

THE CONSTITUTION OF THE TUNISIAN REPUBLIC, 1959
(as Amended to 2008)

Constitution of June 1, 1959
as Amended to the Constitutional Act No. 2008-52 of July 28, 2008

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PREAMBLE

In the name of God,

The Compassionate and Merciful,

We, the representatives of the Tunisian people, meeting as members of the National Constituent Assembly,

Proclaim the will of this people, which has liberated itself from foreign domination by virtue of its powerful cohesion and of its struggle against tyranny, exploitation and regression:

- to consolidate national unity and to remain faithful to the human values which constitute the common heritage of peoples attached to human dignity, justice and liberty, and working for peace, progress and free cooperation between nations;
- to remain faithful to the teachings of Islam, to the unity of the Greater Maghreb, to its membership of the Arab family, to cooperation with the African peoples for the building a better future, and to solidarity with all peoples who are struggling for justice and liberty;

- to establish a democracy founded on the sovereignty of the people and characterized by a stable political system based on the separation of powers.

We proclaim that the republican regime constitutes:

- the best guarantee for the respect of the rights of Man, the establishment of the equality of citizens in their rights and duties, the realization of the prosperity of the country through economic development and the exploitation of the national riches for the benefit of the people;
- the most effective means for ensuring the protection of the family and the citizens' right to work, health, and education;

We, the representatives of the free and sovereign Tunisian people proclaim, by the grace of God, the present Constitution:

CHAPTER I GENERAL PROVISIONS

Article 1

Tunisia shall be a free, independent and sovereign State; its religion shall be Islam, its language shall be Arabic and its form of government shall be the Republic.

Article 2[1]

The Tunisian Republic shall form part of the Great Arab Maghreb, towards whose unity it shall work within the framework of common interests.

The treaties concluded to this effect which entail any modification whatsoever of the present Constitution shall be submitted to a referendum by the President of the Republic after their adoption by the Chamber of Deputies in the forms and conditions provided for by the Constitution.

Article 3

The sovereignty shall belong to the Tunisian people who shall exercise it in conformity with the Constitution.

Article 4

The flag of the Tunisian Republic shall be red; it shall have in its middle, in the conditions defined by statute, a white circle which shall contain a five-pointed star surrounded by a red crescent.

The maxim of the Republic shall be "Liberty, Order, Justice."

Article 5[2]

The Tunisian Republic shall guarantee the fundamental liberties and rights of Man in their universal, global, complementary, and interdependent understanding.

The Tunisian Republic shall have as its foundations the principles of rule of law and pluralism and shall work for the dignity of Man and the development of his personality.

State and society shall endeavor to firmly implant the values of solidarity, mutual assistance and tolerance between the individuals, groups and generations.

The Tunisian Republic shall guarantee the inviolability of the human person and freedom of conscience and shall protect the free exercise of religion, as long as it does not disturb the public order.

Article 6

All citizens shall have the same rights and duties. They shall be equal before the law.

Article 7

The citizens shall exercise the plenitude of their rights in the forms and conditions determined by statute. The exercise of these rights cannot be limited except by statute enacted for the protection of others, the respect for the public order, national defense, the development of the economy and social progress.

Article 8[3]

The liberties of opinion, expression, press, publication, assembly and association shall be guaranteed and exercised with in the conditions defined by statute.

The right to establish trade unions shall be guaranteed.

The political parties shall contribute to the guidance of citizens with regard to organizing their participation in political life. They must be organized on democratic foundations. The political parties must respect the sovereignty of the people, the values of the Republic, the rights of Man, and the principles relating to personal status.

The political parties shall commit themselves to abstaining from any form of violence, of fanaticism, of racism, and any form of discrimination.

A political party may not essentially base its principles, objectives, activities, or program upon a specific religion, language, race, sex, or region.

It is prohibited for any party to establish dependency links to foreign parties or interests.

An Act shall determine the rules on the constitution and organization of parties.

Article 9[4]

The inviolability of the domicile, the secrecy of correspondence and the protection of personal data shall be guaranteed, save in exceptional cases determined by statute.

Article 10

Every citizen shall have the right to move freely in the interior of the territory, to leave it and to establish his domicile within the limits established by statute.

Article 11

No citizen can be expatriated or prevented from returning to his country.

Article 12[5]

The arrest of a person shall be subject to judicial control, and preventive detention shall only be ordered on the basis of a judicial warrant. It shall be prohibited to subject anybody to arbitrary arrest or detention.

Every accused person shall be presumed innocent until his guilt is established following a procedure which offers him the indispensable guarantees for his defense.

Article 13[6]

The sentence shall be personal and may be pronounced only by virtue of a law existing prior to the punishable act, except in cases of a more favorable later statute.

Every person who has been deprived of his liberty shall be treated in a humane manner, with respect for his dignity, in conformity with the conditions defined by statute.

Article 14

The right to property shall be guaranteed. It shall be exercised within the limits determined by statute.

Article 15[7]

Every citizen shall have the duty to protect the country, and to safeguard its independence, sovereignty, and the integrity of the national territory.

The defense of the homeland shall be a sacred duty of every citizen.

Article 16

The payment of taxes and the contribution to public expenditure on an equitable basis shall constitute a duty for every person.

Article 17

It shall be prohibited to extradite political refugees.

