgation, the President of the Republic shall refer the bill to the Constitutional Court, which shall consider whether it is constitutional within a period of one month.

Article 120

When a case is referred to the Court further to an objection of unconstitutionality, it shall consider only the arguments relied upon and shall rule on them within a period of three months, which may be extended once by the same amount on the basis of a reasoned decision by the Court. When the Constitutional Court finds that a law is unconstitutional, its application shall be suspended, within the limits stipulated by the Court.

Article 121

The law shall specify the rules governing the organisation of the Constitutional Court and the procedures to be followed before it, together with the guarantees that its members shall enjoy.

CHAPTER VI: INDEPENDENT CONSTITUTIONAL COMMISSIONS

Article 122

The independent constitutional commissions shall work to strengthen democracy. They shall have legal personality and enjoy financial and administrative independence. They shall be elected by the Assembly of People's Representatives, to which they shall submit their annual reports and to which they shall be accountable. All state bodies shall provide them with assistance in performing their missions. The law shall specify the composition of these commissions, their organisation and the procedures for their supervision.

SECTION ONE: THE ELECTORAL COMMISSION

Article 123

The Electoral Commission shall be responsible for managing and organising elections and referendums and supervising them in their various stages. The commission shall ensure that the electoral process is sound, fair and transparent and shall announce the results. The commission shall have regulatory authority in its field of competence. The commission shall consist of nine independent, impartial, competent and upright members, who shall perform their duties for a single six-year term, with one third of the membership being replaced every two years.

SECTION TWO: THE INFORMATION COMMISSION

Article 124

The Information Commission shall be responsible for regulating and developing the information sector. It shall guarantee freedom of expression and information, the right to access

information and the creation of a pluralist and fair media landscape. It shall be duly consulted on government bills relating to its field of competence. The commission shall consist of nine independent, impartial, competent, experienced and upright members who shall perform their duties for a single six-year term, with one third of the membership being replaced every two years.

SECTION THREE: THE HUMAN RIGHTS COMMISSION

Article 125

The Human Rights Commission shall ensure respect for and promotion of human rights and freedoms and shall make proposals for developing the human rights system. It shall be duly consulted on government bills relating to its field of competence. The commission shall investigate cases of human rights violations for the purpose of settlement or referral to the competent authorities. The commission shall consist of independent and impartial figures who shall hold office for a single six-year term.

SECTION FOUR: THE COMMISSION FOR SUSTAINABLE DEVELOPMENT AND THE RIGHTS OF FUTURE GENERATIONS

Article 126

The Commission for Sustainable Development and the Rights of Future Generations shall be duly consulted on government bills relating to social, environmental and trade issues and on development plans. The commission shall give its opinion on matters falling within its field of competence. The commission shall consist of competent and upright members who shall hold office for a single six-year term.

SECTION FIVE: THE GOOD GOVERNANCE AND ANTI-CORRUPTION COMMISSION

Article 127

The Good Governance and Anti-Corruption Commission shall contribute to policies to promote good governance and to combat and prohibit corruption. It shall monitor implementation of these policies, foster a culture to promote good governance and combat corruption, and strengthen the principles of transparency, integrity and accountability. The commission shall be responsible for identifying cases of corruption in the public and private sectors, investigating such cases and referring them to the competent authorities. It shall be duly consulted on government bills relating to its field of competence. It shall give its opinion on draft regulations connected with its field of competence. The authority shall consist of honest, independent and competent members who shall hold office for a single six-year term, with one third of the membership being replaced every two years.

CHAPTER VII: LOCAL GOVERNMENT

Article 128

Local government shall be based on decentralisation. Decentralisation shall be achieved through local authorities comprising municipalities, districts and regions; each category of local government shall cover the entire territory of the Republic in accordance with a system of division specified by law. Other specific types of local authority may be established by law.

Article 129

Local authorities shall have legal personality and enjoy financial and administrative independence. They shall manage local affairs pursuant to the principle of self-government.

Article 130

Local authorities shall be run by elected councils. Municipal and district councils shall be elected by free, fair, secret, transparent and direct universal suffrage. Regional councils shall be elected by the members of municipal and district councils. Electoral law shall ensure that young people are represented on local authority councils.

Article 131

Local authorities shall have their own powers as well as powers exercised jointly with central government and powers transferred to them by the latter. Joint powers and transferred powers shall be allocated in accordance with the principle of subsidiarity. Local authorities shall have regulatory authority within their fields of competence, and their regulatory decisions shall be published in the local government gazette.

Article 132

Local authorities shall have own resources and resources transferred to them by central government; these resources shall be consistent with the powers granted to them by law. Any new powers or transfer of powers from central government to local authorities shall be accompanied by a transfer of corresponding resources. The financial arrangements governing local authorities shall be specified by law.

Article 133

Central government shall undertake to provide additional resources to support local authorities, pursuant to the principle of solidarity, under the rules for financial adjustment and equalisation. Central government shall endeavour to ensure a correspondence between local income and local expenditure.

