

**Draft Constitution**  
**of the Tunisian Republic**

**22 April 2012**

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## 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 struggle of our people to gain independence and to build the state, autocracy was eliminated to achieve its free will, in response to the objectives of the revolution of freedom and dignity, and out of loyalty towards the blood of our blessed martyrs and the sacrifices of Tunisians over generations, with a view to eliminate injustice, corruption, and oppression.

Building on the fundamentals and the open and moderate objectives of Islam, on sublime human values, and on universal human rights that are in harmony with the Tunisian people's cultural specificity, inspired by the civilization stock that is enriched with the epochs of our history from our enlightened reformist movements that are based on the elements of our Islamic-Arab identity to human civilization gain, and adhering to the national gains achieved by our people;

With a view to building a participatory, democratic, republican regime, where the state is civil and is based on the law and institutions; where sovereignty is granted to the people through peaceful rotation of power on governance and free elections, and on the principle of the segregation of authorities and balance between them; where the right to govern is based on plurality, objectivity of administration and good governance representing the basis of the political race; and where the state ensures freedoms, human rights, independence of the judiciary, justice, equality of rights and duties between all male and female citizens and between all groups and regions;

Recognizing the dignified status of mankind; enhancing our cultural and civilizational affiliation to the Arab Islamic nation on the basis of national unity that is based on citizenship, brotherhood, solidarity, and social justice; with a view to attaining the Maghreb unity as a step towards achieving Arab unity, integrating with the Muslim and African people, and cooperating with the peoples of the world; achieving victory for the oppressed everywhere, for the people's right to self-determination, and for rightful liberation movements including the Palestinian Liberation Movement; and fighting all forms of discrimination and anti-human racism including Zionism;

Being aware of the importance of keeping the environment safe to ensure the sustainability of our natural resources and the sustainability of a safe life for coming generations; and supporting the will of the people to be the makers of their own history, while believing in knowledge, work, and creativity as sublime human values, seeking to become pioneers, and aspiring to civilization adding on the basis of the independence of the national decision, world peace, and human solidarity;

We, in the name of the people, draft this Constitution with God's blessings.

## Chapter One – General Principles

### **Article 1 Nature of the Tunisian state<sup>1</sup>**

Tunisia is a free, independent, and sovereign state. Its religion is Islam, its language is Arabic, and its form of government is a republic.

### **Article 2 Civil state**

Tunisia is a civil state that is based on citizenship, the will of the people, and the supremacy of law.

### **Article 3 Popular sovereignty**

Sovereignty belongs to the people, who are the source of powers that shall be exercised through its freely elected representatives and by referendum.

### **Article 4 Flag, anthem and motto**

The flag of the Tunisian Republic is red and bears in its midst a white circle in which is inscribed by a five-pointed star surrounded by a red crescent, as provided for by law.

The national anthem of the Tunisian Republic is “Defenders of the Homeland”, in accordance with the provisions defined by law.

The motto of the Tunisian Republic of is: freedom, dignity, justice, and order.

### **Article 5 Patron of religion**

The state sponsors religion, guarantees freedom of belief and religious rituals, protects sanctities, and ensures the impartiality of places of worship away from partisan use.

### **Article 6 Equality**

All citizens, male and female alike, shall have equal rights and duties, and shall be equal before the law with no discrimination.

### **Article 7 Citizen rights**

The state shall grant citizens individual and public rights and freedoms, and shall provide them with sources of a dignified life.

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<sup>1</sup> International IDEA has included titles for each article solely for ease of reference. The article titles are not to be attributed to the authors of the draft constitution or used to inform interpretation. Chapter and section titles were translated from the original draft constitution.

**Article 8        Social justice**

The state shall seek to achieve social justice, sustainable development, and balance between regions, and to make good use of national riches.

**Article 9        Decentralisation**

The state shall be obliged to establish and apply decentralization throughout the country to support development opportunities and raise the quality of the life of all citizens without prejudice to the state's unity.

**Article 10       Family**

The state shall protect family structures and maintain their cohesion.

**Article 11       Women and men**

Women and men shall be partners in the construction of the society and the state.

**Article 12       Youth**

Youth are an active force in building the homeland.

The state shall work on expanding and disseminating the contribution of youth in social, economic, cultural, and political development, and shall be keen on providing conducive environment to activate the energy and responsibility thereof.

**Article 13       Public administration**

The public administration shall serve citizens and the public interest, and shall be organized and operate in accordance with the principles of impartiality and equality, and the rules of transparency, integrity, and efficiency.

**Article 14       Politicisation of education**

The state shall ensure the impartiality of educational institutions away from party use.

**Article 15       Exclusivity of state security forces**

The state shall establish the armed forces, the national security forces, and any other forces as per the law and in service of the public interest. Only the state may establish military or paramilitary forces or formations.



**Article 16      Armed forces**

The national army is a disciplinary-based armed military force that is structurally composed and organized in accordance with the law. The army shall be committed to political impartiality and shall undertake the duty of defending the homeland, its independence, unity, and land. The national army shall support the civil authorities in accordance with the provisions stipulated for by law.

**Article 17      National security forces**

The national security forces are assigned the duty of maintaining public order and security; protecting individuals, institutions, and properties; law enforcement; and safeguarding the freedoms enlisted in the Constitution within the frame of utter impartiality.

**Article 18      Military service**

Citizens shall comply with the law and maintain the unity of the homeland, and defend its sanctity. National service is a must as per the forms and conditions provided for by law.

**Article 19      Obligation to pay taxes**

Paying taxes and ensuring the affordability of expenditures are an obligation in accordance with a fair and equitable system.

The state shall develop the mechanisms necessary to ensure the collection of taxes and public expenditures, the proper use of public funds, fighting corruption, and tax evasion.

**Article 20      Disclosure of assets**

Occupying a position that is established by law requires the disclosure of all assets at the start and end of that individual's assets. The mandatory disclosure may extend to relatives of the person occupying that position.

