TUNISIA

**THE CONSTITUTION OF THE REPUBLIC OF TUNISIA**

Promulgated on January 27 2014

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In the Name of God, the Merciful, the Compassionate

**Preamble**

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 build  the state, to free ourselves  from tyranny,  to affirm our free will and to achieve the objectives of the revolution  for freedom and dignity, the revolution  of December 17, 2010  through  January 14, 2011,  with loyalty to the blood of our virtuous martyrs, to the sacrifices of Tunisian men  and  women  over the course  of generations, and  breaking  with injustice,  inequity,  and corruption.

Expressing our people’s commitment to the teachings  of Islam, to their spirit of openness and  tolerance, to  human  values  and  the  highest principles  of universal  human  rights, inspired  by the heritage  of our civilisation,   accumulated over  the  travails  of our  history,  from  our enlightened reformist movements that are based on the foundations of our Islamic-Arab identity and on the acquisitions of human civilisation, and adhering  to the national  gains achieved by our people;

With  a  view  to  building   a  participatory, democratic,  republican regime, in the framework of a civil state founded on the law and on the sovereignty  of the people,  exercised  through  the peaceful  alternation of power  through  free elections. A political  system  founded  on  the principle  of the separation and balance of powers,  which  guarantees the  freedom   of  association  in  conformity   with  the  principles   of pluralism,  an impartial  administration, and  good  governance, which are the foundations of political  competition, a regime that guarantees respect for human  rights and freedoms, independence of the judiciary, equality  of rights and  duties  between all citizens,  male  and  female, and equality  between all regions;

Based   on   the   elevated    status   of   humankind  and   desirous   of consolidating our  cultural  and  civilizational affiliation  to  the  Arab and  Muslim nation,  building  on  our  national  unity  that  is based  on citizenship, fraternity, solidarity, and social justice. Committed  to strengthening Maghreb  unity as a step towards  achieving  Arab unity, towards   complementarity  with  the  Muslim  and   with  the  African peoples,  and  towards  cooperation with all the peoples  of the world. Desirous of supporting  all victims of injustice,  wherever  they are, defending  the peoples’ right to determine their own destiny, to support all just liberation movements, at the forefront of which is the movement for the liberation  of Palestine;  and opposing  all forms of colonisation and of racism;

Being aware of the necessity of contributing to the preservation of a healthy environment that guarantees the sustainability  of our natural resources and bequeathing a secure life for future generations. Realising the will of the people to be the makers of their own history. Believing in science,   work,  and  creativity  as  noble   human   values.  Seeking always  to be pioneers,  aspiring  to contribute to the  development of civilization,  on  the  basis  of the  independence of national  decision- making, world peace, and human  solidarity;

We,  in the name  of the Tunisian  people,  with the help  of God,  draft this Constitution.

**Chapter One – General Principles**

Article 1

Tunisia is a free, independent, sovereign state; its religion is Islam, its language Arabic, and its system is republican.

This article cannot be amended.

Article 2

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

This article cannot be amended.

Article 3

The people are sovereign and the source of authority, which is exercised through the peoples’ representatives and by referendum.

Article 4

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

The national  anthem  of the Tunisian  Republic  is “Humat  Al-Hima” (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

The Republic of Tunisia is a part of the Arab Maghreb and works towards achieving  its unity and takes all measures  to ensure its realisation.

Article 6

The  state   is  the   guardian   of  religion.   It  guarantees  freedom   of conscience and  belief,  and  the  free  exercise  of religious  practices and the neutrality  of mosques  and places  of worship from all partisan instrumentalisation.

The  state  undertakes to  disseminate the  values  of moderation and tolerance and the protection of the sacred,  and the prohibition of all violations  thereof.  It undertakes equally to prohibit  and  fight against calls for Takfir and the incitement of violence  and hatred.

Article 7

The family is the nucleus  of society and the state shall protect it.

Article 8

Youth are an active force in building the nation.

The  state  seeks  to  provide  the  necessary  conditions for developing the  capacities of youth  and  realising  their  potential,  supports  them to assume responsibility, and strives to extend and generalise their participation in social, economic, cultural and political  development.

Article 9

Protecting the unity and integrity of the homeland is a sacred duty for all citizens. National  service is a duty according to the regulations  and conditions established by the law.

Article 10

Paying taxes and contributing  towards  public  expenditure are obligations,  through  a fair and  equitable system. The state  shall  put in place  the necessary  mechanisms for the collection of taxes, and to combat  tax evasion  and fraud. The state shall ensure the proper use of public funds and take the necessary  measures  to spend it according to the priorities of the national  economy, and prevents corruption and all that can threaten  national  resources  and sovereignty.

Article 11

All those who assume  the roles of President  of the Republic,  Head  of Government, member  of the Council  of Ministers, or member  of the Assembly of the Representatives  of the People, or member of any of the independent constitutional bodies or any senior public  position,  must declare  their assets according to the provisions of the law.

Article 12

The state shall seek to achieve  social justice, sustainable development and  balance between regions  based  on development indicators  and the principle  of positive discrimination.

The state shall seek to exploit  natural  resources  in the most efficient way.

Article 13

Natural  resources  belong  to the people  of Tunisia. The state exercises sovereignty over them in the name of the people.  Investment contracts related   to  these   resources   shall   be   presented  to  the   competent commission in  the  Assembly  of the  Representatives   of the  People. The  agreements concluded  shall  be  submitted  to  the  Assembly  for approval.

Article 14

The state commits to strengthen decentralisation and to apply it throughout the country,  within the framework of the unity of the state.

Article 15

The public  administration is at the  service  of the  citizen  and  of the common good.  It is organised  and  operates  in accordance with  the principles of impartiality, equality and the continuity of public services, and  in conformity  with the rules of transparency, integrity, efficiency and accountability.

Article 16

The state guarantees the impartiality  of educational institutions  from all partisan instrumentalisation.

Article 17

Only the state may establish armed forces and internal security forces, in conformity with the law and in the service of the public  interest.

Article 18

The national  army is a republican army. It is an armed  military force based  on  discipline  that  is composed and  structurally  organized in accordance with  the  law  and  charged  with  responsibility  to defend the nation,  its independence and  its territorial  integrity. It is required to remain  completely impartial.  The national  army supports  the civil authorities  in accordance with the provisions set out in law.

Article 19

The national  security  forces are  republican; they are  responsible for maintaining security and public order, ensuring the protection of individuals,  institutions,  and  property,  and  ensuring  the enforcement of the law while ensuring  that freedoms  are respected, with complete impartiality.

Article 20

International agreements approved and ratified by the Assembly of the Representatives  of the People have a status superior to that of laws and inferior to that of the Constitution.

**Chapter Two – Rights and Freedoms**

Article 21

All citizens,  male  and  female,  have  equal  rights and  duties,  and  are equal before the law without any discrimination.

The state guarantees freedoms  and individual  and collective  rights to all citizens,  and assures all citizens the conditions for a dignified life.

Article 22

The  right  to  life  is  sacred   and   cannot   be  prejudiced  except   in exceptional cases regulated  by law.

Article 23

The state protects  human  dignity and physical  integrity, and prohibits mental  and  physical  torture.  Crimes of torture  are not subject  to any statute of limitations.

Article 24

The state protects the right to privacy and the inviolability of the home, and   the  confidentiality   of  correspondence, communications, and personal  information.

Every citizen  has the right to choose  their place  of residence, to free movement within the country,  and the right to leave the country.

Article 25

No citizen  shall be deprived  of their nationality,  exiled,  extradited  or prevented from returning to their country.

Article 26

The right to political  asylum shall be guaranteed as prescribed by law. It is prohibited to surrender  persons  who have been  granted  political asylum.

Article 27

A defendant shall be presumed innocent until proven  guilty in a fair trial in which  he/she  is granted  all guarantees necessary  for his/her defence  throughout all the phases of prosecution and trial.

Article 28

Punishments are individual  and are not to be imposed  unless by virtue of a legal provision  issued  prior to the occurrence of the punishable act, except in the case of a provision more favourable  to the defendant.

Article 29

No person may be arrested or detained unless apprehended during the commission of a crime or on the basis of a judicial order.

