

Tunisia - Constitution

{ Adopted on: 1 June 1959 }

{ Amendment on: 12 July 1988 }

{ ICL Document Status: 1991 }

{ Editor's Note:

The text of the ICL edition reflects the status of 1991, thereby including the significant amendments of 1988, but not yet those (numerous) changes after 1991. }

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, set free from foreign domination thanks to its powerful cohesion and to its struggle against tyranny, exploitation, and regression;

- to consolidate national unity and to remain faithful to 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 in building a better future, and with all peoples who are struggling for justice and liberty;

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

We proclaim that the republican regime constitutes:

- the best guarantee for the respect of rights and duties of all citizens;

- the most effective means for assuring the prosperity of the nation through economic development of the country and the utilization of its riches for the benefit of the people;

- the most certain way for assuring the protection of the family and guaranteeing to each citizen work, health, and education.

We, the representatives of the Tunisian people, free and sovereign, proclaim, by the Grace of God, the present Constitution.

Chapter I General Provisions

Article 1 [State]

Tunisia is a free State, independent and sovereign; its religion is the Islam, its language is Arabic, and its form is the Republic.

Article 2 [Arab Nation, Treaties]

(1) The Tunisian Republic constitutes part of the Great Arab Maghreb, towards whose unity it works within the framework of common interests.

(2) Treaties concluded to this effect and being of such nature as to bring about any modification whatsoever to the present Constitution have to be submitted to a referendum by the President of the Republic after having been adopted by the National Parliament in the forms and conditions established by the Constitution.

Article 3 [Sovereignty]

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

Article 4 [Flag]

The flag of the Tunisian Republic is red; it has in the middle, under the conditions prescribed by the law, a white circle in which is displayed a five-pointed star surrounded by a red crescent.

Article 5 [Personal Integrity, Conscience, Belief]

The Tunisian Republic guarantees the inviolability of the human person and freedom of conscience, and protects the free exercise of beliefs, with reservation that they do not disturb the public order.

Article 6 [Equality]

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

Article 7 [Legitimate Purposes of Restriction]

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

Article 8 [Expression, Unions]

- (1) The liberties of opinion, expression, the press, publication, assembly, and association are guaranteed and exercised within the conditions defined by the law.
(2) The right of unionization is guaranteed.

Article 9 [Home, Secrecy of Correspondence]

The inviolability of the home and the secrecy of correspondence are guaranteed, save in exceptional cases established by the law.

Article 10 [Move, Domicile]

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

Article 11 [Expatriation]

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

Article 12 [Presumption of Innocence]

Every accused person is presumed innocent until his guilt is established in accordance with a procedure offering him guarantees indispensable for his defence.

Article 13 [Personal Punishment, *Nulla Poena Sine Lege*]

The sentence is personal and cannot be pronounced except by virtue of a law existing prior to the punishable act.

Article 14 [Property]

The right to property is guaranteed. It is exercised within the limits established by the law.

Article 15 [Duty to Defense]

The defense of the country and the integrity of its territory is a sacred duty of every citizen.

Article 16 [Duty to Pay Taxes]

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

Article 17 [Asylum]

Political refugees cannot be extradited.

Chapter II Legislative Power**Article 18 [National Parliament]**

The people exercise the legislative power through a representative organ called National Parliament.

Article 19 [Election]

The members of the National Parliament are elected by universal, free, direct, and secret suffrage, according to the modalities and conditions determined by the Electoral Law.

Article 20 [Right to Vote]

An elector is every citizen possessing Tunisian nationality for at least five years and having attained at least twenty years of age.

Article 21 [Eligibility]

Any voter, born of a Tunisian father, who is at least twenty-five years of age on the day of submission of his candidacy, is eligible for election to the National Parliament.

Article 22 [Term, Re-Election]

The National Parliament is elected for a period of five years in the course of the last thirty days of its mandate.

Article 23 [Continuing Parliament]

In case of impossibility of proceeding with the elections during the designated time, because of war or imminent peril, the mandate of the National Parliament is extended by a law until the time it is possible to proceed with the elections.

Article 24 [Seat]

The seat of the National Parliament is established in Tunis or its environment. However, under exceptional circumstances, the National Parliament may hold its sessions in any other place of the territory of the Republic.

Article 25 [Responsibility]

Every deputy is the representative of the entire Nation.

Article 26 [Indemnity]

A deputy cannot be prosecuted, arrested, or tried for opinions expressed, proposals made, or acts carried out in the exercise of his mandate in the National Parliament.