Article 134

Local authorities shall have the freedom to dispose of their resources, within the limits of their budgets, according to the rules of good governance and under supervision of the financial judiciary.

Article 135

Local authorities shall be subject to *a posteriori* control regarding the legality of their activities.

Article 136

Local authorities shall adopt instruments of participatory democracy and principles of open governance in order to ensure the widest possible participation by citizens and civil society in the framing of development and spatial planning projects and in the monitoring of their implementation, as provided for by the law.

Article 137

Local authorities may co-operate and enter into partnerships with one another for the purpose of implementing programmes or projects of mutual interest. Local authorities may also develop outside partnerships and decentralised co-operation. The law shall determine the rules governing co-operation and partnership.

Article 138

The Local Authorities Council shall be a body representing district councils, with its headquarters outside the capital. The Local Authorities Council shall consider matters

relating to development and balance between districts and shall give opinions on government bills relating to planning, budgeting and local finance; its Chair may be invited to attend the deliberations of the Assembly of People's Representatives. The composition and terms of reference of the Local Authorities Council shall be specified by a law.

Article 139

The administrative judiciary shall rule on all disputes relating to jurisdiction between local authorities themselves or between central government and local authorities.

CHAPTER VIII: AMENDMENT OF THE CONSTITUTION

Article 140

The right to initiate amendment of the Constitution shall be vested in the President of the Republic and in one third of the members of the Assembly of People's Representatives. Amendments initiated by the President of the Republic shall take precedence for consideration.

Article 141

No constitutional amendment may be prejudicial to:

- Islam as the state religion;
- Arabic as the official language;
- The republican form of government;
- The civil nature of the state;
- Existing human rights and freedoms guaranteed under the Constitution;
- The number and duration of presidential terms, which may not be increased.

Article 142

Any proposal to amend the Constitution shall be referred by the Speaker of the Assembly of People's Representatives to the Constitutional Court in order to ascertain from the latter that it does not affect any matters whose amendment is prohibited by the Constitution. The Assembly of People's Representatives shall in turn consider the proposal with a view to approving, by an absolute majority, the principle of the amendment. Without prejudice to Article 141, an amendment shall be passed by a majority of two thirds of the members of the Assembly of People's Representatives. The President of the Republic may put the amendment to a referendum, in which case it must be adopted by an absolute majority.

CHAPTER IX: FINAL PROVISIONS

Article 143

The preamble shall form an integral part of this Constitution.

Article 144

The provisions of this Constitution shall be understood and interpreted as a harmonious whole.

CHAPTER X: TRANSITIONAL PROVISIONS

Article 145

After ratifying this Constitution in its entirety pursuant to the provisions of Constituent Law No. 6/2011 dated 16 December 2011 on the provisional organisation of public authorities, the National Constituent Assembly shall meet in extraordinary plenary session, during which the Constitution shall be promulgated by the President of the Republic, the President of the National Constituent Assembly and the Prime Minister. The President of the National Constituent Assembly shall authorise its publication.

Article 146

The Constitution shall enter into force gradually through enactment of legislation complying with it; legislation currently applying shall remain in force until repealed.

The provisions of the Constitution shall enter into force on the first day of the month following its promulgation. The Administrative Court shall exercise the powers of the Constitutional Court, apart from those of ruling on an objection of unconstitutionality relating to a law and on suspension of the President of the Republic. Provisions relating to powers to review constitutionality arising from an objection shall enter into force only three years after the Constitutional Court has begun exercising its other powers. Ordinary courts shall have no jurisdiction in reviewing the constitutionality of laws.

Certain provisions shall be excluded from the scope of the second paragraph of this article:

- Chapter III on the legislature, with the exception of Articles 52, 53 and 54, and Chapter IV, Part II, on the government shall enter into force on the same day as the announcement of the final results of the first general election following promulgation of the Constitution.
- Chapter IV, Part I, on the President of the Republic, with the exception of Articles 73 and 74, shall enter into force on the same day as the announcement of the final results of the first presidential election following promulgation of the Constitution.
- Chapter V, Part I, on the judicial, administrative and financial courts shall enter into force once the Supreme Judicial Council has been established.

The crime of torture shall not be subject to the statute of limitations, as provided for in Article 22, and shall cover all crimes of torture, including those committed before the entry into force of this Constitution.

For the first presidential election following promulgation of this Constitution, endorsements shall be given by a specified number of members of the National Constituent Assembly, which shall be the same as the stipulated number of members of the Assembly of People's Representatives or the number of registered voters, as provided for by electoral law.

Following the promulgation of the Constitution and pending election of the Assembly of People's Representatives, the National Constituent Assembly shall undertake to pass laws and establish bodies to enforce the provisions of the Constitution.

God is the guarantor of success

Signature of General Rapporteur of the Constitution

Signature of Chair of the Joint Committee for Co-ordination and Drafting