CHAPTER II THE LEGISLATIVE POWER

Article 18[8]

The people shall exercise the legislative power through the Chamber of Deputies and the Chamber of Councilors or through referendum.[9]

The members of the Chamber of Deputies shall be elected by universal, free, direct and secret suffrage, according to the modalities and conditions determined by the *Elections Act*.

Article 19[10]

The Chamber of Councilors shall be composed of members whose number shall not exceed two-thirds of the members of the Chamber of Deputies. The *Elections Act* shall determine the manner in which this number is fixed every six years, taking into account the number of members of the current Chamber of Deputies.

The members of the Chamber of Councilors shall be distributed as follows:

One member or two for each governorate, depending on the number of inhabitants, shall be elected at the regional level, from among the elected members of the local communities.

One-third of the members of the Chamber shall be elected at the national level, from among the employers, the farmers, and the wage earners; the candidacies shall be proposed by the competent professional organizations, in the form of lists containing at least twice as many seats as are reserved for each category. The seats shall be distributed evenly between the different sectors.

The members of the Chamber of Councilors shall be elected by free and direct suffrage by the elected members of the local communities.

The *Elections Act* shall determine the modalities and the conditions of the election of the members of the Chamber of Councilors.

The President of the Republic shall appoint the remaining members of the Chamber of Councilors from among the national personalities and authorities.

The members of the Chamber of Councilors shall not be tied to local or sectional interests.

The accumulation of elective functions at the Chamber of Deputies and the Chamber of Councilors shall be inadmissible.

Article 20[11]

Every citizen who has been a Tunisian national for at least five years, has attained at least eighteen years of age and fulfills the requirements defined by the *Elections Act* shall have the right to vote.

Article 21[12]

Any voter, born of a Tunisian father or of a Tunisian mother, who is at least twenty-three years of age on the day of submission of his candidacy, is eligible for election to the Chamber of Deputies.

A candidate to the Chamber of Councilors must be born of a Tunisian father or a Tunisian mother, be at least forty years of age on the day of submission of his candidacy, and have the right to vote.

These conditions shall apply to all members of the Chamber of Councilors.

A candidate to the Chamber of Councilors must also have, depending on the circumstances, a professional qualification which entitles him to stand as a candidate for the group of the employers or that of the farmers or wage earners.

Every member of the Chamber of Deputies or of the Chamber of Councilors shall take the following oath before assuming his functions:

“I swear by God the Almighty to loyally serve my country, to preserve the Constitution and my exclusive allegiance to Tunisia.”

Article 22[13]

The Chamber of Deputies shall be elected for a term of five years in the course of the last thirty days of its mandate.

The term of the members of the Chamber of Councilors is fixed at six years; the Chamber’s composition shall be renewed by half every three years.

Article 23[14]

If it is impossible to hold the elections due to war or imminent danger, the current terms of the Chamber of Deputies or the Chamber of Councilors shall be extended by statute adopted by the Chamber of Deputies until it is possible to proceed with the elections. In this case the extension shall apply to the remaining members of the Chamber of Councilors.

Article 24[15]

The seat of the Chamber of Deputies and the seat of the Chamber of Councilors shall be established in Tunis or its surroundings; however, in exceptional circumstances either of the two Chambers or both Houses may hold their sessions in any other place of the territory of the Republic.

Article 25

Every deputy shall be the representative of the entire Nation.

Article 26[16]

A member of the Chamber of Deputies or a member of the Chamber of Councilors may not be prosecuted, arrested or tried for opinions expressed, proposals made or acts carried out in the exercise of his mandate within each Chamber.

Article 27[17]

No member of the Chamber of Deputies or the Chamber of Councilors may be prosecuted or arrested during his term of office for a crime or misdemeanor before the Chamber concerned has not lifted the immunity which covers him.

However, he may be arrested if he is caught in the act of committing an offense. The Chamber concerned shall be informed without delay. The detention shall be suspended if the Chamber concerned so requires.

Article 28[18]

The Chamber of Deputies and the Chamber of Councilors shall exercise the legislative power. The right to introduce Bills shall be exercised concurrently by the President of the Republic and the members of the Chamber of Deputies.

The Bills submitted by the President of the Republic shall enjoy priority.

The Bills submitted by members of the Chamber of Deputies shall not be admissible where their enactment would result in a diminution of public revenue or in the increase of existing public expenditure, or in new expenditure.

These provisions shall apply to any amendments proposed to Bills.

The Chamber of Deputies and the Chamber of Councilors may authorize the President of the Republic to issue within a fixed time limit and for a specific purpose decree-laws which he shall submit, depending on the case, to the approval of the Chamber of Deputies or of both Houses upon expiration of the time limit.

The Chamber of Deputies and the Chamber of Councilors shall adopt draft Institutional Acts by absolute majority and ordinary Bills by a majority of the members present, provided that this majority constitutes not less than one-third of the membership of the Chamber concerned.

The statutes provided for in Articles 4, 8, 9, 10, 33, 66, 67, 68, 69, 70, 71 and 75 of the Constitution shall have the character of Institutional Acts. The *Elections Act* shall be adopted in the form of an Institutional Act.

Finance Bills shall be submitted to the Chamber of Deputies and the Chamber of Councilors.