The detained person must be immediately  informed of their rights and the  charges  under  which  they  are  being  held.  The detainee has  the right to be represented by a lawyer. The periods of arrest and detention are to be defined by law.

Article 30

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

In carrying  out a punishment involving the deprivation of liberty, the state shall take into account the interests of the family and shall seek the rehabilitation and re-integration of the prisoner into society.

Article 31

Freedom of opinion,  thought, expression,  information  and publication shall be guaranteed.

These freedoms  shall not be subject  to prior censorship.

Article 32

The state guarantees the right to information  and the right of access to information  and communication networks.

Article 33

Academic   freedoms   and   freedom   of  scientific   research   shall   be guaranteed.

The state shall provide the necessary  resources  for the development of scientific and technological research.

Article 34

The rights to election, voting, and candidacy are guaranteed, in accordance with the law. The state seeks to guarantee women’s representation in elected  bodies.

Article 35

The freedom  to establish  political  parties,  unions,  and associations is guaranteed.

In their  internal  charters  and  activities,  political  parties,  unions  and associations must respect  the provisions  of the Constitution, the law, financial transparency and the rejection  of violence.

Article 36

The right to join and form unions  is guaranteed, including  the right to strike.

This right does not apply to the national  army.

The right to strike does not apply to the forces of internal  security and to customs officers.

Article 37

The right to assembly  and peaceful  demonstration is guaranteed.

Article 38

Health is a right for every human  being.

The state  shall  guarantee preventative health  care  and  treatment  for every citizen and provide the means necessary to ensure the safety and quality of health services.

The state  shall  ensure  free health  care  for those  without  means  and those   with  limited   income.   It  shall  guarantee  the  right  to  social assistance  in accordance with the law.

Article 39

Education shall be mandatory  up to the age of sixteen years.

The state  guarantees the  right to free public  education at all levels and  ensures  provisions  of the necessary  resources  to achieve  a high quality  of  education, teaching,   and  training.  It shall  also  work  to consolidate the Arab-Muslim  identity  and  national  belonging  in the young generations, and to strengthen, promote  and generalise  the use of the Arabic language  and to openness to foreign languages,  human civilisations and diffusion of the culture of human  rights.

Article 40

Work is a right for every citizen,  male and female. The state shall take the necessary  measures  to guarantee work on the basis of competence and fairness.

All citizens,  male and female,  shall have the right to decent  working conditions and to a fair wage.

Article 41

The right to property shall be guaranteed, and it shall not be interfered with except  in accordance with circumstances and  with protections established by the law.

Intellectual  property is guaranteed.

Article 42

The right to culture is guaranteed.

The freedom of creative expression is guaranteed. The state encourages cultural creativity and supports the strengthening of national culture, its diversity and renewal,  in promoting  the values of tolerance, rejection of  violence,   openness to  different  cultures   and  dialogue   between civilizations.

The state  shall  protect  cultural  heritage  and  guarantees it for future generations.

Article 43

The state shall promote  sports and shall work to provide  the facilities necessary  for the exercise of physical and leisure activities.

Article 44

The right to water shall be guaranteed.

The conservation and  rational  use of water  is a duty of the state and of society.

Article 45

The state guarantees the right to a healthy  and balanced environment and the right to participate in the protection of the climate.

The state shall provide  the necessary  means  to eradicate pollution  of the environment.

Article 46

The  state  commits  to  protect  women’s  accrued rights  and  work  to strengthen  and develop  those rights.

The state guarantees the equality of opportunities between women  and men to have access to all levels of responsibility  in all domains.

The state works to attain  parity between women  and  men  in elected

Assemblies.

The state takes all necessary  measures  in order  to eradicate violence against women.

Article 47

Children  are guaranteed the rights to dignity, health,  care,  education, and teaching  from their parents and the state.

The state must provide  all types of protection to all children  without discrimination and in accordance with their best interests

Article 48

The state shall protect persons with disabilities from all forms of discrimination.

Every disabled  citizen  shall have the right to benefit, according to the nature  of the  disability,  from all measures  that  will assure  their  full integration  into society, and the state shall take all necessary  measures to achieve  this.

Article 49

The limitations  that can be imposed  on the exercise  of the rights and freedoms  guaranteed in this Constitution  will be established by law, without  compromising their  essence.  Any such  limitations  can  only to be  put  in place  for reasons  necessary  to a civil  and  democratic state and  with the aim of protecting  the rights of others,  or based  on the requirements of public  order,  national  defence, public  health  or public  morals,  and  provided  there  is proportionality between these restrictions and the objective  sought.

Judicial authorities  ensure that rights and freedoms  are protected from all violations.

There can be no amendment to the Constitution  that undermines the human  rights and freedoms  guaranteed in this Constitution.

**Chapter Three – Legislative Authority**

Article 50

The  people  exercise  legislative  power  through  their  representatives in the Assembly of the Representatives  of the People or through referendum.

Article 51

The seat of the Assembly of the Representatives  of the People  shall be located  in the Capital. Nevertheless, in exceptional circumstances, the Assembly may sit in any other place within the Republic.

Article 52

The Assembly of the Representatives  of the People enjoys financial and administrative independence within the framework of the state budget.

The Assembly  of the  Representatives  of the  People  shall  determine its rules of procedure and  ratify them  by an absolute  majority  of the members  of the Assembly.

The   state   shall   put   at   the   disposition   of  the   Assembly   of  the Representatives   of  the  People   the  necessary   human   and  material resources   to  allow   for  members   of  the  Assembly  to  fulfil  their obligations.

Article 53

Every Tunisian  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 is eligible to be elected  to the Assembly of the Representatives  of the People,  provided  that they are not prohibited from holding such a position  as specified by the law.

Article 54

Every Tunisian citizen  aged eighteen  years shall be deemed a voter in accordance with the conditions established by the electoral  law.

Article 55

Members of the Assembly of the Representatives  of the People shall be elected  by universal,  free, direct, secret, fair and transparent suffrage, in accordance with the electoral  law.

The electoral  law guarantees the voting and representation rights to the Assembly of the Representatives  of the People  for Tunisians  resident overseas.

Article 56

The Assembly of the Representatives  of the People shall be elected  for a mandate of five years, during the last sixty days of the parliamentary mandate.

In the  event  of inability  to  hold  elections   as  a  result  of imminent danger,  the mandate of the Assembly shall be extended according to the provisions of a law.

Article 57

The  Assembly  of  the  Representatives   of  the  People   shall  hold  an ordinary session each  year starting in October and ending  in July. The first session of the Assembly of the Representatives  of the People  shall begin within fifteen days following the proclamation of the definitive results of the legislative elections, at the request of the President of the outgoing Assembly.

In the event  that the beginning  of the first session  of the term of the Assembly of the Representatives  of the People coincides with its recess, an extraordinary session shall be held in order to proceed to a vote of confidence in the government.

During  its recess,  the Assembly of the Representatives  of the People shall  convene in  an  extraordinary session  upon  the  request  of the President of the Republic, the Head of Government, or one-third  of its members,  to examine  a specific agenda.

Article 58

Every member  in the Assembly of the  Representatives  of the  People shall, upon assuming their functions,  swear the following oath:

“I swear, by God Almighty, that I will diligently serve the nation,  that I will respect  the provisions  of the Constitution, and that I will bear full allegiance to Tunisia.”

Article 59

The Assembly  of the  Representatives   of the  People  shall  in  its first session elect a President  from amongst its members.

The  Assembly   of  the   Representatives    of  the   People   shall   form permanent and special committees. Their composition and the sharing of responsibilities within  the committees shall be determined on the basis of proportional representation.

The  Assembly   of  the   Representatives    of  the   People   may   form committees of enquiry.  All authorities  shall assist such committees of enquiry in undertaking their missions.

Article 60

The  opposition is  an  essential  component of  the  Assembly  of  the Representatives  of the People.  It shall enjoy the rights that enable  it to undertake its parliamentary duties and is guaranteed an adequate and effective representation in all bodies  of the Assembly, as well as in its internal and external  activities.

The opposition is assigned  the presidency of the Finance  Committee, and rapporteur of the External Relations Committee.