Article 27 [Immunity]

No deputy can be arrested or prosecuted for the duration of his mandate for a crime or misdemeanor as long as the National Parliament has not lifted the immunity which covers him. However, in the event of *flagrante delicto*, arrest procedure is permitted, in such a case, the National Parliament is to be informed without delay. The detention of a deputy is suspended if the National Parliament so requests.

Article 28 [Legislation]

(1) The National Parliament exercises the legislative power. The presentation of legislation belongs equally to the President of the Republic and to the members of the National Parliament, priority being given to bills presented by the President of the Republic.

(2) The National Parliament may authorize the President of the Republic to issue decree-laws within a fixed time limit and for a specific purpose which must be submitted for ratification to the National Parliament upon expiration of that time limit.

(3) Organic and ordinary laws are passed by the National Parliament by absolute majority. A draft organic law may not be submitted for deliberation by the National Parliament until after the expiration of a period of fifteen days from its filing.

(4) Laws considered to be of an organic character are those specified by Articles [4](#), [8](#), [9](#), [10](#), [66](#), [67](#), [68](#), [69](#), [70](#) and [71](#).

(5) The electoral law has the form of an organic law.

(6) The National Parliament votes on bills concerning financial laws and the regulation of the budget under the conditions stipulated in the organic law of the budget. The budget must be voted at the latest by December 31. If by that date the National Parliament has not made a decision, the provisions of the financial bill may be implemented by decree, in trimestrial renewable installments.

Article 29 [Sessions]

(1) The National Parliament meets each year in ordinary session which begins during the month of October and ends during the month of July.

(2) However, the first session of every legislature begins during the first fifteen days of November.

(3) During the vacation, the National Parliament may meet in extraordinary sessions on the request of the President or the majority of deputies.

Article 30 [Permanent Committees]

The National Parliament elects from among its members permanent committees, whose activity is pursued during the vacation of the National Parliament.

Article 31 [Decree-Laws During Vacation]

During the vacation of the National Parliament, the President of the Republic may, with the consent of the interested permanent committee, issue decree-laws which must be submitted to the ratification by the National Parliament during the next ordinary session.

Article 32 [Treaties]

Treaties do not have the force of law until after their ratification. Treaties duly ratified have an authority superior to laws.

Article 33 [Approval of Treaties]

The treaties are approved by law.

Article 34 [Legislative Competences]

Matters relating to the following are regulated in the form of laws:

- the general modalities of the application of the Constitution, other than those relative to organic laws;
- the creation of offices, public establishments, societies, or national enterprises;
- citizenship, the status of persons, and obligations;
- the procedure before different orders of jurisdiction;
- the determination of crimes and offences and the penalties which apply to them;
- amnesty;
- the basis and rate of taxes for the benefit of the State, except the delegation accorded to the President by the laws of finances and fiscal laws;
- the regime of the issuance of money;
- loans and financial obligations of the State;
- the fundamental guarantees accorded to civilian and military functionaries.

Article 35 [Legislative Competence About Principles]

The law determines the fundamental principles of:

- the regime of property and real rights;
- public health;
- labor law and social security.

Article 36 [Development]

The law approves the development plan. It authorizes the resources and charges of the State under conditions established by the organic law of the budget.

Chapter III The Executive**[Section 0 General Provision]****Article 37 [Executive Power]**

The executive power is vested in the President of the Republic assisted by a Government directed by a Prime Minister.

Section I The President of the Republic**Article 38 [Head of State]**

The President of the Republic is the Head of the State. His religion is Islam.

Article 39 [Election]

(1) The President of the Republic is elected for five years by universal, free, direct, and secret suffrage, within the last thirty days of the term of office and under the conditions specified by the electoral law.

(2) In case of an impossibility of proceeding with the elections at the appropriate time, because of war

or due to imminent danger, the term of office of the President is extended by law until it becomes possible to proceed with the elections. The President of the Republic may present himself for two consecutive mandates.

Article 40 [Eligibility]

(1) Any Tunisian who does not carry another nationality, who is of Moslem 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.

(2) The candidate must, furthermore, be at least forty years and at most seventy years of age on the day of submitting his candidacy and must enjoy all his civil and political rights.

(3) The candidate has to be presented by electors in accordance with the modalities and conditions stipulated by the election law. The declaration of candidacy must be recorded in a special register before a commission composed of the President and the following four members: the President of the National Parliament, the President of Constitutional Council, the First President of the Court of Cessation, and the First President of the Administrative Tribunal. The commission rules on the validity of the candidacies, the challenges received, and proclaims the result of the ballot.

Article 41 [Functions]

The President of the Republic is 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 watches over the regular functioning of the constitutional public powers and assures the continuity of the State.