The Chamber of Deputies and the Chamber of Councilors shall vote on the Finance Bills and the Bill on the execution of the budget in accordance with the conditions stipulated in the Institutional Act on the budget. If by the date of December 31 the Chamber of Councilors has not adopted the Finance Bills while they have been passed by the Chamber of Deputies, they shall be submitted to the President of the Republic for promulgation.

The budget must be voted at the latest by December 31. If upon expiration of that period the two Chambers have not taken a decision, the provisions of the Finance Bills shall be implemented by decree, in installments renewable every four months.

Article 29[19]

The Chamber of Deputies and the Chamber of Councilors shall meet each year in ordinary session which shall begin during the month of October and end during the month of July. However, the first session of the term of Chamber of Deputies shall start within fifteen days of its election. The same delay shall apply on the occasion of the renewal of half of the membership of the Chamber of Councilors.

If the first session of the term of the Chamber of Deputies coincides with its recess, a session of fifteen days shall be opened.

During their recess, the Chamber of Deputies and the Chamber of Councilors shall meet in extraordinary session upon the request of the President or of the majority of the members of the Chamber of Deputies to discuss a specific agenda.

Article 30[20]

The Chamber of Deputies and the Chamber of Councilors shall elect from among their members permanent commissions which shall function without interruption, even during the recess of the two Chamber.

The Chamber of Deputies and the Chamber of Councilors shall elect from among their members commissions to discuss the draft Development Plan and others to examine the Finance Bills. Each Chamber shall also elect from among its members a special commission for immunity issues and a special commission for the elaboration or amendment of the rules of procedure.

Article 31[21]

During the recess of the Chamber of Deputies and the Chamber of Councilors the President of the Republic may adopt decree-laws which shall be submitted, depending on the case, to the approval of the Chamber of Deputies or of both Houses during the ordinary session following the end of the recess.

Article 32[22]

The President of the Republic shall ratify the treaties.

Treaties concerning the borders of the State, trade agreements, treaties relating to international organization, treaties committing the finances of the State, treaties concerning provisions which are the preserve of statute law or relating to the status of persons may be ratified only after their approval by the Chamber of Deputies.

Treaties do not have the force of law until after their ratification and subject to the condition that they are applied by the other party. Treaties ratified by the President of the Republic and approved by the Chamber of Deputies shall prevail over statutes.

Article 33[23]

The Bills introduced by the President of the Republic shall be submitted, depending on the case, to the Chamber of Deputies or to both Houses.

The President of the Chamber of Deputies shall inform the President of the Republic and the President of the Chamber of Councilors of the adoption of a Bill by the Chamber of Deputies; the information shall be accompanied by the text which has been adopted.

The Chamber of Councilors shall complete the debate on the Bill adopted by the Chamber of Deputies within a maximum period of fifteen days.

When the Chamber of Deputies adopts the Bill without introducing amendments, the President of the Chamber shall submit it for promulgation to the President of the Republic and shall inform the President of the Chamber of Councilors, attaching the text which has been adopted.

If the Chamber of Councilors does not adopt the text within the time limits established in paragraph 3 of the present Article, the President of the Chamber of Deputies shall submit the Bill which has been adopted by the Chamber of Deputies to the President of the Republic for promulgation.

When the Chamber of Councilors adopts the Bill with amendments the President of the Chamber of Councilors shall submit the Bill to the President of the Republic and shall inform the President of the Chamber of Deputies. A joint commission composed of members of both Houses shall be established upon proposal by the Government in order to elaborate within a week a joint text approved by the Government on those provisions which are disputed between both Houses.

In case of agreement on a joint text the latter shall be submitted to the Chamber of Deputies for a final decision within a week; however, this text may only be amended following the agreement of the Government.

The President of the Chamber of Deputies shall submit to the President of the Republic, depending on the case, either the Bill which the Chamber has adopted without accepting amendments or the amended Bill which has been adopted by said Chamber for promulgation.

If the joint commission does not manage to produce a joint text within the aforementioned time limits, the President of the Chamber of Deputies shall submit to the President of the Republic the Bill adopted by said Chamber for promulgation.

The procedures provided for in paragraphs 2 and 4 of the present Article shall apply to Bills proposed by members of the Chamber of Deputies. If amendments to the Bill are accepted by the Chamber of Councilors, a joint commission composed of members of both Houses shall be established in order to elaborate within a week a joint text on the provisions which form the object of the dispute. In the case of adoption of a joint text, the latter shall be submitted to the Chamber of Deputies for a final decision. In this case, paragraph 8 of the present Article shall apply.

During the recess of the Chamber of Deputies and the Chamber of Councilors the time limits provided for in the present Article shall be suspended.

The organization of work in each of the two Houses shall be regulated by statute and the rules of procedure. Statute shall also regulate the relations between the two Houses.

Article 34[24]

The texts on the following matters shall be adopted in the form of a statute:

- the general modalities of the application of the Constitution other than those which have to be regulated by Institutional Act;
- the creation of categories of public legal entities and public enterprises;
- citizenship, the status of persons and obligations;
- the procedure before different sets of courts;
- the determination of crimes and offences and the penalties which apply to them, as well as penal contraventions which carry sanctions consisting in the deprivation of liberty;
- to amnesty;
- the base, rates and methods of collection of taxes, insofar as the relevant authority is not delegated to the President of the Republic by virtue of Finance Acts and Fiscal Acts;
- the issuing of currency;
- loans and financial obligations of the State;
- the fundamental guarantees granted to civil servants and members of the Armed Forces.