It has the right to establish and head a committee of enquiry annually. The opposition’s  duties  include  active  and  constructive participation

in parliamentary work.

Article 61

Voting in the Assembly of the Representatives  of the People is personal and may not be delegated.

Article 62

Legislative initiative  is carried  out with legislative  propositions  made by  no  less  than  ten  members,  or  with  draft  laws  submitted  by  the President  of the Republic,  or by the Head of Government.

The Head  of the Government is the only authority  entitled  to present draft laws related to the ratification of treaties and draft budget laws.

Draft laws presented by the President or the Head of Government shall be given priority.

Article 63

Legislative propositions  and  amendments presented by members  of the Assembly of the Representatives  of the People are not admissible  if they affect the financial balances fixed in the finance law.

Article 64

The Assembly of the  Representatives  of the  People  shall  adopt  draft organic  laws  by an  absolute  majority  of all members,  and  ordinary draft laws by a majority  of members  who  are present,  provided  that such  a majority  represents  no less than  one-third  of the members  of the Assembly.

No  draft  organic  law  shall  be  presented for debate  to  the  plenary session  of the Assembly of the Representatives  of the People  until at least fifteen days have  passed  since  its submission  to the competent parliamentary committee.

Article 65

Laws relating to the following areas are deemed ordinary laws:

-  Creation   of  public   institutions   and  facilities  and  the  provisions regulating their sale.

-  Nationality.

-  Civil and commercial obligations.

-  Procedures before various types of courts.

-  Definition  of felonies  and  misdemeanours and  the  corresponding punishments applicable,  in  addition   to  violations  resulting  in  a penalty involving deprivation of freedom.

-  General  pardon.

-  Regulation   of  taxation   rules,   percentages  and   procedures  for collection thereof.

-  Regulations on issuance  of currency

-  Loans and financial obligations  of the state.

-  Regulation of senior public  positions

-  Declaration of earnings

-  Basic guarantees given to civil and military public  employees.

-  System for the ratification of treaties.

-  Laws of finance  and closing of the state budget,  and the ratification of development plans.

-  The   fundamental   principles    of   property    laws,   real   property rights,  education, scientific  research,  culture,   public   health,   the environment, land and urban  planning,  energy, employment rights, and social security.

Laws relating to the following areas are deemed organic laws:

-  Approval of treaties.

-  Organization of justice and the judiciary.

-  Organization of information,  press and publication.

-  Organization and  financing  of parties,  trade  unions,  associations, and professional  organisations and bodies.

-  Organization of the national  army.

-  Organization of the internal security forces and customs.

-  Election law.

-  Extension of the term of the parliament according to the provisions of article 56.

-  Extension  of the  presidential term  according to  the  provisions  of article 75.

-  Freedoms and human  rights.

-  Personal status law.

-  Fundamental duties of citizenship.

-  Local government

-  Organization of constitutional commissions.

-  The organic budget law.

All matters which  do not form part of the domain  of laws shall be in the domain  of general regulatory authority.

Article 66

The law determines the state’s resources and its expenses in conformity with the provisions set out in the organic law concerning the budget.

The Assembly of the  Representatives  of the  People  shall  adopt  draft finance  laws  and  budget  closure  legislation  in accordance with  the provisions of the organic law on the budget.

The draft finance law shall be presented to the Assembly no later than

October 15 and it shall be adopted no later than December 10.

The  President  of the  Republic  may  resubmit  the  draft  finance  law to  the  Assembly  for  a  second   reading   within  two  days  following its ratification  by the Assembly.  In this case,  the Assembly meets  to deliberate a second  time within three days of the exercise  of this right of resubmission.

During  the  three  days  following  the  adoption of  the  draft  law  on second  reading after resubmission, or after the expiry of the period for the exercise of the right of resubmission, parties mentioned in the first  section of article 120 can contest the constitutionality of the provisions of the draft finance law before the Constitutional Court. The Court shall issue its decision  within five days.

If the Constitutional Court rules that the draft law is unconstitutional, it communicates its decision to the  President  of the  Republic,  who in turn communicates it to the President of the Assembly of the Representatives  of the  People.  These procedures shall be completed within two days from the date of the court’s decision.

The  Assembly  shall  adopt  the  draft  finance  law  within  three  days following its receipt of the decision  of the Constitutional Court.

If  the  constitutionality of the  draft law  is confirmed  or if the  law  is voted in a second  reading after its resubmission to the Assembly, once the period  for claims  of unconstitutionality or for the exercise  of the presidential right of resubmission have  expired,  the  President  of the Republic promulgates  the finance law within a period of two days.

In all cases the promulgation shall take place before December 31.

If the draft finance law is not adopted by December31, the law can be implemented in terms of expenditures by renewable presidential order, in three months  tranches.  Revenues shall continue to be collected in accordance with the laws in force.

Article 67

Commercial treaties and treaties related to international organisations, to borders of the state, to financial obligations  of the state, to the status of individuals,   or  to  dispositions  of a  legislative  character shall  be submitted  to the  Assembly  of the  Representatives  of the  People  for ratification.

Treaties enter into application only upon their ratification.

Article 68

No  member   of the  Assembly  of the  Representatives   of the  People may be prosecuted through  civil or criminal  proceedings, arrested  or tried for opinions  or propositions  presented or for work performed  in relation to his/her parliamentary functions.

Article 69

If  a  member  of the  Assembly  of the  Representatives   of the  People asserts  criminal  immunity  in writing,  he/she  may  not  be  prosecuted or arrested  during  his/her  term of office for a criminal  charge  unless immunity is lifted. In the event of being apprehended while committing a crime, the member may be arrested. The President of the Assembly of the Representatives  of the People shall immediately  be notified and the member  shall be released  if the Bureau of the Assembly so requests.

Article 70

In the  event  of the  dissolution  of the Assembly,  the  President  of the Republic  may, with the agreement of the Head  of Government, issue decree-laws which  shall be submitted  for ratification  to the Assembly of the Representatives  of the People during its next ordinary session.

The Assembly of the Representatives  of the People may, with the agreement of three-fifths of its members,  authorise  by law for a limited period  not  exceeding two  months,  and  for a  specific  purpose, the Head of Government to issue decree-laws of a legislative character, to be submitted  for ratification to the Assembly immediately  after the end of the period of authorisation.

The electoral  system cannot  be amended by decree-laws.

**Chapter Four – The Executive Authority**

Article 71

Executive authority  is exercised  by the President  of the Republic  and by a government which is presided  by the head of the government.

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

Article 72

The President  of the Republic  is the Head  of State and the symbol of its unity. He guarantees its independence and continuity, and ensures respect  of the Constitution.

Article 73

The official  seat  of  the  Presidency   of  the  Republic   is  Tunis.  In exceptional circumstances, the  seat  may  be transferred  to any other location  in the Republic.

Article 74

Every male  and  female  voter  who  holds  Tunisian  nationality  since birth, whose  religion is Islam shall have the right to stand for election to the position  of President  of the Republic.  On  the day of filing the application for candidacy, the  candidate must  be  a minimum  of 35 years old.

If the candidate has a nationality  other  than  the Tunisian  nationality, he or she must submit an application committing  to abandon the other nationality  if elected  president.

The candidate must have  the support  of a number  of members  of the Assembly of the Representatives of the People  or heads  of elected  local authority councils,  or of registered voters, as specified by the election law.

Article 75

The President of the Republic is elected  for a five-year term during the last sixty day period  of the  presidential term  by means  of universal, free,  direct,  secret,  fair,  and  transparent elections,  by  an  absolute majority of votes cast.

In the  event  that  no  candidate achieves  such  a majority  in the  first round,   a  second   round  shall  be  organised   during  the  two  weeks following the announcement of the definitive results of the first round. Only  the  two  candidates having  won  the  highest  number  of votes during the first round may stand for election  in the second  round.

In the event  of the death  of one  of the candidates during  the first or second   round,   nominations shall  be  reopened and  new  dates  for elections  shall be set within no more than forty-five days. Withdrawal of candidates from the first or second round will not affect the election.

In the event of failure to hold the presidential elections  as a result of imminent  danger,  the  term  of presidency shall  be extended through passage of a law.