**Article 21      Status of international law**

The international agreements approved and ratified by the Chamber of Deputies shall be superior to laws and inferior to the Constitution.

## Chapter Two – Rights and Freedoms

### **Article 22 Right to life**

The right to life is sacred and shall not be prejudiced except as provided for law.

### **Article 23 Prohibition on torture**

The state shall protect human dignity and the sanctity of the body, and shall prohibit all types of moral and physical torture.

No crime of torture shall be subject to the statute of limitations.

### **Article 24 Right to private life and freedom of movement**

The state shall protect the sanctity of domiciles and private life, and the confidentiality of correspondence and communications, and personal information.

Every citizen shall have the right to choose a place of residence and to move across the country, and shall have the right to leave the country. These rights and freedoms shall not be prejudiced unless under circumstances provided for by law and a judicial order, except in cases of flagrant delicto.

### **Article 25 Nationality and international protections for citizens**

No citizen shall be stripped of his nationality, exiled, or prevented from returning to the country.

### **Article 26 Presumption of innocence and right to fair trial**

A defendant shall be presumed innocent until proven guilty by virtue of a free trial where he is granted all defense guarantees during all phases of prosecution and trial.

### **Article 27 No punishment except by law**

Punishments shall be personal and shall not be executed unless by virtue of a legal provision issued prior to the occurrence of the punishable act, except in case of a more favorable provision with the defendant.

### **Article 28 Detention**

No person may be arrested or detained unless in flagrant delicto or by virtue of a judicial order. The person placed under arrest shall be immediately informed of his rights and the relevant charges pressed. The person may request the services of a lawyer. The term of arrest shall be defined by law.

### **Article 29 Detention**

Every prisoner shall have the right to humane treatment that preserves his dignity.

In executing a freedom-depriving punishment, the state shall take into account the interests of the family and shall guarantee the rehabilitation and containment of the prisoner into society.

**Article 30 Freedom of association**

The freedom to establish parties, syndicates, and associations shall be guaranteed.

The law shall regulate the procedures of establishing parties, syndicates, and associations without prejudice to the essence of this freedom.

The statutes and activities of parties, syndicates, and associations commit to the provisions of the Constitution, to financial transparency, and to the renunciation of violence.

**Article 31 Freedom of assembly**

The right to peaceful assembly and demonstration shall be guaranteed and exercised as per the procedural regulations provided for by law without prejudice to the essence of this right.

**Article 32 Right to work**

Work is a right to every citizen and the state shall take the necessary measures to ensure the availability of work in a suitable and fair environment.

**Article 33 Right to join syndicates and strike**

The right to join and form syndicates shall be guaranteed.

The right to strike shall be guaranteed. The law shall regulate to ensure the safety of equipment and supplies and the sustainability of essential utilities to meet the urgent needs of citizens at times of strike.

**Article 34 Right to access information**

The right of access to information shall be guaranteed within limits that do not prejudice national security, public interest, or the personal information of others.

**Article 35 Right to education**

Education shall be mandatory until at least the age of sixteen.

The state shall guarantee the right to free public education at all stages and shall seek to provide the necessary means to offer quality education and training, and to establish and support the Arabic language.

**Article 36 Academic freedoms**

Academic freedoms and freedom of scientific research shall be guaranteed.

The state shall seek to provide the necessary means to develop scientific and technological research.

**Article 37 Right to health**

Health shall be a right to every person. The state shall guarantee prevention from diseases and shall provide health care and the means necessary to ensure quality health services.

The state shall ensure free health care for those without support and indigents. It shall guarantee the right to social coverage as specified by law.

**Article 38 Environment**

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

**Article 39 Water**

The right to water shall be guaranteed.

**Article 40 Freedom of opinion**

The right to freedom of opinion, thinking, expression, and media shall be guaranteed.

Freedom of expression, media, and publication may not be restricted unless by virtue of a law protecting the rights, reputation, safety, and health of others.

Such freedoms shall not be subject to prior censorship.

**Article 41 Right to culture and creativity**

The right to culture shall be guaranteed.

The right to creativity shall be guaranteed. The state shall encourage cultural creativity and support national culture.

The state shall protect cultural heritage and guarantee the right of next generations therein.

**Article 42 Women's rights**

The state shall ensure the protection of women and support their gains.

The state shall ensure equal opportunities for men and women in carrying different responsibilities.

The state shall ensure the elimination of all forms of violence against women.

**Article 43 Property rights**

The right to ownership including intellectual property shall be guaranteed in accordance with the law.

**Article 44      Rights of persons with special needs**

The state shall protect persons with disabilities against any form of discrimination.

Every disabled citizen shall have the right to benefit, based on the nature of the disability, from all of the measures guaranteeing their full integration into society. The state shall take all of the measures necessary to realize this objective.

**Article 45      Children’s rights**

Children are entitled to dignity, care, education, and health from their parents and the state.

The state shall provide legal, social, financial, and moral protection to all children with no discrimination.

**Article 46      Sports**

The state shall seek to provide all of facilities necessary for the exercise of physical activity and shall furnish means of entertainment.

**Article 47      Right to candidacy**

The right to run for elections, voting, and candidacy shall be guaranteed by law.

**Article 48      Political asylum**

The right to political asylum shall be guaranteed by law. Surrendering political refugees shall be prohibited.

### **Chapter Three – Legislative Authority**

#### **Article 49 Legislative body and referenda**

The people shall exercise legislative power through their representatives in the Chamber of Deputies or through referenda.

#### **Article 50 Headquarters**

The headquarters of the Chamber of Deputies shall be located in Tunis and the suburbs thereof. In the event of exceptional circumstances, the Chamber may hold the sessions thereof in any other place in the Republic.

#### **Article 51 Financial and administrative independence, rules of procedure**

The Chamber of Deputies shall enjoy financial and administrative independence within the framework of the state budget.

The Chamber of Deputies shall prepare its rules of procedure and ratify them by an absolute majority of the members of the Chamber.