Statute shall determine the basic principles:

- of property law and property rights;
- of education
- of public health;
- of labor law and social security.

Article 35[25]

Matters other than those coming under the scope of statute law shall be matters for regulation. The texts relating to these matters may be modified by decree following review by the Constitutional Council.

The President of the Republic may oppose as inadmissible any Bill or draft amendment which relates to a matter falling within the preserve of regulatory powers. The President of the Republic shall submit the issue to the Constitutional Council which shall issue its decision within a maximum period of ten days following the submission.

Article 36[26]

The Development Plan shall be approved by statute.

The revenue and the expenditure of the State shall be authorized by statute in the conditions determined by the Institutional Act on the budget.

CHAPTER III THE EXECUTIVE POWER

Article 37

The executive power shall be exercised by the President of the Republic assisted by a Government under the direction of a Prime Minister.

Section I The President of the Republic

Article 38

The President of the Republic shall be the Head of the State. His religion shall be Islam.

Article 39[27]

The President of the Republic shall be elected for five years by universal, free, direct and secret suffrage with the absolute majority of the votes cast within the last thirty days of the presidential term of office. In case this majority is not attained in the first round of voting, a second round shall be held on the second Sunday which follows the vote. Only the two candidates polling the greatest number of votes in the first ballot, after any withdrawal [of better placed candidates], may stand in the second ballot in accordance with the conditions defined by the *Elections Act*.

If it is impossible to hold the elections at the prescribed time due to war or imminent danger, the term of office of the President shall be extended by statute adopted by the Chamber of Deputies until it becomes possible to proceed with the elections.

The President of the Republic may be re-elected.

Article 40[28], [29]

Any Tunisian whose only nationality is Tunisian, who is of Muslim religion and whose father, mother and paternal and maternal grandfather have been of Tunisian nationality without interruption may present himself as a candidate for the Presidency of the Republic.

Moreover, the candidate must be at least forty years and at most seventy-five years of age on the day of submitting his candidacy and must enjoy all his civil and political rights.

The candidate shall be presented by a number of members of the Chamber of Deputies and of presidents of the municipalities, in accordance with the modalities and conditions stipulated by the *Elections Act*. Failing compliance with the conditions for the presentation of the candidate provided for in paragraph 3 of Article 40 of the Constitution, the leader of each political party, whether he is the President or Secretary General or First Secretary of his party, may exceptionally present his candidacy for the Presidency of the Republic in the presidential elections of the year 2009, provided that he has been elected to his leadership post and that he has been exercising it on the day of the submission of his candidacy for a consecutive period of not less than two years since his election.

The declaration of candidacy shall be recorded in a special registry maintained by the Constitutional Council.

The Constitutional Council shall determine the validity of candidacies, proclaim the election result and adjudicate the complaints which are submitted to it in this regard, in conformity with the provisions of the *Elections Act*.

Article 41[30]

The President of the Republic shall be the guarantor of national independence, of the integrity of the territory and of respect for the Constitution and the laws as well as the execution of treaties. He shall supervise the proper functioning of the constitutional public authorities and ensure the continuity of the State.

The President of the Republic shall enjoy immunity before the courts during his stay in office. He shall also benefit from this immunity after his term of office has ended with regard to acts performed on the occasion of the exercise of his functions.

Article 42[31]

The elected President of the Republic shall take the following oath before a joint session of the Chamber of Deputies and the Chamber of Councilors:

“I swear by God Almighty to safeguard the independence of the homeland and the integrity of the territory, to respect the Constitution of the country and its legislation and to watch scrupulously over the interests of the Nation.”

Article 43

The official seat of the Presidency of the Republic shall be established in Tunis or its surroundings. However, in exceptional circumstances, it may be transferred provisionally to any other place of the territory of the Republic.

Article 44

The President of the Republic shall be the Supreme Commander of the Armed Forces.

Article 45

The President of the Republic shall accredit diplomatic representatives to foreign powers. The diplomatic representatives of foreign powers shall be accredited to him.

Article 46[32]

In case of imminent danger threatening the institutions of the Republic, the security and independence of the country and obstructing the proper functioning of public authorities, the President of the Republic may take the exceptional measures required by the circumstances, after consultation with the Prime Minister and the President of the Chamber of Deputies and the President of the Chamber of Councilors.

He shall address a message on the matter to the people.

During this period, the President of the Republic may not dissolve the Chamber of Deputies and no motion of censure may be presented against the Government.

These measures shall cease to have effect as soon as the circumstances that produced them come to an end. The President of the Republic shall address a message to the Chamber of Deputies and to the Chamber of Councilors on the matter.

Article 47[33]

The President of the Republic may directly submit to referendum Bills of national importance or issues affecting the superior interest of the country, provided that these Bills or issues are not contrary to the Constitution.

When the referendum has resulted in the adoption of the Bill, the President of the Republic shall promulgate it within a maximum period of fifteen days following the proclamation of the results.

The Elections Act shall establish the modalities of the referendum proceedings and of the proclamation of results.

Article 48[34]

The President of the Republic shall sign the treaties.

He shall declare war and conclude peace with the approval of the Chamber of Deputies.

He shall exercise the right of pardon.