No-one  can  occupy  the  post  of presidency for more  than  two  full terms, whether  consecutive or separate. In the case of resignation,  the term counts as a full term.

The constitution may not be amended to increase  the number  or the length of presidential terms.

Article 76

The elected  President  of the Republic  shall swear  the following  oath before the Assembly of the Representatives  of the People:

“I do solemnly  swear by God Almighty to maintain  the independence of Tunisia  and  the integrity of its territory,  to respect  its Constitution and  legislation,  to  safeguard  its interests,  and  to  remain  absolutely loyal to it”.

The President  of the  Republic  may  not  combine a partisan  position with that of President.

Article 77

The President  of the Republic is responsible for representing  the state. He/she  is responsible for determining the general  state orientations in the domains  of defence, foreign relations and national  security related to protecting  the state and the national  territory from all internal  and external  threats, after consultation with the Head of Government.

He/she is also responsible for:

-  Dissolving  the  Assembly  of the  Representatives   of the  People  in accordance with the Constitution’s  provisions.  The Assembly shall not be dissolved during the six months following granting confidence to the government, or the six months following legislative elections, or during  the  last six months  of the  presidential or parliamentary terms.

-  Chairing  the  National   Security  Council,   to  which   the  Head   of Government and President of the Assembly of the Representatives  of the People are invited.

-  Being the Commander-in-Chief of the armed  forces.

-  Declaring   war  and  establishing   peace, upon   the  approval   by  a majority of three-fifths of the members  of the Assembly of the Representatives  of the People, as well as sending troops abroad  with the approval  of the President of the Assembly of the Representatives of the People  and  of the Head  of Government; the Assembly shall deliberate on the matter  within  a period  not exceeding sixty days from the date of the decision  to send troops.

-  Taking measures  that are required  by a state of emergency, and  to publicly announce such measures  in accordance with article 80.

-  Ratifying treaties and ordering their publication.

-  The right of clemency.

-  Issuing special pardons.

Article 78

The President  of the Republic  undertakes the following appointments through presidential orders:

-  Appointing   and   dismissing   the   General   Mufti  of  the  Tunisian

Republic.

-  Appointing and dismissing individuals with respect to senior positions in the Presidency  of the Republic, and dependent institutions. These senior positions are determined by law.

-  Appointing and dismissing individuals with respect to senior military and diplomatic positions,  and positions  related  to national  security, after consultation with the Head  of Government. These senior positions are determined by law.

-  Appointing   the  governor   of  the  Central  Bank  upon   proposal   of the Head  of Government after approval  of the appointment by an absolute majority of members of the Assembly of the Representatives of the People. The governor  shall be dismissed in the same manner, or upon  the request  of a third of members  of the Assembly of the Representatives  of the People and by approval  of the majority of the members.

Article 79

The  President   of  the  Republic   may  address   the  Assembly  of  the

Representatives  of the People.

Article 80

In the event  of imminent  danger  threatening the nation’s  institutions or the  security  or independence of the  country,  and  hampering  the normal  functioning  of the  state,  the  President  of the  Republic  may take  any  measures   necessitated by  the  exceptional circumstances, after consultation with the Head  of Government and the President  of the Assembly of the Representatives  of the People  and  informing  the President of the Constitutional Court. The President shall announce the measures  in a statement  to the people.

The measures  shall  guarantee, at the  earliest  possibility,  a return  to the normal functioning  of state institutions and services. The Assembly of the Representatives  of the People  shall be deemed to be in a state of  continuous session  throughout such  a  period.   In  this  situation, the  President  of the  Republic  cannot  dissolve  the  Assembly  of the Representatives   of the  People  and  a  motion  of censure  against  the government cannot  be presented.

Thirty days  after the  entry  into  force  of these  measures,  and  at any time thereafter,  the President of the Assembly of the Representatives  of the People  or thirty of the members  thereof shall be entitled  to apply to the  Constitutional Court  with  a view  to verifying whether  or not the circumstances remain  exceptional. The Court shall rule upon  and publicly issue its decision  within a period not exceeding fifteen days.

These measures cease to be in force as soon as the circumstances justifying their implementation no longer  apply. The President  of the Republic shall address a message to the people  to this effect.

Article 81

The President  of the Republic  shall promulgate laws and assure their publication in the Official Gazette  of the Tunisian  Republic  within  a period of not more than four days from:

1.   The end  of the deadline to challenge unconstitutionality and  the deadline to return, but neither of these occurred.

2.  The end of the deadline to return after issuing a decision  of constitutionality, or after the mandatory  transmission  of the draft law to the President  of the Republic  in accordance with the final paragraph of Article 121.

3.   The  end  of  the  deadline to  challenge  unconstitutionality of  a draft  law  that  was  returned  from  the  President  of the  Republic and  its ratification  in a modified  version  by the Assembly of the Representatives  of the People.

4.   The  second  approval,  without  amendment, of a  draft  law,  after return,  by  the  Assembly  of  the  Representatives   of  the  People, without  being  subject  to a challenge of unconstitutionality  after the  first ratification,  or the  issuance  of a decision  confirming  its constitutionality, or the  mandatory  transmission  of the  draft law to  the  President   of  the  Republic  in  accordance with  the  final paragraph of Article 121.

5.   The court  decides  a law is constitutional, or after the mandatory transmission   of  the  draft  law  to  the  President   of  the  Republic in accordance with  the  final paragraph of Article 121,  if it was returned  from the President  of the Republic  and was approved, in a modified version, by the Assembly.

With  the  exception of draft constitutional laws,  the  President  of the Republic  has  the  right  to  return  the  draft  with  explanation to  the Assembly to discuss it again within five days from:

1.   The end of the deadline to challenge constitutionality according to provisions of the first section  of Article 120,

2. Issuance of a decision  on its constitutionality or when the Constitutional Court  abandons it according to provisions  of the third  paragraph  of Article  121,  in  the  case  of  challenging the meanings  included in the first section  of Article 120.

Upon return, the ratification of ordinary draft laws requires the approval of the absolute majority  of the members  of the Assembly, while draft organic laws require  the approval  of three fifths of the members.

Article 82

The  President  of  the  Republic  may,  in  exceptional circumstances, within the deadlines for return of a draft law, submit for a referendum, draft laws related  to ratification  of treaties,   to freedoms  and  human rights, or personal  status, which  were adopted by the Assembly of the Representatives  of the People. The submission  to referendum shall be deemed a waiver of the right to return the draft law to the Assembly.

If the result of the referendum is the ratification  of the draft law,  the President  of the Republic  shall promulgate it and  order  to publish  it within a period not exceeding ten days from the date of announcement of the results of the referendum.

The  electoral  law  shall  regulate  the  procedures for conducting the referendum and announcing its results.

Article 83

The President of the Republic may, in the event of a temporary inability to perform  his/her  tasks, temporarily  delegate  his/her  powers  to the Head  of Government for a maximum  period  of 30  days,  renewable once.

The President of the Republic shall inform the President of the Assembly of the  Representatives  of the  People  of the  temporary  delegation of powers.

Article 84

In the  event  of the  position  of President  of the  Republic  becoming temporarily   vacant   for  reasons   that  prevent   the  President   of  the Republic  from  delegating   his/her  powers,   the  Constitutional  Court shall promptly  meet and declare  the temporary  vacancy  of the office, and  the  Head  of  Government  shall  immediately   be  invested  with the  responsibilities of the  President  of the  Republic.  The  period  of temporary  vacancy  may not exceed  sixty days.

Should  the temporary  vacancy  exceed  the sixty-day period,  or if the President of the Republic submits a written resignation to the President of the Constitutional Court, or in the event of his/her death or absolute incapacity, or for any other  reason  that causes  a permanent vacancy, the  Constitutional Court  shall  promptly  meet  and  acknowledge the permanent  vacancy   and   notify  the  President   of  the  Assembly  of the  Representatives  of the  People  who  shall,  on  a temporary  basis, immediately  undertake the tasks of the President  of the Republic for a duration  of no less than forty-five days and no more than ninety days.

Article 85

In the event of permanent vacancy, the interim President of the Republic shall take the oath set out in the Constitution  before the Assembly of the Representatives  of the People, and in case it is necessary  before the Assembly’s Bureau or before the Constitutional Court in the event that the Assembly has been dissolved.