The state shall assign sufficient human and financial resources to allow for representatives to satisfy their obligations.

#### **Article 52 Right to candidacy**

Running for the membership of the Chamber of Deputies shall be a right to every voter who has acquired Tunisian nationality at least ten years prior and is no younger than twenty three years of age on the day of candidacy, provided that they are not subject to any form of denial specified by the law.

#### **Article 53 Eligibility to vote**

Every Tunisian citizen aged eighteen years shall be deemed a voter in accordance with the conditions set by the Election Law.

#### **Article 54 Election of Chamber of Deputies' members**

Members of the Chamber of Deputies shall be elected in a secret, direct, free, and general elections in accordance with the Elections Law.

#### **Article 55 Term**

The Chamber of Deputies shall be elected for five years within the last sixty days of the term of the mandate thereof.

In the event of failure to hold the elections as a result of war or imminent danger, the mandates of the Chamber shall be extended by law.

**Article 56 Oath**

Every member in the Chamber of Deputies shall upon assuming the functions thereof, swear in on the following oath: "I do solemnly swear that I will work diligently to serve the nation, that I will abide by the provisions of the Constitution, and that I will bear full allegiance to Tunisia."

**Article 57 The role of the opposition**

The opposition shall be an integral element of the Chamber of Deputies and shall enjoy the rights that enable it to undertake its tasks in parliamentary work. The opposition is granted an appropriate quota in the Chamber's internal and external activities and duties to ensure its active and constructive contribution in parliamentary work.

**Article 58 Immunity from prosecution**

No member of the Chamber of Deputies may be prosecuted at a civil or criminal level, arrested or tried for opinions or proposals suggested or for the work performed thereby because of the performance of the parliamentary functions thereof.

**Article 59 Flagrante delicto**

If the member maintains criminal immunity in writing, he may not be prosecuted or arrested during his term of office for a criminal charge unless his immunity is lifted.

In the event of flagrante delicto, the member may be suspended and the Chamber of Deputies shall immediately be notified on the provision that the member be released if the Bureau of the Chamber so requests.

**Article 60 Legislative initiative and the introduction of bills**

Legislative initiative shall be practiced by no less than ten members, by the president, or by the government.

The government is exclusively competent to present draft laws related to the ratification of treaties and on the draft budget law. Draft laws by the executive authority shall be given priority.

**Article 61 The state's financial balance**

Proposed laws or amendments presented by the members of the Chamber shall not be admitted in the event their ratification may cause prejudice to the state's financial balance as determined by the budget law.

**Article 62 Ratification of draft budget laws**

The Chamber of Deputies shall ratify the draft budget laws and the closure of the budget in accordance with the terms stipulated under the organic budget law.

The draft budget law shall be presented to the Chamber by no later than 31 October and shall be ratified by no later than 31 December. Should the ratification not take place, the draft finance law may be enforced in three-month installments renewable by virtue of an order.

#### **Article 63      Sessions**

The Chamber of Deputies shall hold an ordinary session starting in October and ending in July, provided that the first session of the mandate of the Chamber of Deputies shall begin by invitation from the Chair of the preceding Chamber during the fifteen-day period following the announcement of the final results of the elections.

In the event that the beginning of the first session of the mandate of the Chamber of Deputies coincides with the recess thereof, an extraordinary session shall be held for the purpose of giving confidence to the government.

The Chamber of Deputies shall, during its recess, convene in an extraordinary session upon the request of the President of the Republic, the Prime Minister, or one-third of the members with a view to looking into a specific agenda.

#### **Article 64      Voting in person**

The process of voting in the Chamber of Deputies shall be done in person and may not be delegated.

#### **Article 65      Chair and committees**

The Chamber of Deputies shall elect a Chair from amongst its members.

The Chamber of Deputies shall form standing and special committees. Their responsibilities shall be distributed on the basis of proportional representation.

The Chamber of Deputies may form investigation committees. All authorities shall assist such committees in undertaking their missions.

#### **Article 66      Decrees**

In the event of the Chamber's dissolution or during its recess, the Prime Minister may issue decrees to be submitted for ratification to the Chamber during its subsequent ordinary session. The electoral system cannot be amended by decrees.

The Chamber of Deputies may with two-fifths of its members authorize by law for a limited period and for a certain purpose the Prime Minister to issue decree-laws to be submitted for ratification to the Chamber upon the end of the period mentioned.



## **Article 67      Ratification of international treaties**

Commercial treaties and treaties related to international organizations, the borders of the state, the financial obligation of the state, the status of individuals, or provisions of a legislative nature shall be submitted for approval to the Chamber of Deputies.

Treaties shall not be deemed enforced unless upon their ratification based on the principle of reciprocity.

## **Article 68      Laws and organic laws**

Laws relating to the following areas are deemed laws:

- Classification of public institutions and facilities and the provisions regulating sales thereof.
- Nationality.
- Obligations.
- Procedures taken before various types of courts.
- Containment of felonies and misdemeanors and the punishments applicable thereto, in addition to criminal offences if necessitating a freedom-depriving punishment.
- General pardon.
- Regulation of the payment basis, the percentage and the procedures for extraction thereof, unless authority to such end is given to the Prime Minister by virtue of financial or collection laws.
- The system to issue currency.
- Loans and financial obligations of the state.
- Basic guarantees given to civil and military employees.
- Organization of the ratification of international treaties.
- Laws of finance and closure of budget, and the ratification of development plans.
- The fundamental principles of the system of ownership, in kind rights, scientific research, culture, public health, the environment, land and urban planning, energy, the Labor Law, and social security.

Laws relating to the following areas are deemed organic laws:

- Ratification of treaties.
- Organization of justice and the judiciary.
- Organization of the media, press and publications.
- Organization and funding of parties, associations, organizations, and professional bodies.
- Organization of the national army.
- Organization of the internal security forces and customs department.
- Election laws.
- Freedoms and human rights.
- Personal affairs.
- Fundamental duties of citizens.
- The local government.
- Organization of constitutional agencies.