Article 49[35]

The President of the Republic shall determine the direction of the general policy of the Nation, define its fundamental options and inform the Chamber of Deputies thereof.

The President of the Republic shall communicate with the Chamber of Deputies and the Chamber of Councilors either directly or by message.

Article 50

The President of the Republic shall appoint the Prime Minister and, on his proposal, the other members of the Government.

The President of the Republic shall preside over the Council of Ministers.

Article 51

The President of the Republic shall terminate the functions of the Government or of one of its members on his own initiative or upon recommendation of the Prime Minister.

Article 52[36]

The President of the Republic shall promulgate Constitutional, Institutional or ordinary Acts and ensure their publication in the Official Journal of the Tunisian Republic within a maximum period of fifteen days following their transmission, as the case may be, by the President of the Chamber of Deputies or the President of the Chamber of Councilors.

The President of the Republic may, during this period, return the Bill to the Chamber of Deputies for reconsideration. If the Bill is re-enacted by the Chamber of Deputies by a majority of two-thirds of its members, the Act shall be promulgated and published within a second maximum period of fifteen days.

The President may, within the time limits provided for in the first paragraph of the present Article and after obtaining the opinion of the Constitutional Council, return the Bill or certain of its provisions which have been amended to the Chamber of Deputies for a new debate. The amendments shall be adopted by the Chamber of Deputies on the basis of the majority provided for in Article 28 of the Constitution. Following the adoption the Bill shall be promulgated and published within a maximum period of fifteen days, starting on the date of its transmission to the President of the Republic.

Article 53[37]

The President of the Republic shall supervise the execution of the statutes and exercise the general regulatory power, and may delegate part of it to the Prime Minister.

Article 54

Bills shall be discussed in the Council of Ministers.

Decrees of a regulatory character shall be countersigned by the Prime Minister and by the member of the Government concerned.

Article 55[38]

The President of the Republic shall make appointments to the higher civil and military posts upon proposal by the Government.

The President may delegate his appointment power to the Prime Minister for some of these posts.

Article 56[39]

In case of temporary disability, the President of the Republic may delegate his powers by decree to the Prime Minister, with the exclusion of the power to dissolve the Chamber of Deputies.

During the temporary disability of the President of the Republic, the Government, even if it is the object of a motion of censure, shall remain in office until the end of this disability.

The President of the Republic shall inform the President of the Chamber of Deputies and the President of the Chamber of Councilors of the provisional delegation of his powers.

Article 57[40]

In case the Presidency of the Republic becomes vacant on account of death, resignation, or permanent disability, the Constitutional Council shall meet immediately and pronounce the permanent vacancy by absolute majority of its members. It shall address a declaration to this effect to the President of the Chamber of Councilors and the President of the Chamber of Deputies, who shall be invested immediately with the functions of Interim President of the Republic for a period of at least 45 days and at most 60 days. If the permanent vacancy coincides with the dissolution of the Chamber of Deputies, the President of the Chamber of Councilors shall be invested with the functions of Interim President of the Republic for the same period.

The Interim President of the Republic shall take the constitutional oath before the Chamber of Deputies and the Chamber of Councilors in joint session and, as the case

may be, before the bureaus of the two Chambers. If the permanent vacancy coincides with the dissolution of the Chamber of Deputies, the Interim President of the Republic shall take the constitutional oath before the Chamber of Councilors and, as the case may be, before its bureau.

The Interim President of the Republic may not be a candidate for the Presidency of the Republic even in the case of resignation.

The Interim President of the Republic shall discharge the functions assigned to the President of the Republic, without having the power, however, to resort to a referendum, to dismiss the Government, to dissolve the Chamber of Deputies, or to take the exceptional measures provided for in Article 46.

During the Interim Presidency no amendment to the Constitution or censure motion against the Government shall be admissible.

During the same period presidential elections shall be organized to elect a new President of the Republic for a term of five years.

The new President of the Republic may dissolve the Chamber of Deputies and organize early legislative elections in conformity with the provisions of the second paragraph of Article 63.

Section II The Government

Article 58

The Government shall supervise the implementation of the general policy of the State in conformity with the directions and options defined by the President of the Republic.

Article 59

The Government shall be responsible to the President of the Republic for its action.

Article 60[41]

The Prime Minister shall direct and coordinate the action of the Government. He shall replace, if necessary, the President of the Republic in the chair of the Council of Ministers or any other council.

Article 61[42]

The members of the Government shall have access to the Chamber of Deputies and to the Chamber of Councilors, as well as to their commissions.

Any member of the Chamber of Deputies may address written or oral questions to the Government.

A session in each period shall be reserved to oral questions by the members of the Chamber of Deputies and to the responses of the Government. The session may also be used for a debate between the Chamber of Deputies and the Government concerning sectoral policies. A session of the full Assembly may also be dedicated to the responses to oral questions concerning current matters.

Article 62[43]

The Chamber of Deputies may call the Government to account through the vote of a censure motion if it appears to the Chamber that it does not act in conformity with the general policy of the State and the fundamental options provided for in Articles 48 and 59.

The motion shall not be admissible unless it is motivated and signed by at least one-third of the members of the Chamber of Deputies; the vote may only take place 48 hours after motion has been tabled.

When a motion of censure is adopted by an absolute majority of the members of the Chamber of Deputies, the President of the Republic shall accept the resignation of the Government tendered by the Prime Minister.