Article 86

The   interim   President    of   the   Republic,    during   the   temporary or permanent vacancy  of the office, exercises the presidential responsibilities. He/she  shall not be entitled  to propose  amending the Constitution, call  for a referendum or dissolve  the  Assembly  of the Representatives  of the People.

During  the  period   of  interim  presidency,  a  new  President   of  the Republic  shall  be  elected  for a full presidential term.  No  motion  of censure  against  the government may be presented during  the period of interim presidency.

Article 87

The President  of the Republic  enjoys judicial  immunity during his/her mandate. All statutes of limitations and other deadlines are suspended, and judicial procedures can only be recommenced after the end of his/ her term.

The President  of the Republic cannot  be prosecuted for acts that were carried out in the context of performing  his/her functions.

Article 88

The Assembly of the Representatives  of the People  may,  through  the initiative  of a majority  of its members,  present  a motion  to bring an end  to the President  of the Republic’s  mandate for a grave violation of the Constitution. Such a motion must be approved by two-thirds of members.  In such an event, the matter is referred to the Constitutional Court  for decision  by majority  of two-thirds  of its members.  In the event  of condemnation, the  Constitutional Court  orders  removal  of the President  of the Republic  from office, without  excluding  eventual criminal  prosecution when  necessary.  Where  the President  has been removed  from office under these circumstances, he/she is not entitled to run in any subsequent elections.

**Section Two – The Government**

Article 89

The  government  shall  be  composed  of  a  Head   of  Government, Ministers, and secretaries of state selected by the Head of Government, and  in the  case  of the  Ministers  of Foreign Affairs and  Defence,  in consultation with the President  of the Republic.

Within  one  week  of the declaration of the definitive  election  results, the President  of the Republic  shall charge  the candidate of the party or the  election  coalition  having  won  the  largest  number  of seats  in the  Assembly  of the  Representatives   of the  People  with  forming  a government, within  a one  month  period,  extendable once.  If two or more  parties  or coalitions  have  the  same  number  of seats,  then  the party or coalition  having received  the largest number  of votes shall be asked to form a government.

If the specified period elapses without the formation of the government, or  if the  confidence of the  Assembly  of the  Representatives   of the People  is not  obtained, the  President  of the  Republic  shall  consult with  political   parties,   coalitions,   and   parliamentary  groups,   with the  objective   of  charging  the  person  judged  most  able  to  form  a government within a period of not more than one month.

If in the four month period following the first designation of a person to form a government, the members  of the Assembly of Representatives of the people  fail to grant confidence in a government, the President of the Republic  may dissolve  the Assembly of the Representatives  of the People  and  call for new  legislative  elections  to be held  within  a minimum  of 45 days and a maximum  of 90 days.

The  government shall  present  a  summary  of its programme to  the Assembly of the  Representatives  of the  People  with  the  objective  of obtaining   the  confidence of  an  absolute   majority  of  its  members. Should the government thus gain the confidence of the Assembly, the President  of the Republic  shall appoint  the Head  of Government and the members  of the government.

The Head  of Government and  the members  of the government shall swear the following oath before the President  of the Republic:

“I swear  by Almighty God  to work loyally for the benefit  of Tunisia, to respect  the country’s  Constitution  and  its legislation,  to defend  its interests and bear full allegiance to it”.

Article 90

Membership of the government and of the Assembly of the Representatives  of the People may not be combined. The Electoral Law shall regulate  the process of filling vacancies.

The head  and  members  of government may  not  exercise  any  other professional  activity.

Article 91

The Head  of Government determines the state’s general  policy, taking into account the provisions of Article 77, and shall ensure its execution.

Article 92

The Head of Government is responsible for:

-  Creating,  modifying  and  dissolving  ministries  and  secretariats   of state, as well as determining their mandates and prerogatives,  after discussing the matter with the Council of Ministers

-  Dismissing,   and   accepting  the   resignation(s),   of  one   or  more members  of the  government, after consultation with  the  President of the Republic  in the case  of the Ministers of Foreign Affairs and Defence.

- Creating,  amending, and  dissolving  public  institutions,  public enterprises  and  administrative departments as well  as establishing their  mandates and  authorities, after  deliberation in  the  Council of Ministers, except in the case of institutions, enterprises  and departments under the competence of the President of the Republic, which are created,  changed or dissolved by proposition of the President.

-  Nominating and  dismissing  individuals   in  senior  civil  positions. These positions are determined by law.

The Head of Government informs the President  of the Republic of the decisions  taken  within  the  latter’s  aforementioned specific  areas  of competence.

The   Head   of  Government  leads   the   public   administration and concludes international agreements of a technical nature.

The  government  ensures   the  enforcement  of  laws.  The  Head   of

Government may delegate  some of his/her authorities  to the Ministers. If the Head  of Government is temporarily  unable  to carry out his/her

tasks, he/she shall delegate  his/her powers to one of the Ministers.

Article 93

The Head of Government chairs the Council of Ministers.

The  Council   of  Ministers  meets   by  convocation  of  the  Head   of Government, who sets its agenda.

It is mandatory  for the President  of the Republic  to preside  over the Council  of Ministers in issues relating to defence, foreign policy,  and national  security  as concerns the  protection of the  state  and  of the national  territory from internal and external threats. The President may also attend  the Council  of Ministers’ other meetings,  and if so, he/she presides over the meeting.

All draft laws are discussed  in the Council of Ministers.

Article 94

The Head of Government exercises general regulatory powers. He/she is individually  responsible for issuing  decrees  that he/she  signs after discussion  with the Council of Ministers.

Orders   issued   by   the   Head   of  Government  are   referred   to   as governmental decrees.

Regulatory decrees  are signed by the competent Minister.

The Head  of Government shall countersign regulatory  decrees  issued by Ministers.

Article 95

The   government   is   accountable   before    the   Assembly   of   the

Representatives  of the People.

Article 96

Every  Assembly  member   has  the  right  to  submit   written   or  oral questions   to  the  Government  in  accordance  with  the  Assembly’s internal rules of procedure.

Article 97

Votes  may  be  taken  on  a  motion  of  censure   brought   against  the government  based  on  a  request  with  justification  presented by  at least  one-third  of the  members  to the  President  of the  Assembly  of Representatives. The motion  of censure  cannot  be voted  until fifteen days have  expired  from the date  that the motion  is presented to the President  of the Assembly.

A vote of non-confidence in the government requires  the vote of an absolute majority of the members of the Assembly of the Representatives of the People,  and the presentation of an alternative  candidate for the Head of Government whose candidacy must be approved in the same vote. The President  of the Republic  shall  entrust  this candidate with the  task of forming  the  government, according to the  provisions  of Article 89.

In the  event  of failure  to  attain  the  necessary   absolute  majority,  a motion  of censure  may not be reintroduced for a minimum  period  of six months.

The  Assembly  of  the  Representatives   of  the  People  may  withdraw its confidence in a member  of the  government after a request  with justification  is submitted  to the President  of the Assembly by at least one-third  of the members. Withdrawal of the Assembly’s confidence in the member  of the government requires  an absolute  majority of votes.

Article 98

The resignation  of the Head  of Government entails the resignation  of the entire government. Resignation shall be submitted  in writing to the President of the Republic who notifies the President of the Assembly of the Representatives  of the People.

The Head of Government may request the Assembly of the Representatives   of  the  People  to  give  a  vote  of  confidence to  the government to continue its work. The vote of confidence shall be by an absolute majority of the members of the Assembly of the Representatives of  the  People.   Should  the  Assembly  not  renew  confidence in  the government, the latter shall be deemed to have resigned.

In both  cases,  the  President  of the  Republic  shall  assign  the  person who is most able to constitute  the government in accordance with the provisions of Article 89.

Article 99

The   President   of   the   Republic   may   ask   the   Assembly   of   the Representatives    of   the   People   to   renew   its   confidence  in   the government on a maximum  of two occasions during  the presidential mandate. Confidence is voted by the absolute  majority of members  of the Assembly of the Representatives  of the People.