The general dispositional power may intervene with the articles not included in this Chapter.

**Article 69      Voting on organic laws and on ordinary laws**

The Chamber of Deputies shall, by an absolute majority of the members thereof, ratify draft organic laws, and shall, by a majority of the attending members thereof, ratify normal draft laws, provided that such a majority is no less than one-third of the members of the Chamber.

No draft organic law shall be presented to the Chamber of Deputies for deliberation unless upon the elapse of a fifteen-day period as of the date of referral to the competent committee.

## **Chapter Four – The Executive Authority**

### **Section One – The President of the Republic**

#### **Article 70      Head of state**

The President of the Republic shall be Head of State, shall represent its unity and secure its independence and continuity, and shall respect the Constitution.

#### **Article 71      Seat**

The official seat of the Presidency of the Republic shall be Tunis and its suburbs. In the event of exceptional circumstances, the headquarters may be transferred to any other location in the Republic.

#### **Article 72      Right to candidacy**

Running for the position of President of the Republic shall be a right entitled to every male and female voter who holds Tunisian nationality by birth and no other, who embraces Islam, and whose age, on the day of submission of candidacy, is no less than forty years and no more than seventy five.

The candidate shall be supported by a number of members of the Chamber of Deputies or heads of elected local municipal group councils or the voters designated in accordance with the manner and terms specified by the elections law.

#### **Article 73      Term and election**

The President of the Republic shall be elected for a five-year period during the last sixty-day period of the presidential term by means of general, free, direct, and secret elections. The election process shall be by an absolute majority of valid votes.

In the event of failure of any candidate to achieve an absolute majority in the first round, a second round shall be organized during the two weeks following the announcement of the final results of the first round. The two candidates having won the highest number of votes during the first round shall run for elections.

In the event of the death of one of the candidates in the first round, or being prevented from continuing by force majeure, candidate registration shall be reopened and new dates for elections shall be set. In the event of the withdrawal, death, or prevention by force majeure of any of the candidates in the runoff, the other candidate shall be announced as a winner.

In the event of failure to hold the elections on the set dates as a result of the prevalence of a state of war or imminent danger, the term of presidency shall, by virtue of a law, be extended.

It is forbidden to assume the Presidency of the Republic for more than two successive or separate terms.

#### **Article 74      Prohibition against remain in party, and oath**

The elected President of the Republic shall resign from any party responsibility.

The elected President of the Republic, shall before the Chamber of Deputies, swear in the following oath:

“I do solemnly swear to maintain the independence of Tunisia and the safety of its territories, to respect its Constitution and legislation, to safeguard its interests, and to remain loyal to it.”

#### **Article 75 Immunity**

The President of the Republic shall, throughout his presidential term, enjoy judicial immunity. All limitation and prescription acts shall be suspended and procedures shall be continued after the President completes his functions.

The President of the Republic shall not be held accountable for acts executed as part of the office.

#### **Article 76 Mandate**

The President of the Republic shall have the following mandates:

- Representing the state.
- Appointing the General Mufti of the Tunisian Republic.
- Appointing the governor of the Central Bank upon a proposal from the Prime Minister and after consulting with the competent parliamentary committee during a period that does not exceed twenty days. The governor shall be exempted in the same manner or upon the request of an absolute majority of the Chamber of Deputies.
- Being the Commander-in-Chief of the armed forces.
- Being the President of the National Security Council.
- Declaring war and establishing peace, upon the approval of a three-fifths majority of the Chamber of Deputies, as well as sending troops abroad, upon the approval of the Chamber of Deputies and the government provided that the Chamber shall convene with a view to deciding on the matter within a period of no more than sixty days.
- Appointing and exempting individuals with respect to senior military and security positions and public institutions affiliated with the Ministry of Defense, after consulting with the competent parliamentary committee. In the event that no opinion is given within a twenty-day period, this shall be deemed implicit acceptance thereof. Senior positions shall be regulated by law.
- Appointing and exempting individuals with respect to senior positions in the Presidency of the Republic and affiliated institutions.
- Appointing and exempting individuals with respect to senior civil positions based on a precise suggestion from the Prime Minister. Senior civil positions shall be regulated by virtue of a law.
- Dissolving the Chamber of Deputies in the situations that are provided for by this Constitution.
- Awarding decorations.
- Granting special pardon.
- Ratifying and allowing the publishing of treaties.

#### **Article 77 Foreign policy**

The President of the Republic and the Prime Minister shall, in agreement with each other, lay down the foreign policy of the state.

The President of the Republic shall, upon the proposal of the Prime Minister, accredit diplomatic representatives abroad after taking the opinion of the competent parliamentary committee, and shall accredit the representatives of foreign countries and international organizations.

#### **Article 78      Imminent danger**

In the event of imminent danger threatening the entity of the homeland, and the security and independence of the country in such a manner preventing the normal operation of the entities of the state, the President of the Republic may undertake any measures necessitated by the circumstances, after consultation with the Prime Minister and the Chair of the Chamber of Deputies. The President shall announce the measures in an address to the nation.

The measures shall aim to secure the normal reoperation of the public authorities as soon as possible. The Chamber of Deputies shall be deemed in a state of continuous session throughout such period, after the elapse of a thirty-day period as of the implementation of the measures, and at any time after such. The Chair of the Chamber of Deputies or thirty of the members thereof shall be entitled to resort to the Constitutional Court with a view to verifying whether the circumstances specified in Paragraph 1 of the present article still exist. The Court shall issue the decision thereof publicly within a period no later than fifteen days.

In such event, the President of the Republic may not dissolve the Chamber of Deputies and may not bring a motion of censure against the government.

The measures cease to bear effect upon the termination of the reasons causing the existence thereof. The President of the Republic shall, to that effect, address the nation.