Article 63[44]

If the Chamber of Deputies has adopted a second motion of censure with a two-thirds majority during the same legislature, the President of the Republic may either accept the resignation of the Government or dissolve the Chamber of Deputies.

The decree dissolving the Chamber of Deputies must convene the voters to new elections within a maximum period of thirty days.

In case of a dissolution pronounced in the conditions of the first paragraph of the present Article, the President of the Republic may adopt decree-laws which later have to be submitted to the approval of the Chamber of Deputies and of the Chamber of Councilors, as the case may be.

The newly-elected Chamber shall sit as of right within eight days of the proclamation of the election results.

CHAPTER IV THE JUDICIAL POWER

Article 64

Judgments shall be pronounced in the name of the people and shall be executed in the name of the President of the Republic.

Article 65

The judicial power shall be independent; in the exercise of their functions the judges and prosecutors shall only be subject to the authority of the law.

Article 66

Judges and prosecutors shall be appointed by decree of the President of the Republic upon the recommendation of the High Council of the Judiciary. The modalities of their recruitment shall be determined by statute.

Article 67

The High Council of the Judiciary, whose composition and powers shall be determined by statute, shall control the respect for the guarantees accorded to judges and prosecutors in matters of appointment, promotion, transfer and discipline.

CHAPTER V THE HIGH COURT

Article 68

The High Court shall sit in a case of high treason committed by a member of the Government. The competence and the composition of the High Court as well as the procedure applicable before it shall be specified by statute.

CHAPTER VI THE COUNCIL OF STATE

Article 69^[45]

The Council of State shall consist of two organs:

- 1) The Administrative Tribunal;
- 2) The Court of Auditors.

Statute shall determine the composition of the Council of State and its two organs, and regulate the competence of these organs and the procedure applicable before them.

CHAPTER VII THE ECONOMIC AND SOCIAL COUNCIL

Article 70^[46]

The Economic and Social Council shall be a consultative assembly in economic and social matters. Its composition and its relations with the Chamber of Deputies and the Chamber of Councilors shall be determined by statute.

CHAPTER VIII THE LOCAL COMMUNITIES

Article 71[47]

The municipal councils, the regional councils and the entities on which statute confers the quality of local community shall administer the local affairs in the conditions determined by statute.

CHAPTER IX[48] THE CONSTITUTIONAL COUNCIL

Article 72[49]

The Constitutional Council shall examine the Bills which are submitted to it by the President of the Republic for their conformity or compatibility with the Constitution. The submission is compulsory for Institutional Bills, for Bills referred to in Article 47 of the Constitution, as well as for Bills relating to the general modalities for the application of the Constitution, nationality, personal status, obligations, the determination of crimes and offenses and the penalties they carry, the procedure before the different courts, amnesty, the fundamental principles of property law and property rights, education, public health, labor law and social security.

The President of the Republic shall also refer obligatorily to the Constitutional Council the treaties referred to in Article 2 of the Constitution.

He may also submit to it all issues which affect the organization and the functioning of the institutions.

The Constitutional Council shall determine the applications concerning the election of the members of the Chamber of Deputies and of the Chamber of Councilors. It shall control the proper conduct of the referendum proceedings and proclaim its results. The Elections Act shall determine the procedures to be applied in the matter.

Article 73

The Bills sponsored by the President of the Republic shall be referred to the Constitutional Council before their transmission to the Chamber of Deputies or their submission to a referendum.

The President of the Republic shall submit to the Constitutional Council, within the period of promulgation and publication provided in Article 52 of the Constitution, amendments made to the substance of Bills adopted by the Chamber of Deputies which had been previously submitted to the Constitutional Council in accordance with the provisions of the present Article. He shall inform the President of the Chamber of Deputies.

In this case, the period mentioned above shall be suspended until the opinion of the Constitutional Council is notified to the President, provided the suspension does not exceed one month.

Article 74[50]

The President of the Republic shall submit the Bills proposed by the members of the Chamber of the Deputies after their adoption and within the period of promulgation and publication provided for in Article 52 to the Constitutional Council in cases where such submission is obligatory by virtue of Article 72. He shall inform the President of the Chamber of Deputies.

In this case the provisions of the third paragraph of Article 73 shall apply.

The rules of procedure of the Chamber of Deputies and the rules of procedure of the Chamber of Councilors shall be submitted to the Constitutional Council before their application in order to check their conformity or compatibility with the Constitution.

Article 75[51]

The opinion of the Constitutional Council must be reasoned. It shall be binding on all public authorities unless it concerns the issues referred to in the third paragraph of Article 72 of the Constitution.

The President of the Republic shall transmit to the Chamber of Deputies and the Chamber of Councilors the Bills examined by the Constitutional Council in conformity with the provisions of the first paragraph of Article 73 of the Constitution, together with a copy of the opinion of the Constitutional Council.

The President of the Republic shall transmit to the Chamber of Deputies a copy of the opinion of the Constitutional Council in the cases referred to in the second paragraph of Article 73 and the first paragraph of Article 74 of the Constitution.

The decisions of the Constitutional Council in electoral matters shall be final and shall not be subject to appeal.