Article 42 [Oath]

The elected President of the Republic gives the following oath before the National Parliament:

"I swear by God Almighty to safeguard the national independence and the integrity of the territory, to respect the Constitution and the law, and to watch meticulously over the interests of the Nation."

Article 43 [Seat of Presidency]

The official seat of the Presidency of the Republic is established at Tunis and its surroundings. However, under exceptional circumstances, it can be transferred provisionally to any other location in the territory of the Republic.

Article 44 [Commander-in-Chief]

The President of the Republic is the Supreme Commander of the Armed Forces.

Article 45 [Diplomacy]

The President of the Republic accredits diplomatic representatives to foreign powers. The diplomatic representatives are accredited to him.

Article 46 [Emergency Powers]

(1) In case of imminent peril menacing the institutions of the Republic, the security and independence of the country and obstructing the regular functioning of the public powers, the President of the Republic may take the exceptional measures necessitated by the circumstances, after consultation with the Prime Minister and the President of the National Parliament.

(2) During this period, the President of the Republic may not dissolve the National Parliament and no motion of censure may be presented against the Government.

(3) These measures cease to have effect as soon as the circumstances that produced them come to an end. The President of the Republic addresses a message to the National Parliament on this subject.

Article 47 [Referendum]

(1) The President of the Republic may submit to a referendum any bill relating to the organization of the public powers or seeking to ratify a treaty which, without being contrary to the Constitution, may affect the functioning of the institutions.

(2) When the referendum has resulted in the adoption of the bill, the President of the Republic promulgates it within a maximum period of fifteen days.

Article 48 [Treaties, War, Peace, Pardon]

- (1) The President of the Republic ratifies the treaties.
- (2) He declares war and concludes peace with the approval of the National Parliament.
- (3) He exercises the right of pardon.

Article 49 [Policy, Informing Parliament]

- (1) The President of the Republic directs the general policy of the Nation, defines its fundamental options, and informs the National Parliament accordingly.
- (2) The President of the Republic communicates with the National Parliament either directly or by message.

Article 50 [Nomination of Government]

- (1) The President of the Republic nominates the Prime Minister, and on his suggestion, the other members of the Government.
- (2) The President of the Republic presides over the Council of Ministers.

Article 51 [Dismissal of Government]

The President of the Republic dismisses the Government or one of its members on his own initiative or on the recommendation of the Prime Minister.

Article 52 [Promulgation, Veto]

- (1) The President of the Republic promulgates constitutional, organic, or ordinary laws and ensures their publication in the Official Journal of the Tunisian Republic within a maximum period of fifteen days counting from the transmission by the President of the National Parliament.
- (2) The President of the Republic may, during this period, return the bill to the National Parliament for a second reading. If the bill is adopted by the National Parliament with a majority of two-thirds of its members, the law is promulgated and published within a second period of fifteen days.

Article 53 [Execution of Laws, Regulatory Power]

The President of the Republic watches over the execution of the laws. He exercises the general regulatory power and may delegate all or part of it to the Prime Minister.

Article 54 [Deliberation of Bills, Countersignature]

- (1) Bills are deliberated on in the Council of Ministers.
- (2) Decrees of a regulatory character are countersigned by the Prime Minister and the interested member of the Government.

Article 55 [Nomination of Officers]

The President of the Republic nominates the highest civil and military officers on the recommendation of the Government.

Article 56 [Temporary Disability]

- (1) In case of temporary disability, the President of the Republic may, by decree, delegate his powers to the Prime Minister with the exclusion of the power of dissolution.
- (2) During the temporary disability of the President of the Republic, the Government, even if it is the object of a motion of censure, remains in place until the end of this disability.
- (3) The President of the Republic informs the President of the National Parliament of the provisional delegation of his powers.

Article 57 [Vacancy]

- (1) In case the Presidency of the Republic becomes vacant on account of death, resignation, or total incapacity, the President of the National Parliament immediately is invested temporarily with the functions of the Republic for a period of at least 45 days and at most 60 days. He takes the

constitutional oath before the National Parliament, and during its absence, before the Bureau of the National Parliament.

(2) The interim President of the Republic may not be a candidate for the Presidency of the Republic even in the case of resignation.

(3) The interim President of the Republic discharges the functions of the President of the Republic, however, without resorting to referendum, dismissing the Government, dissolving the National Parliament, or taking the exceptional measures provided for in Article [46](#).

(4) During this period, a motion of censure against the Government cannot be presented.

(5) During the same period, presidential elections are organized to elect a new President of the Republic for a term of five years.

(6) The new President of the Republic may dissolve the National Parliament and organize early legislative elections in conformity with the provisions of Article [63 \(2\)](#).