#### **Article 79      Submitting draft laws to referendum**

The President of the Republic may, in exceptional circumstances, submit for a referendum, the draft laws that were ratified by the Chamber of Deputies that are not in contradiction with the Constitution based on the ruling of the Constitutional Court, and are related to right, freedoms, or personal affairs, or in agreement with international treaties. The submission for referendum shall be deemed a waiver of the right to return the draft law.

If the result of the referendum is the ratification of the draft law, the President of the Republic shall seal and publish the draft law within a period exceeding no more than fifteen days as of the date of announcement of the results of the referendum.

The law shall regulate the means of conducting the referendum and announcing its results.

#### **Article 80      Addressing the Chamber of Deputies**

The President of the Republic shall address the Chamber of Deputies directly or by a statement directed to it.

**Article 81      Presiding over the council of ministers**

The President of the Republic shall, upon the Prime Minister's request, preside over the council of ministers in issues related to foreign policy and defense, and may preside over it upon the request of the Prime Minister on other issues.

**Article 82      Ratification of laws**

The President of the Republic shall seal and issue laws in the Official Gazette of the Tunisian Republic within a period of no more than fifteen days as of receipt thereof from the Constitutional Court.

Except for the budget law, the President of the Republic is entitled, during a period of ten days as from the receipt of the draft law from the Chair of the Chamber of Deputies, to return the draft law to the Chamber for a second reading. If the draft law is ratified by an absolute majority of the members of the Chamber, with respect to normal laws, and by a majority of two-fifth of the members, with respect to organic laws, the President of the Republic shall seal and issue thereof within a period of no more than fifteen days as from the receipt thereof from the Constitutional Court. In the event of amending the draft law in accordance to the suggestions of the President of the Republic, it shall be ratified by an original majority.

**Article 83      Incapacity**

The President of the Republic may, in the event of a temporary inability to perform his tasks, delegate his authorities to the Prime Minister.

The President of the Republic shall inform the Chair of the Chamber of Deputies of the temporary delegation of authorities.

**Article 84      Temporary and permanent vacancy**

In the event of a temporary vacancy of the office of the President of the Republic for reasons that prevent the President of the Republic from delegating his authorities, the Constitutional Court shall hold a prompt meeting and acknowledge the temporary vacancy of the office. The period of temporary vacancy may not exceed sixty days.

Should the temporary vacancy exceed the sixty-day period, in the event that the President of the Republic submits a written resignation to the President of the Constitutional Court, in the event of death or absolute disability of thereof, or for any other reason for a permanent vacancy, the Constitutional Court shall hold a prompt meeting and acknowledge the permanent vacancy. The Court shall notify the Chair of the Chamber of Deputies who shall, on a temporary basis, immediately undertake the tasks of the presidency for a duration of no less than forty-five days and no more than ninety days.

Should the permanent vacancy coincide with the dissolution of the Chamber of Deputies, the President of the Constitutional Court shall undertake the tasks of the President of the Republic.

**Article 85      Permanent vacancy**

In the event of a permanent vacancy of the office of the President of the Republic, the person undertaking the tasks of presidency shall be sworn in before the Chamber of Deputies and, whenever necessary, before the Bureau of the Chamber.

**Article 86      Powers during temporary and permanent vacancy**

The person undertaking the tasks of the President of the Republic, during the temporary or permanent vacancy of the office, shall exercise presidential tasks without being entitled to propose amending the Constitution, resort to a referendum, dissolve the Chamber of Deputies, or take any of the exceptional measures specified under Article 78 of the Constitution.

During the interim presidential period, no censure may be brought against the government, and a new President for the Republic shall be elected for a full presidential term.

**Article 87      Deliberate violations of the Constitution**

A majority of the members of the Chamber of Deputies may initiate a justified statement approved by a majority of two thirds to exempt the President of the Republic for the deliberate violation of the Constitution. In such event the referral shall be to the Constitutional Court for deciding on the matter. In the event of condemnation, the Constitutional Court may not render its sentence except by way of ousting. This shall not mean an absolution of punishment when necessary. No President who has been forced from office is entitled to run for any other elections.

**Section Two – The Government**

**Article 88      Government's composition, and formation**

The government shall be composed of a Prime Minister, ministers, and state clerks selected by the Prime Minister. The ministers of foreign affairs and defense shall be selected by the Prime Minister in consultation with the President of the Republic.

The President of the Republic shall assign the candidate of the party or the election coalition having won the majority of seats in the Chamber of Deputies to form the government within a one-month period extendable only once.

If the specified period of time elapses without the formation of the government or in the event of failure to receive the vote of confidence of the Chamber of Deputies, the President of the Republic shall consult with the parties, coalitions, and parliamentary blocs to entrust the person most capable of constituting a government within a period of no more than one month.

If a four-month period elapses from the date of entrusting the first candidate and the members of the Chamber of Deputies fail to agree on granting confidence to the government, the President of the Republic is entitled to dissolve the Chamber of Deputies and to call for new legislative elections to be held.

The government shall present a brief programme to the Chamber of Deputies to gain confidence. When the government gains the confidence of the Chamber, the President of the Republic shall nominate the Prime Minister and members of the government.

The Prime Minister and the members of government shall be sworn in before the President of the Republic.

#### **Article 89 Prime Minister's mandate**

The Prime Minister shall regulate the general policy of the state and shall ensure the execution thereof. The Prime Minister shall preside over the council of ministers, govern the administration, exercise the general dispositional power, issue individual decrees he signs after deliberating with the council, and conclude international agreements of technical nature.

In addition to the aforementioned, the Prime Minister is responsible for the following:

- Determining the council of ministers' meeting agendas.
- Introducing, amending and dissolving ministries and bureaus of state over that he is responsible for, as well as regulating their mandates and authorities upon discussing the matter with the council of ministers.
- Removing one or more members of the government and receive the resignation of one or more members of the government.
- Establishing, changing, and dissolving public institutions, public entities and administrative departments as well as regulating their mandates and authorities upon discussing the matter with the council of ministers.

The Prime Minister shall inform the President of the decisions taken within the abovementioned mandates.