The Constitutional Council shall be composed of nine members of recognized competence irrespective of their age: four members, including the President, shall be appointed by the President of the Republic and two by the President of the Chamber of Deputies for a period of three years renewable twice; three members shall be appointed by virtue of their judicial office as First President of the Court of Cassation, First President of the Administrative Tribunal, and First President of the Court of Auditors.

The members of the Constitutional Council may not exercise governmental or parliamentary functions. Nor may they assume leadership functions in political parties or trade unions or exercise activities which are likely to affect their neutrality or independence. Statute shall, if necessary, determine additional cases of incompatibility.

Statute shall also determine the guaranties enjoyed by the members of the Constitutional Council and which are necessary for the exercise of their functions, as well as the rules on the operation and the procedures of the Constitutional Council.

CHAPTER X[52]
REVISION OF THE CONSTITUTION

Article 76[53]

The initiative for the amendment of the Constitution shall belong to the President of the Republic or to at least one-third of the members of the Chamber of Deputies, subject to the reservation that it does not affect the republican form of the State.

The President of the Republic may submit the draft constitutional amendments to a referendum.

Article 77[54]

The Chamber of Deputies shall debate the proposed amendment following a resolution adopted by absolute majority and after the determination of the object of the amendment and its examination by an *ad hoc* commission.

In case no referendum is held, the draft amendment of the Constitution shall be adopted by the Chamber of Deputies by a two-thirds majority of its members after the amendment has been examined twice, the second examination taking place at least three months after the first.

In case of a referendum, the President of the Republic shall submit the draft amendment of the Constitution to the people after it has been adopted by the Chamber of Deputies by absolute majority of its members in the course of a single debate on the amendment.

Article 78[55]

The President of the Republic shall promulgate the statute which contains an amendment to the Constitution adopted by the Chamber of Deputies in the form of a Constitutional Act, in accordance with Article 52 of the Constitution.

The President of the Republic shall promulgate the statute which contains an amendment to the Constitution approved by the people in the form of a Constitutional Act within a period not exceeding fifteen days following the date of the proclamation of the referendum results.

The *Elections Act* shall determine the modalities of the referendum proceedings and the proclamation of the results.

The present law shall be executed as *Constitution of the Tunisian Republic*.

Done at the Palace of Bardo on June 1, 1959 (25 doul kaâda 1378).

The President of the Tunisian Republic
HABIB BOURGUIBA

NOTES

[1] As amended by *Constitutional Act No. 81-47 of June 9, 1981*, which replaced the name “National Assembly” with that of “Chamber of Deputies.”

[2] Paragraphs 1 to 3 were inserted by *Constitutional Act No. 2002-51 of June 1, 2002*.

[3] Paragraphs 3, 4, 5, 6 and 7 were added by *Constitutional Act No. 97-65 of October 27, 1997*.

[4] The protection of personal data has been given constitutional status by virtue of *Constitutional Act No. 2002-51*.

[5] Paragraph 1 was inserted by *Constitutional Act No. 2002-51 of June 1, 2002*.

[6] The final phrase in Article 13 was added and the second paragraph inserted by *Constitutional Act No. 2002-51 of June 1, 2002*.

[7] As amended by *Constitutional Act No. 2002-51 of June 1, 2002*.

[8] As amended by *Constitutional Act No. 2002-51 of June 1, 2002* which created the Chamber of Councilors as second parliamentary chamber.

[9] Paragraphs 1 and 2 of Article 5 of *Constitutional Act No. 2002-51* provide:

“The Chamber of Deputies shall exercise the legislative powers alone until the constitution of the Chamber of Councilors and the adoption of its rules of procedure.

The Chamber of Councilors shall meet in the fifteen days following its constitution.”

[10] As amended by *Constitutional Act No. 76-37 of 8 April 1976* and *Constitutional Act No. 2002-51 of June 1, 2002*.

[11] The last phrase was added by *Constitutional Act No. 97-65 of October 27, 1997*. *Constitutional Act No. 2008-52 of July 28, 2008* has lowered the age of voting from 20 to 18.

[12] *Constitutional Act No. 97-65 of October 1997* reduced the required age for election to the Chamber of Deputies from twenty-five to twenty-three years and extended eligibility to those voters who are Tunisians by maternal descent. It also introduced the formula for the oath to be taken by the newly-elected Deputies. *Constitutional Act No. 2002-51 of June 1, 2002* introduced the rules on eligibility for the members of the Chamber of Councilors, including the oath of office (new paragraphs 2 to 5).

[13] As amended by *Constitutional Act No. 76-37 of April 8, 1976*, and *Constitutional Act No. 2002-51 of June 1, 2002*, which added the second paragraph. Article 5, paragraph 3 of that Act provides that “contrary to the provisions of Article 22 (new) of the Constitution, half of the membership of the Chamber of Councilors shall be

renewed, during its first term and at the end of the third year of that term, by the drawing of lots, taking into account the distribution of seats applied in the establishment of the Chamber, and in accordance with the modalities and conditions which have made possible the membership in the Chamber; the drawing of lots and the renewal must be concluded before the end of that period.”

[14] As amended by *Constitutional Act No. 76-37 of April 8, 1976* and by *Constitutional Act No. 2002-51 of June 1, 2002* (insertion of the provisions concerning the Chamber of Councilors).

[15] As amended by *Constitutional Act No. 76-37 of April 8, 1976* and by *Constitutional Act No. 2002-51 of June 1, 2002*.