In  the  case  of  the  non-renewal  of  confidence, the  government  is considered to have resigned.  In this case the President of the Republic charges  the person  most able  to form a government in a period  not exceeding thirty  days  in  conformity  with  the  first, fifth, and  sixth paragraphs of Article 89.

In the case of the expiry of this period, or in the case of the government not  obtaining  the  confidence of the  Assembly,  the  President  of the Republic  may  dissolve  the  Assembly  of the  Representatives   of the People and organize  legislative elections  after a minimum  of forty five days and a maximum  of ninety days.

In the case of the renewal  of confidence occurring  on two occasions under  this provision,  the President  of the Republic  will be considered to have resigned.

Article 100

If the post of Head  of Government becomes permanently vacant  for any reason except for resignation  and withdrawal of confidence of the Assembly, the President  of the Republic  shall nominate the candidate of the ruling party or coalition  with forming a government within one month. If this period passes without a government having been formed, or if the government formed fails to receive  a vote of confidence, the President  shall assign the individual  most able  to form a government to  constitute   a  government,  this  government  presents  itself  before the  Assembly  for the  purpose  of obtaining  a vote  of confidence in accordance with the provisions stipulated  in Article 89.

The  outgoing  government shall  continue to  administer  government business  under  the supervision  of one  of its members  to be selected by the  Council  of Ministers  and  nominated by the  President  of the Republic until the new government takes up its functions.

Article 101

Any disputes that arise regarding the respective powers of the President of the Republic and of the Head of Government can be referred to the Constitutional Court by either party. The Court shall rule on the dispute within one week.

**Chapter Five – The Judicial Authority**

Article 102

The judicial  authority  is independent. It assures the administration of justice,  the supremacy of the Constitution, the sovereignty  of the law, and the protection of rights and freedoms.

The judiciary is independent. It is subject only to the law in the exercise of its functions.

Article 103

The  judge  must  be  competent, neutral,  and  of integrity.  He/she  is accountable for any shortcomings in his/her performance.

Article 104

Judges enjoy  legal immunity  and  may not be prosecuted or arrested unless their immunity is lifted. In the event of being apprehended while committing  a crime, a judge may be arrested  and the Judicial Council shall be notified, and shall decide  whether  to lift the immunity.

Article 105

The law profession  is a free independent profession  that contributes to the establishment of justice and the defence  of rights and liberties. Lawyers enjoy the legal guarantees that protect them and enable  them to fulfil their functions.

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

Article 106

Judges   shall   be   nominated  by   the   President   of   the   Republic. Nominations shall  conform  to the  proposal  of the  Supreme  Judicial Council.

Senior  judges  shall  be  nominated by virtue of a presidential decree after consultation with the Head of Government, based on an exclusive proposition of the Supreme Judicial Council. Senior judicial posts shall be determined by law.

Article 107

No judge may be transferred  without  his/her  consent.  He/she  cannot be dismissed  or suspended from his/her  functions,  nor be subject  to disciplinary sanction, except in the cases and with the protections determined  by  the  law  and  by  decision   with  justification   of  the Supreme Judicial Council.

Article 108

Every individual  is entitled  to a fair trial within  a reasonable period. Litigants are equal before the law.

The right to litigation  and  the  right to defence  are  guaranteed. The law facilitates  access  to justice  and  assures  legal assistance  to those without financial means. The law guarantees right to a second  hearing.

Court  sessions  shall  be  public  unless  the  law  provides  for a closed hearing.  Judgement must be pronounced in a public  session.

Article 109

Any interference in the functioning  of the judicial system is prohibited.

Article 110

The different categories  of courts  are established by law.  No special courts  may  be  established,  nor  any  special   procedures  that  may prejudice the principles  of fair trial.

Military courts are competent to deal with military crimes. The law shall regulate  the mandates, composition, organization, and procedures of military courts, and the status of military judges.

Article 111

Judgments are issued in the name  of the people  and  executed in the name  of the President  of the Republic.  Failing to execute  or impeding the execution of a sentence without legal grounds is prohibited.

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

Article 112

The  Supreme  Judicial  Council  is  composed of  four  bodies,  which are the Judiciary Council, the Administrative Judicial Council, the Financial  Judicial Council,  and  the  General  Assembly  of the  three judicial councils.

Two-thirds of each of these entities is composed of judges, the majority of whom  are  elected   as  well  as  judges  appointed on  merit,  while the  remaining  third  shall  be  composed of independent,  specialised persons  who  are  not  judges.  The majority  of the  members  of these bodies  shall be elected. Elected members exercise  their functions  for a single six-year term.

The Supreme Judicial Council shall elect its president from amongst its most senior judges.

The law establishes the mandate of each of the four bodies,  and their composition, organization, and procedures.

Article 113

The Supreme Judicial Council enjoys administrative and financial independence and  shall  be  self-managing.  It prepares  its own  draft budget  which  it  discusses  before  the  competent  committee of  the Assembly of the Representatives  of the People.

Article 114

The Supreme  Judicial Council  assures  the  sound  functioning  of the justice system and respect for its independence. The General Assembly of the three judicial  councils  proposes  reforms and gives its opinions on draft laws relative to the judicial  system, which  must be presented to it. Each of the three councils  is responsible to make decisions on the professional  careers  of judges and on disciplinary  measures  applying to judges.

The  Supreme  Judicial  Council  shall  prepare   an  annual   report  and submit  it, in the  month  of July at the  latest,  to the  President  of the Republic,  the President  of the Assembly of the Representatives  of the People,  and the Head of Government. The report shall be published.

The Assembly of the  Representatives  of the  People  shall  discuss  the annual  report at the beginning  of the judicial year in a plenary session, in dialogue  with the Supreme Judicial Council.

**Sub-Section  Two – The Judiciary**

Article 115

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

The  public   prosecution is  part  of  the  judicial  justice  system,  and benefits  from the  same  constitutional protections. The judges  of the public  prosecution exercise  their functions  as determined by the law and within the framework of the penal policy of the State in conformity with the procedures established by the law.

The Court of Cassation  prepares  an annual  report which  it submits to the President  of the Republic,  to the President  of the Assembly of the Representatives  of the People,  to the Head  of Government and to the head of the Supreme Judicial Council. The report is published.

A law establishes  the organisation  of the judicial system, its mandates, its procedures, as well as the status of its judges.

**Sub-Section  Three – Administrative  Judiciary**

Article 116

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

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

The  Supreme  Administrative  Court  shall  prepare   a  general  annual report which  it submits to the President  of the Republic,  the President of the  Assembly  of the  Representatives   of the  People,  the  Head  of Government, and the President  of the Supreme  Judicial Council. This report is published.

A law  regulates  the  organization of the  administrative judiciary,  its mandate, procedures, as well as the status of its judges.

**Sub-Section  Four – Financial Judiciary**

Article 117

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

The Court of Audit oversees the sound management of public funds in accordance with the principles  of legality, efficiency and transparency. The Financial  Judiciary  rules  on  the  accounts of public  auditors.  It assesses  accounting methods  and  sanctions  errors and  failings that it discovers.  The Financial  Judiciary assists the legislative and executive powers in overseeing the execution of the Finance Law and the closure of the budget.

The Court  of Audit prepares  a general  annual  report  and  submits  it to  the  President  of the  Republic,  the  President  of the  Assembly  of the Representatives  of the People,  the Head  of Government, and  the President of the Supreme Judicial Council. The report is published. The Court  of Audit shall,  when  necessary,  prepare  special  reports  that  it may decide  to publish.

The organization, mandate and  procedures of the  Court  of Audit as well as the status of its judges are regulated  by law.

**Section Two – The Constitutional  Court**

Article 118

The Constitutional Court is an independent judicial body, composed of

12 competent members,  three-quarters of whom are legal experts with at least 20 years of experience.

The President  of the  Republic,  the  Assembly  of the  Representatives of the  People,  and  the  Supreme  Judicial Council  shall  each  appoint four members,  three  quarters  of whom  must be legal specialists.  The nomination is for a single nine-year  term.

One-third  of  the   members   of  the   Constitutional  Court   shall   be renewed every three-year  period.  Any vacancies in the Court shall be filled according to the appointment process,  taking into account the appointing  party and the relevant areas of specialisation.