The government shall ensure the enforcement of laws. The Prime Minister shall delegate some of his authorities to the ministers.

If the Prime Minister fails to undertake his tasks temporarily, he shall delegate his authorities to one of the ministers.

#### **Article 90 Deliberations of draft laws**

Deliberations on all draft laws shall take place at the council of ministers.

Decisions of dispositional nature shall be signed by the competent minister.

The Prime Minister shall sign the dispositional decrees issued by ministers.

#### **Article 91 Accountability**

The government shall be held accountable before the Chamber of Deputies.



**Article 92      Incompatible mandates**

Membership of the government and of the Chamber of Deputies may not be combined. The Elections Law shall regulate the process of filling vacancies.

The Prime Minister and the members of the government may not be employed in any other profession.

**Article 93      Withdrawal of confidence**

Votes may be taken on a motion of censure brought against the government after at least one-third of the members of the Chamber of Deputies make a justified request to the Chair of the Chamber of Deputies. The voting process shall not take place except after the elapse of a fifteen-day period as from the date that the request was presented to the Chairmanship of the Chamber.

Withdrawal of the vote of confidence given to the government shall be conditional upon the approval of an absolute majority of the members of the Chamber of Deputies and upon the presentation of a candidate alternative to the Prime Minister whose candidacy shall be ratified in the same voting process. The President of the Republic shall entrust the candidate with the task of forming the government.

In the event of failure to attain the specified majority, the motion of censure may not be reintroduced against the government except after the elapse of a six-month period.

The Chamber of Deputies may withdraw the vote of confidence given to a member of the government after a justified request is submitted to the Chair of the Chamber by no less than two-thirds of the members. Withdrawal of the vote of confidence shall be by an absolute majority of votes.

**Article 94      Resignation**

The Prime Minister's resignation means that the entire government has resigned. The resignation shall be submitted in writing to the President of the Republic who notifies the Chair of the Chamber of Deputies.

The Prime Minister may propose to the Chamber of Deputies to give a vote of confidence to the government to continue operating. The voting process shall be by an absolute majority of the members of the Chamber of Deputies. Should the Chamber not renew confidence in the government, it shall be deemed resigned.

In either case, the President of the Republic shall assign the person who is most capable to constitute the government in accordance with the provisions of Article 88.

**Article 95      Vacancy**

If, for any reason other than resignation and withdrawal of confidence, the post of Prime Minister is permanently vacant, the President of the Republic shall nominate the person who is most capable to constitute a government that applies for gaining the vote of confidence of the Chamber in accordance with the provisions stipulated in Article 88.

The government that has completed its tasks shall continue to administer under the supervision of one member thereof to be selected by the council of ministers and nominated by the President of the Republic until the new government takes over.

**Article 96      Resolution of disputes with the President**

Any disputes arising with respect to the mandates of the President of the Republic and of the Prime Minister shall be referred to the Constitutional Court. The Court shall resolve the dispute within a month based on a request presented by the keenest of the parties.

## Chapter Five – The Judicial Authority

### Article 97 Mandate

The judiciary is an independent authority that ensures the prevalence of justice, the supremacy of the Constitution, the sovereignty of law, and the protection of rights and freedoms.

Judges are independent. No power shall be exercised over their rulings other than the power of the Constitution and law.

### Article 98 Impartiality, competency and fairness

A judge shall be impartial, competent, and fair. He shall be held accountable for any shortcomings in the performance of his duties.

### Article 99 Immunity

Judges shall enjoy immunity against criminal prosecution and may not be prosecuted or suspended unless their immunity is lifted. In the event of flagrante delicto, a judge may be arrested and the Judiciary Council shall be notified with a view to settle the request for lifting the immunity.

## Section One – Judiciary, and Administrative and Financial Judiciary

### Article 100 Nomination

Judges shall be nominated by virtue of an order made by the President of the Republic based on a similar opinion from the Supreme Judicial Council.

### Article 101 Sanctions

No judge may be transferred without his consent, no judge may be dismissed, and no judge may be suspended, deposed, or subjected to a disciplinary punishment except in such cases and in accordance with the guarantees provided for by the law and by virtue of a justified decision issued by the Supreme Judicial Council.

### Article 102 Right to fair trial

Every individual shall be entitled to a fair trial in a reasonable period. Litigators shall be equal before the judiciary.

The right to two-level litigation and the right to defense shall be guaranteed. The law shall make the judiciary accessible and shall grant indigents with judicial assistance.

Court sessions shall be public unless the law decides otherwise.

**Article 103 Prohibition against interference**

Any non-legal interference in the judiciary shall be prohibited.

**Article 104 Classification of courts, military judiciary**

Courts shall be classified by virtue of a law. No exceptional courts or procedures that may prejudice the principles of fair trial may be established or adopted.

Military courts are responsible for military crimes. A law shall regulate the mandate, structure, and organization of the military courts, their applicable procedures and the statute of military judges.

**Article 105 Decisions in the name of the people**

Decisions shall be issued and executed in the name of the people. Failing to execute or impeding the execution of a sentence without legal grounds is not permissible.

**Sub-Section One – Supreme Judicial Council**

**Article 106 Composition of the Supreme Judicial Council**

The Supreme Judicial Council shall be composed of the Judiciary Council, the Administrative Judicial Council, the Financial Judicial Council, and the Judicial Councils Organization.

Half of each of these entities shall be composed of judges the majority of whom are elected as well as judges appointed by capacity, while the other half shall be composed of individuals other than judges.

The Supreme Judicial Council shall elect the Head of the Council from amongst the member who are judges.

A law shall regulate the mandate, structure, and organization of each of the four entities as well as the procedures applicable before each.

**Article 107 Administrative and financial independence**

The Supreme Judicial Council shall enjoy administrative and financial independence and self-management, and shall prepare and discuss its draft budget before the competent committee at the Chamber of Deputies.