[16] As amended by *Constitutional Act No. 2002-51 of June 1, 2002*.

[17] As amended by *Constitutional Act No. 2002-51 of June 1, 2002*.

[18] As amended by *Constitutional Act No. 88-88 of July 25, 1988* and by *Constitutional Act 2002-51 of June 1, 2002*.

[19] As amended by *Constitutional Act No. 67-23 of June 30, 1967* and by *Constitutional Act 2002-51 of June 1, 2002*.

[20] As amended by *Constitutional No. Act 2002-51 of June 1, 2002*.

[21] As amended by *Constitutional No. Act 2002-51 of June 1, 2002*.

[22] As amended by *Constitutional Act No. 97-65 of October 27, 1997* and by *Constitutional Act No. 2002-51 of June 1, 2002*.

[23] As amended by *Constitutional Act No. 76-37 of April 8, 1976* and by *Constitutional Act No. 2002-51 of June 1, 2002*.

[24] As amended by *Constitutional Act No. 76-37 of April 8, 1976*.

[25] As amended by *Constitutional Act No. 97-65 of October 27, 1997* and by *Constitutional Act No. 2002-51 of June 1, 2002*.

[26] As amended by *Constitutional Act No. 76-37 of April 8, 1976*.

[27] As amended by *Constitutional Act No. 88-88 of July 25, 1988* and by *Constitutional Act No. 2002-51 of June 1, 2002*. The constitutional reform of June 2002 has introduced the requirement of an absolute majority for the election of the President and removed the limits on re-eligibility.

[28] As amended by *Constitutional Act No. 88-88 of July 25, 1988* and by *Constitutional Act No. 2002-51 of June 1, 2002* which has raised the maximum age of presidential candidates from seventy to seventy-five, restricted the right to nominate a presidential candidates to certain elected representatives and entrusted the task of supervising the election process to the Constitutional Council.

[29] *Constitutional Act No. 2008-52 of July 28, 2008* has (re-)introduced a temporary derogation from the normal requirements for candidacies for the Presidency, exceptionally allowing any head of a political party, whether represented in Parliament or not, to run for the President in 2009.

[30] Paragraph 2 added by *Constitutional Act No. 2002-51 of June 1, 2002*.

[31] As amended by *Constitutional Act No. 2002-51 of June 1, 2002*.

[32] Paragraphs 1, 4 as amended by *Constitutional Act No. 2002-51 of June 1, 2002*.

[33] *Constitutional Act No. 97-65 of October 1997* has widened the scope of application of the referendum which was previously limited to certain categories of bills, i.e. bills relating to the organization of the public powers or seeking to ratify a treaty.

[34] *Constitutional Act No. 2002-51 of June 1, 2001* has replaced the term “ratify” with the word “sign” in paragraph 1.

[35] As amended by *Constitutional Act No. 2002-51 of June 1, 2002*.

[36] As amended by *Constitutional Act No. 97-65 of October 27, 1988* and by *Constitutional Act No. 2002-51 of June 1, 2002* which, *inter alia*, introduced a new paragraph 3.

[37] *Constitutional Act of No. 2002-51 of June 1, 2002* has removed the possibility for the President to delegate the general regulatory power in its totality to the Prime Minister.

[38] Paragraph 2 was introduced by *Constitutional Act No. 2002-51 of June 1, 2002*.

[39] As amended by *Constitutional Act No. 2002-51 of June 1, 2002*.

[40] As amended by *Constitutional Act No. 88-88 of July 25, 1988* and by *Constitutional Act No. 2002-51 of June 1, 2002*.

[41] As amended by *Constitutional Act No. 88-88 of July 25, 1988*.

[42] As amended by *Constitutional Act No. 2002-51 of June 1, 2002*.

[43] As amended by *Constitutional Act No. 88-88 of July 25, 1988* and by *Constitutional Act No. 2002-51 of June 1, 2002*, which has lowered the threshold for the adoption of a censure motion from a two-thirds to an absolute majority in the Chamber of Deputies.

[44] As amended by *Constitutional Act No. 88-88 of July 25, 1988*.

[45] As amended by *Constitutional Act No. 97-65 of October 27, 1997*.

[46] As amended by *Constitutional Act No. 2002-51 of June 1, 2002*.

[47] *Constitutional Act No. 2002-51 of June 1, 2002* has created the possibility to confer the status of self-administering local communities on other entities than municipal and regional councils.

[48] Chapter IX was inserted in the Constitution by *Constitutional Act No. 95-90 of November 6, 1995*.

[49] Paragraph 4 was added by *Constitutional Act No. 2002-51 of June 1, 2002*.

[50] Paragraph 3 was inserted by *Constitutional Act No. 2002-51 of June 1, 2002*.

[51] As amended by *Constitutional Act No. 98-76 of November 2, 1998* and by *Constitutional Act No. 2002-51 of June 1, 2002*.

[52] *Constitutional Act No. 95-90* has made the previous Chapter IX the new Chapter X of the Constitution. The previous Articles 72, 73, and 74 became the new Articles 76, 77, and 78.

[53] Paragraph 2 was introduced by *Constitutional Act No. 97-65 of October 27, 1997*.

[54] As amended by *Constitutional Act No. 97-65 of October 27, 1997*, which introduced the possibility to adopt constitutional amendments through referendum.

[55] See note 53.

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