The members  of the Court shall elect a President  and a Vice President of the Court from amongst its members  who are specialists in law.

Article 119

Combining  membership in  the  Constitutional Court  with  any  other function or mission is prohibited.

Article 120

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

-  Draft laws,  upon  the request  of the President  of the Republic,  the Head  of Government, or  thirty  members  of the  Assembly  of the Representatives  of the People. The request shall be filed within seven days from the Assembly’s ratification of the draft law or ratification of a draft law in a modified version, after it has been returned  from the President  of the Republic.

-  Constitutional draft  laws  submitted   to  it  by  the  President  of  the

Assembly of the Representatives  of the People as specified in Article

144  or  to  determine  whether   the  procedures  of  amending the

Constitution  have been respected.

-  Treaties presented to it by the President  of the Republic  before their legislative ratification.

-  Laws referred to it by courts as a result of a request filed by a court, in the  case  of the  invocation of a claim  of unconstitutionality by one  of the parties  in litigation,  in accordance with the procedures established by law.

-  The rules of procedure of the Assembly of the Representatives  of the

People,  submitted  to it by the President  of the Assembly.

The Constitutional Court  is also  responsible for other  tasks that  are conferred  upon it by the Constitution.

Article 121

Decisions  of the Constitutional Court are issued within a deadline of

45 days from the date of challenging unconstitutionality. Decisions  are taken  by the absolute  majority  of the members  of the Constitutional Court. The decision  of the Court shall state whether  the provisions that are  subject  to challenge are  constitutional or not.   Decisions  issued by the Constitutional Court shall include  justification and are binding upon all authorities. The decisions are published in the Official Gazette of the Tunisian Republic.

If  the  deadline specified  in  the  first paragraph expires  without  the Court having issued its decision,  it must immediately  transmit the draft law to the President  of the Republic.

Article 122

Any draft law that is determined to be in violation  of the Constitution shall be referred  to the President  of the Republic  who  transmits  it to the Assembly of the Representatives  of the People for a second  reading in accordance with  the  decision  issued  by the  Constitutional Court. The  President  of the  Republic  shall,  prior  to  the  law’s  ratification, resubmit the law to the Constitutional Court to reconsider and rule on its constitutionality.

In the  case  of the  adoption by the Assembly of the  Representatives of the People  of a draft law amended following its return,  and where the court  has affirmed its constitutionality, or where  it transmits  it to the President  after expiry of its deadline for rendering  its decision,  the President of the Republic shall then refer it to the Constitutional Court before ratifying it.

Article 123

In the  event  the  Constitutional Court  is asked  to rule  on  a claim  of unconstitutionality, the Court shall be limited to examining  the issues that have been put before it, on which it will rule within three months, which can be renewed only once for three months, and on the basis of a decision  with justification.

If the Constitutional Court decides  that a law is unconstitutional, the law’s application is suspended within the limits specified by the Court.

Article 124

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 Bodies**

Article 125

The independent constitutional bodies work to support democracy. All institutions of the state must facilitate their work.

These bodies shall enjoy a legal personality and financial and administrative independence.

They are elected  by the Assembly of the Representatives of the People by qualified  majority. They are responsible before the Assembly and  shall submit an annual report to it. The report of each independent constitutional body is discussed  in a special plenary session of the Assembly.

The law  establishes  the  composition of these  bodies,  representation within them, the methods by which they are elected, and the processes for oversight of their functioning,  and the procedures for assuring their accountability.

**Section One – Electoral Commission**

Article 126

The electoral  commission, named  the Supreme Independent Elections Commission,   is  responsible for  the  management and  organization of elections  and referenda,  and supervising all their phases. The Commission  shall ensure  the regularity,  integrity, and transparency of the election  process,  and shall announce the results of elections.

The Commission  has regulatory power in its areas of responsibility. The  Commission  shall be composed of nine  independent, impartial,

and competent members,  with integrity, who undertake their work for

a single six-year  term.  One  third  of its members  are  replaced every two years.

**Section Two – Audio-Visual Communication  Commission**

Article 127

The Audio-Visual  Communication Commission  is responsible for the regulation  and development of the audio-visual  communication sector and  works  to  guarantee freedom  of expression  and  of information, and the establishment of a pluralistic media  sector that functions  with integrity.

The Commission  has regulatory  power  in its domain  of responsibility. It must be consulted on draft laws in its areas of competence.

The  Commission  shall  be  composed of nine  independent, neutral, competent, experienced members  with  integrity,  who  serve  for one six-year term. One third of its members  are replaced every two years.

**Section Three – Human Rights Commission**

Article 128

The Human  Rights Commission  oversees  respect  for, and  promotion of, human  freedoms  and  rights, and  makes  proposals  to develop  the human  rights framework.  It must be consulted on draft laws that fall within the domain  of its mandate.

The  Commission   conducts investigations   into  violations  of  human rights with a view to resolve  them  or to refer them  to the competent authorities.

The  Commission  shall  be  composed of independent and  impartial members    with   competence  and   integrity.   They   undertake  their functions  for a single six-year term.

**Section Four – The Commission for Sustainable Development and for the Rights of Future Generations**

Article 129

The  Commission   for  Sustainable   Development and  For  the  Rights of  Future  Generations shall  be  consulted on  draft  laws  related  to economic, social  and  environmental issues,  as well as development plans. The Commission  may give its opinion  on questions  related  to areas of responsibility.

The Commission  shall  be  composed of members  with  competence and integrity, who undertake their missions for a single six-year term.

**Section Five – The Commission for Good Governance and Anti-Corruption**

Article 130

The  Commission  for Good  Governance and  Anti-Corruption contributes  to  policies   of  good   governance,  and   preventing   and fighting against  corruption. It is responsible for following  up  on  the implementation and dissemination of these policies, for the promotion of a culture of good governance, and for the consolidation of principles of transparency, integrity and accountability.

The  Commission  is responsible for monitoring   cases  of corruption within the public  and private sectors. It carries out investigations  into these cases and submits them to the competent authorities.

The Commission  must be consulted on draft laws related  to its area of competence. It can  give its opinion  on regulatory  texts related  to its area of competence.

The Commission  is composed of independent, impartial,  competent members,  with integrity, who undertake their missions for a single six- year term. One third of the members  are replaced every two years.

**Chapter Seven – Local Government**

Article 131

Local government is based on decentralization.

Decentralization is achieved through  local  authorities  comprised of municipalities, districts, and regions covering the entire territory of the Republic in accordance with boundaries established by law.

The  law  may  provide   for  the  creation   of  specific  types  of  local authorities.

Article 132

Local  authorities   shall  enjoy  legal  personality   as  well  as  financial and   administrative independence.  They  manage   local   matters   in accordance with the principle  of administrative autonomy.

Article 133

Local authorities  are headed by elected  councils.

Municipal  and  regional  councils  are  elected  through  general,  free, direct, secret, fair, and transparent elections.

District councils are elected by the members of municipal and regional councils.

The electoral  law shall guarantee the representation of youth in local authority councils.

Article 134

Local authorities  possess  their  own  powers,  powers  shared  with  the central   authority,   and  powers  delegated to  them  from  the  central administration.

The  joint  and  delegated powers  shall  be  distributed  in  accordance with the principle  of subsidiarity.

Local  authorities   shall  enjoy  regulatory   power   in  exercising   their mandates.  Regulatory   decisions   of  the  local   authorities   shall  be published in an official gazette  of local authorities.

Article 135

Local authorities  shall  have  their  own  resources,  and  resources  that are provided  to them by the central government, these resources being proportional to the responsibilities that are assigned to them by law.

All creation  or transfer  of powers  by the  central  government to the local authorities  shall be accompanied with corresponding resources.

The financial system of local authorities  shall be established by law.

Article 136

The central  government shall  provide  additional resources  for local authorities  in order  to apply the principle  of solidarity,  in a balanced and organised  manner.

The  central   government  works  towards   achieving   an  equilibrium between local revenues  and expenditures.

A  portion   of  revenues   coming   from  the   exploitation  of  natural resources  may be allocated to the promotion of regional development throughout the national  territory.

Article 137

Local authorities  shall  have  the  freedom  to manage  their  resources freely within the budget  that is allocated to them, in accordance with the principles  of good  governance and  under  the supervision  of the financial judiciary.