Section II The Government

Article 58 [Functions]

The Government puts into effect the general policy of the Nation, in conformity with the orientations and options defined by the President of the Republic.

Article 59 [Responsibility]

The Government is responsible to the President of the Republic for its conduct.

Article 60 [Prime Minister's Functions]

The Prime Minister directs and coordinates the work of the government. He substitutes, as necessary, for the President of the Republic in presiding over the Council of Ministers or any other Council.

Article 61 [Government in Parliament]

(1) The members of the Government have the right of access to the National Parliament as well as to its committees.

(2) Any deputy may address written or oral questions to the Government.

Article 62 [Motion of Censure]

(1) The National Parliament may, by a vote on a motion of censure, oppose the continuation of the responsibilities of the government, if it finds that the government is not following the general policy and the fundamental options provided for in Articles [49](#) and [58](#).

(2) The motion is not receivable unless it is motivated and signed by at least half of the membership of the National Parliament.

(3) The vote may not take place until 48 hours have elapsed after the motion of censure.

(4) When a motion of censure is adopted by a majority of two-thirds of the deputies, the President of the Republic accepts the resignation of the government presented by the Prime Minister.

Article 63 [Dissolution of Parliament]

(1) If the National Parliament has adopted a second motion of censure with a two-thirds majority during the same legislative period, the President of the Republic may either accept the resignation of the government or dissolve the National Parliament.

(2) The decree dissolving the National Parliament must include the calling of new elections within a maximum period of thirty days.

Chapter IV The Judiciary

Article 64 [Judgments]

Judgments are rendered in the name of the People and in the name of the President of the Republic.

Article 65 [Independence of Judiciary]

The judiciary is independent; the magistrates in the exercise of their functions are not subjected to any authority other than the law.

Article 66 [Nomination of Magistrates]

Magistrates are nominated by decree of the President of the Republic upon the recommendation of the Superior Council of the Magistrature. The modalities of their recruitment are determined by law.

Article 67

The Superior Council of the Magistrature, whose composition and attributions are determined by law, watches over the application of the guarantees accorded to magistrates in the matter of nomination, advancement, transfer, and discipline.

Chapter V The High Court**Article 68 [High Treason by Government]**

The High Court meets 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 are specified by law.

Chapter VI The Council of State**Article 69 [Administrative Tribunal, Court of Accounts]**

(1) The Council of State is composed of two organs:

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

(2) The composition and the competence of the Council of State as well as the procedure applicable before it are determined by law.

Chapter VII The Economic and Social Council**Article 70 [Consultative Assembly]**

The Economic and Social Council is a consultative assembly in economic and social matters. Its composition and its relations with the National Parliament are determined by law.

Chapter VIII The Local Collectivities**Article 71 [Local Councils]**

The municipal and regional Councils conduct the local affairs under the conditions determined by law.

Chapter IX Amendments of the Constitution**Article 72 [Initiative, Prohibited Amendments]**

The initiative for the amendment of the Constitution belongs to the President of the Republic or to at least one-third of the members of the National Parliament, with the reservation that it does not affect the republican form of the State.

Article 73 [Deliberation, Majority, Second Reading]

(1) The National Parliament may not deliberate on the proposed amendment except following a resolution passed by an absolute majority and after a special ad hoc committee has determined and studied the objective.

(2) The Constitution cannot be amended except following the adoption by the National Parliament of the amendment proposal with a majority of two-thirds of its members after two readings, the second of which may not take place until at least three months after the first.

Article 74 [Promulgation]

The President of the Republic promulgates the law which contains the provision of the Constitution under the form of a constitutional law in conformity with Article [52](#).

[Chapter X] Transitory Provisions

(1) The incumbent President of the Republic whose term of office expires during the month of November 1991, may, prior to that date, organize early elections, be they presidential, legislative, or both at the same time.

In case only early presidential elections are held, the current term of the National Parliament expires at the same time as that of the new President of the Republic elected in accordance with the present paragraph.

In case only early legislative elections are held, the term of the President of the Republic ends at the same time as that of the newly elected National Parliament.

(2) The decrees pertaining to the early elections provided for by this Article must include the convening of the electors for new elections within a maximum period of thirty days.

(3) The newly elected National Parliament must convene within eight days after the proclamation of the election results.

(4) The term of the incumbent President ends upon the proclamation of the results of the early presidential elections.

(5) The legislative term of the current National Parliament ends on the day of the convening of the new National Parliament.

Quelle: http://www.oefre.unibe.ch/law/icl/ts000000_.html vom 18.02.2003