**Article 108 Mandate**

The Supreme Judicial Council shall ensure the judiciary's sound performance and respect for its independence. The Judiciary Councils Organization shall propose reforms and express opinions with respect to proposals and draft laws related to the judiciary that are presented to it. Each of the three councils shall decide on the professional conduct of judges and on disciplinary measures.

The Supreme Judicial Council shall submit an annual report to the Chair of the Chamber of Deputies, the President of the Republic, and the Prime Minister. The report shall be published.

### **Sub-Section Two – The Judiciary**

#### **Article 109      Composition and mandate**

The judiciary is composed of the Court of Cassation, courts of first instance, and appellate court.

A law shall regulate the judiciary and its mandate, as well as the statute of the judges.

### **Sub-Section Three – Administrative Judiciary**

#### **Article 110      Composition and mandate**

The administrative judiciary is composed of the Supreme Administrative Court, administrative courts of first instance and administrative courts of appeal.

The administrative judiciary has jurisdiction over any abuse of power by the administration as well as administrative disputes. The administrative judiciary shall, in accordance with the law, exercise consultative functions.

The Supreme Administrative Court shall prepare a general annual report to be submitted to the Chair of the Chamber of Deputies, the President of the Republic, the Prime Minister, and the President of the Supreme Judicial Council. The report shall be published.

A law shall regulate the organization and terms of reference of the administrative judiciary and the statute of the judges.

### **Sub-Section Four – Financial Judiciary**

#### **Article 111      Composition and mandate**

The Financial Judiciary is composed of the Court of Audit with its different bodies.

The Court of Audit shall have jurisdiction to supervise the sound spending of public funds in accordance with the principles of Sharia, effectiveness, and transparency. The Financial Judiciary shall decide on the accounts of public auditors. The Financial Judiciary evaluates the expenditure of public funds and prevents any errors in that regard.

The Financial Judiciary shall assist the legislature and the executive in supervising the enforcement and sealing of financial laws.

The Court of Audit shall prepare a general annual report to be submitted to the Chair of the Chamber of Deputies, the President of the Republic, the Prime Minister, and the President of the Supreme Judicial

Council. The report shall be published. The Court of Audit shall, when necessary, prepare special reports to be published.

A law shall regulate the organization, terms of reference and procedures of the Court of Audit as well as the statute of its judges.

## **Section Two – The Constitutional Court**

### **Article 112      Composition and nomination of members**

The Constitutional Court is composed of twelve members having no less than ten years of high expertise, a majority of whom must be legal specialists.

The President of the Republic shall nominate eight candidates, the Prime Minister shall nominate four candidates, the Chair of the Chamber of Deputies shall nominate eight candidates, and the Supreme Judiciary Council shall nominate four candidates.

Adopting one half from each nominating party, the Chamber of Deputies shall elect twelve members by a two-third majority. The mandate of the elected members shall be for one-term period lasting for nine years.

In the event that the required majority is not reached, the remaining candidates shall, with the same majority required, stand for election again. In the event of failure to reach the required majority, other candidates shall be nominated and the election process shall be repeated following the same method.

One-third of the members of the Constitutional Court shall be renewed every three-year period. Any vacancies in the hierarchy of the Court shall be filled by virtue of the means adopted during appointment.

The members of the Court shall, from amongst the members, elect a President and a Vice President of the Court.

### **Article 113      Incompatible mandates**

Combining membership in the Constitutional Court and undertaking any other job or task shall be prohibited.

### **Article 114      Mandate**

The Constitutional Court is competent to oversee the constitutionality of the following:

1. All draft laws submitted to it by the President of the Republic before their ratification.
2. Constitutional draft laws submitted to it by the Chair of the Chamber of Deputies as specified in Article 137.
3. Constitutional draft laws submitted to it by the Chair of the Chamber of Deputies to monitor the respect of the procedures of amending the Constitution.
4. Treaties presented to it by the President of the Republic before they are ratified by law.

5. Laws referred to it by courts as a result of a request filed by a litigator, in accordance with the procedures provided for by law, to claim the unconstitutionality thereof.
6. The statute of the Chamber of Deputies presented to it by the Chair of the Chamber.

**Article 115 Voting procedures**

Decisions in the Constitutional Court shall be taken by a majority and the President of the Court shall, in the event of parity, have a casting vote. Decisions issued by the Constitutional Court shall be justified and binding upon all authorities. The decisions shall be published in the Official Gazette of the Tunisian Republic.

**Article 116 Actions on draft laws that violate the Constitution**

Any draft law that is in violation of the Constitution shall be referred to the President of the Republic and from the President to the Chamber of Deputies to be reconsidered and for amendment in accordance with the decision issued by the Constitutional Court. The President of the Republic shall, prior to the law's ratification, resend the law to the Constitutional Court to study the extent of conformity of the amendment made with the decision issued by the Court within a one-month period.

**Article 117 Jurisdictional limits, effect of unconstitutionality**

In the event the Constitutional Court is seized by a claim of unconstitutionality, the Court shall be limited to examining the question that has been put before it. It shall render its decision within three months, which can be renewed only once and by virtue of a justified decision from the Court.

If the Constitutional Court decides on the unconstitutionality of the law, the law shall, within the limits specified by the Court, no longer be applied.

**Article 118 The Court's procedures, and immunities**

A law shall govern the organization of the Constitutional Court and the procedures it should follow as well as the guarantees enjoyed by its members.

## **Chapter Six – Independent Constitutional Authorities**

### **Article 119      Legal status, composition and organisation**

The constitutional authorities are independent authorities that aim to promote democracy.

These authorities shall enjoy a legal personality as well as financial and administrative independence. These authorities shall be elected by the Chamber of Deputies, shall submit an annual report to it, and shall be held accountable before the Chamber. All organs of the state shall facilitate their work.

The composition and organization as well as ways of holding these authorities accountable shall be governed by law.