Article 138

Local authorities  are subject  to retrospective review  of the legality of their actions.

Article 139

Local   authorities    shall   adopt    the   mechanisms   of   participatory democracy  and  the  principles   of  open   governance  to  ensure   the broadest  participation of citizens and of civil society in the preparation of development programmes and land use planning,  and follow up on their implementation, in conformity with the law.

Article 140

Local  authorities   may  cooperate  and  enter  into  partnerships   with each  other with a view to implementing programmes or carrying out activities of common interest.

Local  authorities   may  also  establish   partnership relationships and decentralized cooperation with local authorities  in other countries.

Rules for cooperation and  partnership between authorities  shall  be regulated  by law.

Article 141

The High Council  of Local Authorities is a representative structure  for all local authorities’  councils.  The High Council  headquarters will be located  outside of the capital.

The  High  Council  of Local Authorities  has  jurisdiction   to  consider issues  related  to  development   and  regional  balance, and  gives  its advice with respect  to any draft law related  to local planning,  budget, and financial issues. The President of the High Council of Local Authorities may be invited to attend discussions  of the Assembly of the Representatives  of the People.

The composition and  tasks of the High Council  of Local Authorities shall be established by law.

Article 142

The administrative judiciary  shall pass judgment  on all jurisdictional disputes  arising  between local  authorities  and  between the  central government and local authorities.

**Chapter Eight – Revision of the Constitution**

Article 143

The right to propose revision of the Constitution is held by the President of the  Republic,  and  by one-third  of the  members  of the Assembly of the  Representatives  of the  People.  A proposition initiated  by the President  of the Republic shall have priority.

Article 144

The President of the Assembly of the Representatives  of the People shall submit all propositions  to amend  the Constitution to the Constitutional Court to verify that such propositions  do not affect any article to which the Constitution  has prohibited any amendment.

The Assembly  of the  Representatives   of the  People  shall  study  the proposed amendment with  a view  to obtaining  the  approval  of the absolute  majority of the members  on the principle  of amendment.

The Constitution  shall  be  amended upon  the  approval  of two-thirds of the members  of the Assembly of the Representatives  of the People. The President  has  the  right,  after this approval  by two-thirds  of the members  of the Assembly, to submit  the amendment to referendum; in which case it will be adopted if it receives a majority of votes cast.

**Chapter Nine – Final Provisions**

Article 145

This Constitution’s preamble is an integral part of the Constitution.

Article 146

The Constitution’s  provisions  shall  be understood and  interpreted in harmony, as in indissoluble whole.

motivée du Conseil supérieur  de la magistrature.

Article 147

Within  one  week  after  adoption of the  Constitution  in  its entirety, in  conformity  with  the  dispositions  of  article  3  of  the  Constituent Law 6-2011  dated  16  December 2011,  relative  to  the  provisional organization of public powers, the National Constituent Assembly shall meet in extraordinary plenary session during which the Constitution  is to be promulgated by the President  of the Republic,  the President  of the National  Constituent  Assembly, and the Head of the Government.

The  President   of  the  National   Constituent   Assembly  immediately orders its publication in a special edition of the Official Gazette  of the Tunisian Republic. The Constitution enters into force immediately  after its publication. The President  of the  National  Constituent  Assembly announces in advance the date of its publication.

**Chapter Ten – Transitional Provisions**

Article 148

1.   The dispositions  of articles 5, 6, 8, 15 and 16 of the law relating to the Provisional Organisation of Public Powers remain in effect until the election  of the Assembly of the Representatives of the People.

The  dispositions  of Article  4  of the  law  relating  to  the  Provisional Organisation of Public  Powers  remain  in effect until  the  election  of the Assembly of the Representatives  of the People.  Nevertheless, from the entry into force of the Constitution, a draft law presented by the deputies  is not admissible  unless it relates to the electoral  process,  to the system of transitional  justice or to the bodies created by laws of the National  Constituent  Assembly.

The dispositions of Articles 7, 9 to 14 and Article 26 of the law relating to  the  Provisional  Organisation of  Public  Powers  remain  in  effect until  the  election  of the  President  of the  Republic  according to the dispositions  of Article 74 and following of the Constitution.

Provisions   of  Articles  17  through   20  of  the  law  relating   to  the Provisional   Organization  of  Public  Powers  remain   in  effect  until the  first government obtains  confidence from  the  Assembly  of the Representatives  of the People.

The National Constituent Assembly continues to exercise its legislative, electoral  and oversight prerogatives  established by the constituent law relating  to the  Provisional  Organisation of Public  Powers  or by the laws in effect, until the election  of the Assembly of the Representatives of the People.

2.   The dispositions  mentioned below enter in force as follows:

-  The dispositions  of Chapter  III relating  to the Legislative Authority, with the exception of Articles 53, 54, 55, as well as Title II of Chapter IV concerning the government, enter into force from the date of the proclamation of the definitive results of the first legislative elections;

-  With the exception of Articles 74 and 75, the dispositions  of Title I of Chapter IV relating to the President  of the Republic enter in force from the date of the proclamation of the definitive results of the first direct presidential elections. Articles 74 and 75 enter into force only when the President  of the Republic is elected  directly;

-  With  the  exception of Articles 108  through  111,  the  dispositions of Title I of Chapter  V relating  to the  judicial,  administrative, and financial  judiciary  enter  in force after the creation  of the Supreme Judicial Council;

-    With  the  exception of Article  118,  the  dispositions  of Title II  of Chapter V relating to the Constitutional Court enter into force from the creation  of the first Constitutional Court;

-  The   dispositions    of   Chapter   VI  relative   to   the   constitutional bodies  enter  into  force  after  the  election  of the  Assembly  of the Representatives  of the People;

-  The dispositions of Chapter VII relating to local authorities  enter into effect as soon  as the  laws  that  are  mentioned within  the  Chapter enter into force.

3.   Presidential  and  legislative  elections  are organised  at the earliest four  months   after  the   creation   of  the   Supreme   Independent Elections Authority.  In any event,  the elections  will be organised before the end of 2014.

4.   Endorsements  are  made  for the  first direct  presidential election by the number  of members  of the National  Constituent  Assembly corresponding to the number  established for the members  of the Assembly of the Representatives  of the People, or by the number  of registered electors,  as established in the electoral  law.

5.   The Supreme Council of the Judiciary is created within a maximum of six months  from the  date  of the  first legislative  election. The Constitutional Court is created within a maximum of one year from the election.

6.   The two  first partial  renewals  of the  Constitutional Court,  of the Elections Commission,  of the Audio-visual Communications Commission,  and the Good Governance and Rights of Future Generations Commission  are carried  out by a draw  between the initially nominated members.  The presidents  of these  bodies  are exempted from these draws.

7.   In  the   first  three   months   following   the   promulgation  of  the Constitution, the  National   Constituent  Assembly  creates,  by  an organic  law, a provisional  authority  in charge  of determining the constitutionality of laws. It is composed of:

-  The first President  of the Court of Cassation,  who presides over it;

-  The first President  of the Administrative Tribunal;

-  The first President  of the Audit Court;

-  Three members,  experts in law, each appointed on an equal basis by the President  of the National  Constituent  Assembly, the President  of the Republic and the Head of Government.

No  tribunal  may  be  authorised to determine the  constitutionality of laws.

The  mandate of  this  authority  ends  after  the  establishment of  the

Constitutional Court.

8.   The provisional  authority  responsible for supervising  the judicial justice system retains its functions until the creation of the Supreme Judicial Council.

The Independent Authority for Audio-Visual  Communications retains its mandate until  the  election   of the  Audio-Visual  Communication Commission.

9.   The  state  undertakes to  apply  the  system  of transitional   justice in all its domains  and  according to the  deadlines prescribed by the relevant  legislation.  In this context  the invocation of the non- retroactivity of laws, the existence  of previous amnesties,  the force of res judicata, and the prescription of a crime or a punishment are considered inadmissible.

Article 149

The  military   tribunals   continue  to  exercise   the   jurisdiction   they have  been  granted  by the current  laws until their amendment by the dispositions  of article 110.

And God is the guarantor of success

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