### **Section One – Electoral Authority**

#### **Article 120      Mandate and composition**

The Electoral Authority shall be entrusted with the management, organization, and overseeing of elections and referenda during all phases. The authority shall ensure the soundness, integrity, and transparency of the election process, and announce the results.

The Authority has general dispositional power in the areas over which it has jurisdiction.

The Authority shall be composed of nine independent, impartial, and competent members who undertake their work for one six-year period mandate. One-third of the members shall be replaced biennially.

### **Section Two – Media Authority**

#### **Article 121      Mandate and composition**

The Media Authority shall oversee the modulation and development of the media sector and shall guarantee freedoms of expression and of the media and the right to access information, in order to guarantee the existence of plural and fair media.

The Authority shall be duly consulted on relevant draft laws in the domain of the jurisdiction thereof.

The Authority shall be composed of nine independent, impartial, and competent members who undertake their work for one six-year period mandate that is subject to partial renewal.

### **Section Three – Human Rights Authority**

#### **Article 122      Mandate and composition**

The Human Rights Authority shall oversee the extent to which human rights and freedoms are respected and promoted. The Authority shall also propose amendments to the human rights system and shall be consulted on relevant draft laws in the domain over which it has jurisdiction.



The Authority shall conduct investigations into the violation of any human rights with a view to settlement or referral to the competent authorities.

The Authority shall be composed of independent and impartial individuals who undertake their functions for one six-year period.

## **Chapter Seven – Local Government**

### **Article 123 Decentralisation**

The local government shall be based on decentralization within a framework of the state's unity.

Decentralization shall be represented in local groups made up of municipalities, districts, and regions covering the entire Republic in accordance with a distribution strategy governed by law.

Special types of local authorities may be established by virtue of a law.

### **Article 124 Local authorities**

Local authorities shall enjoy legal personality as well as financial and administrative independence. They shall attend to local interests in accordance with the principle of free discretion.

### **Article 125 Councils and elections**

Elected councils manage local authorities.

Municipal and regional councils shall be elected by virtue of general, free, secret, and direct elections.

Regional councils shall be elected by the members of the local and regional councils.

The Election Law shall ensure the representation of youth in authorities councils.

### **Article 126 Terms of reference and dispositional power**

Local authorities shall enjoy self-managed terms of reference, terms of reference that are co-managed with the state, and terms of reference transferred that are to them from the state.

The co-managed and transferred terms shall be distributed in accordance with the principle of subsidiarity.

Local authorities shall enjoy dispositional power in satisfying their mandates.

### **Article 127 Resources**

Local authorities shall be furnished with self-generated resources and with resources that are given to them by the central government.

All terms of reference established or transferred by the central government shall be coupled with the relevant resources required.

The financial system of local authorities shall be governed by a law.

**Article 128 Additional resources**

The central government shall guarantee the provision of additional resources for local authorities in order to consolidate the principle of solidarity between groups, and to adopt the mechanism of settlement and amendment.

The central government shall balance local resources with local burdens.

**Article 129 Dispositional power**

Local authorities shall have the freedom to dispose of their resources in accordance with good governance rules and under the financial judiciary's supervision.

**Article 130 A posteriori oversight**

Local authorities shall, with respect to the legitimacy of their work, be subject to a posteriori oversight.

**Article 131 Participatory democracy**

Local authorities shall adopt the mechanisms of participatory democracy, and the principles of open governance to ensure a broader participation of citizens and civil society in as specified by the law.

**Article 132 Partnerships, foreign relations**

Local authorities may cooperate and enter into partnerships with each other with a view to laying down programs or executing work of common interest.

Local authorities may also build foreign relations for decentralized partnership and cooperation.

Forms of cooperation and partnership between authorities shall be regulated by a law.

**Article 133 Supreme Council of Local Authorities**

The Supreme Council of Local Authorities shall be a representative structure for all authorities' councils, and shall be headquartered outside of the capital.

The Supreme Council of Local Authorities shall have cognizance over the cases related to development and balance between authorities and shall render an opinion with respect to any draft law related to local planning, budget, and financial issues. The Head of the Supreme Council of Local Authorities may be invited to attend discussions of the Chamber of Deputies.

The composition and tasks of the Supreme Council of Local Authorities shall be governed by law.

**Article 134      Resolution of disputes**

The administrative judiciary shall decide on disputes related to the jurisdiction on disputes arising among local authorities and on disputes arising between the central government and local authorities.

## Chapter Eight – Amendment of the Constitution

### Article 135 Initiation of proposal

The President of the Republic, or one-third of the members of the Chamber of Deputies, shall have the right to initiate a request to amend the Constitution. A proposition initiated by the President of the Republic shall have priority.

### Article 136 Unamendable components

No amendment to the Constitution may bring prejudice to:

- Islam, being the religion of the state.
- The Arabic language, being the official language.
- The republican system.
- The state's civil nature.
- Acquired human rights and freedoms that are guaranteed under the present Constitution.
- The number and duration of presidential terms, and their increase.

### Article 137 Procedure

Each proposition to amend the Constitution shall be submitted by the Chair of the Chamber of Deputies to the Constitutional Court to ensure that such proposition is not related to an article to which the Constitution has banned any amendment.

The Chamber of Deputies shall study the proposed amendment with a view to obtaining the approval of the absolute majority of the members on the concept of amendment.

With consideration to the provisions of Article 136, if the proposition of amendment is related to the provisions of the preamble, chapter of general principles, or the chapter of rights and freedoms, the Constitution shall be amended upon the approval of two-thirds of the members of the Chamber of Deputies and after the amendment has been approved by an absolute majority when put to referendum. If the proposition of amendment is related to provisions other than the abovementioned, the Constitution shall be amended upon the approval of two-thirds of the members of the Chamber of Deputies.

## Chapter Nine – Final Provisions

### **Article 138 Preamble integral part of the Constitution**

This Constitution's preamble is deemed an integral part of the Constitution.

### **Article 139 Interpretation of the Constitution**

The Constitution's provisions shall be interpreted as one homogenous unit.

God is the guarantor of success.

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