



**Doc. 14323 – Compendium of written amendments**  
30/05/2017

**(Final version)**

## **Political transition in Tunisia**

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## A. Draft Resolution

1. Since the “Dignity Revolution” in January 2011, Tunisia is on the road to democracy. Of the countries which experienced the “Arab Spring”, it is the only one to have had a positive outcome.
2. In Resolutions 1791 (2011) and 1819 (2011) and Recommendation 1972 (2001) on the situation in Tunisia, and in Resolution 1893 (2012) on the political transition in Tunisia, the Parliamentary Assembly gave its backing to the democratic aspirations of the Tunisian people and offered its co-operation to place its experience of accompanying democratic transition at the disposal of Tunisia's institutions and civil society.
3. As part of the observation of elections, the Parliamentary Assembly has monitored all of the national ballots held in Tunisia since 2011, namely the election of the National Constituent Assembly in October 2011, of the Assembly of People's Representatives in October 2014 and of the President of the Republic in December 2014, and has praised their organisation and conduct.
4. The Assembly welcomes the adoption of the Constitution of 27 January 2014, which reflects the expectations of most Tunisians, dedicates an entire chapter to human rights and fundamental freedoms, establishes a Constitutional Court for Tunisia, responsible for ensuring their respect, and puts in place a political system with institutionalised checks and balances.
5. The Assembly pays tribute to the Tunisian people and its leaders, who have been able to successfully complete this constitutional process within a very difficult political and security context, and praises the sense of responsibility and compromise on the part of political decision makers along with the engagement of civil society, including in particular that of the Quartet headed by the Tunisian General Labour Union.
6. The Assembly notes with satisfaction that the new institutional framework is working. The unicameral Parliament, the Assembly of People's Representatives, has adopted Rules of Procedure giving effect to the rights granted to the opposition by the Constitution. The government has effective political responsibility before the Assembly of People's Representatives. Lastly, the President of the Republic plays a highly active role, providing momentum within the legislative process and acting as a guarantor of the Constitution.
7. The Assembly calls on the Tunisian authorities to ensure that the independent constitutional commissions, as well as those established by law, are given their rightful place. All these commissions are intended to make a significant contribution to the protection of human rights in accordance with the “Paris Principles” approved by the United Nations General Assembly and Commission on Human Rights, now the Human Rights Council. The Assembly accordingly invites the competent authorities to:
  - 7.1. adopt swiftly the draft organic law laying down common provisions for all constitutional commissions, which has

been pending before the Assembly of People's Representatives since March 2016;

- 7.2. allocate the constitutional commissions, and those established by law, financial and human resources commensurate with the responsibilities vested in them;
  - 7.3. guarantee the independence of these commissions by providing real assurances of their financial autonomy, as provided for under the Constitution and/or the legislation applicable to them;
  - 7.4. refer to the European Commission for Democracy through law (Venice Commission) both the draft organic law common to the constitutional commissions and the draft organic laws specific to each of the commissions that will succeed the current provisional bodies.
8. The Assembly welcomes the justice system reforms which contribute to the establishment of the rule of law and supports the efforts made by the Ministry of Justice to establish financial divisions capable of effectively combating corruption. It takes note of the removal of the impediments to the election of the Supreme Judicial Council, which should enable the Constitutional Court to be established.

**Amendment 1**

**Tabled by Ms Anne BRASSEUR, Mr Constantinos EFSTATHIOU, Ms Stella KYRIAKIDES, Mr Tiny KOX, Mr Alain DESTEXHE, Sir Roger GALE**

*In the draft resolution, before paragraph 8, insert the following paragraph:*

*"The Assembly took note of the simultaneous resignation of three members of the Independent High Commission for Elections, including its Vice-President and its President. It pays tribute to the exemplary nature of the work carried out by the Independent High Commission and calls on its members to continue organising future elections in an impartial and transparent manner, in compliance with the Constitution and international conventions."*

9. The Assembly is aware of the need to take the national reconciliation process to its conclusion, including in the economic and financial fields. However, it recalls that it is important that this reconciliation does not take place at the expense of justice and does not give rise to a sense of impunity. In this regard, it calls on the Assembly of People's Representatives to take into consideration the principles set forth in the interim opinion of the Venice Commission on the institutional aspects of the draft law on special procedures concerning reconciliation in the economic and financial fields in Tunisia, in the context of a new debate on a revised version of this draft law.
10. The Assembly confirms its firm attachment to the freedom of the media and welcomes the progress achieved in Tunisia in this field. It encourages the Tunisian authorities to preserve genuine independence of journalists and to guarantee that all media groups behave in an ethical manner. In addition, the state of emergency should not be used to interfere in the work of journalists. Civil and criminal procedures are the proper way to deal with infringements which do not endanger national security. In this context, it calls on the Tunisian authorities to:
- 10.1. fully support the High Independent Authority For Audiovisual Communication in its regulation task and to establish as soon as possible the independent

- Constitutional Commission in charge of the audiovisual sector;
- 10.2. settle as soon as possible the issue of the media outlets confiscated and run by the public administration after the fall of Ben Ali's regime, including the situation of the journalists concerned.
  11. The Assembly notes with satisfaction Tunisia's spontaneous request that the Council of Europe help it to set up the national mechanism for the prevention of torture. It encourages the Tunisian authorities to:
    - 11.1. implement the recommendations published by the United Nations Committee against Torture in May 2016, according to which abuses committed by law-enforcement officials too often go unpunished;
    - 11.2. provide the National Commission for the Prevention of Torture, as quickly as possible, with the financial and human resources necessary for its operation.
  12. The Assembly welcomes the reforms implemented in Tunisia to combat discrimination. In this regard, it gives its backing to the Tunisian authorities' ongoing efforts to promote equality between men and women in accordance with the Constitution.
  13. It considers that, while constituting positive discrimination, the voting system adopted for municipal and regional elections, which requires male-female alternation in lists and obliges political parties to ensure that half of the lead candidates in lists are women, will significantly improve the level of women's political representation.
  14. In matters of discrimination, it encourages the Tunisian authorities to:
    - 14.1. intensify the efforts to combat economic discrimination against women and to ensure that all legislative advances in the area of equality are implemented, irrespective of their social or geographical origin;
    - 14.2. pursue their efforts in relation to the criminalisation of racism and adopt the draft law to this end currently being debated within the Assembly of People's Representatives;
    - 14.3. reconsider the legality of the provisions of the Criminal Code that criminalise homosexuality in the light of the Constitution, which prohibits all forms of discrimination and guarantees the right to private life.
  15. The Assembly expresses its solidarity with the Tunisian people in combating terrorism and welcomes the work done by the law-enforcement authorities. Within this context:
    - 15.1. it calls on the Tunisian authorities to assess the implementation of Organic Law No. 2015-26 of 7 August 2015 on combating terrorism and money laundering, in particular with regard to:
      - 15.1.1. the duration of police custody and the possibility to prevent access to a lawyer during the first 48 hours;
      - 15.1.2. more generally, its effects on freedoms, regard being had to the results obtained in terms of public security;

- 15.2. it invites the Tunisian authorities to reaffirm their commitment to maintaining the moratorium on the death penalty which Tunisia has respected since 1991, and to undertake that this moratorium will not be called into question by the application of the law of 7 August 2015 or articles of the Criminal Code which provide for the death penalty.
16. The Assembly calls on the member and observer States of the Council of Europe, as well as the European Union, to come to the assistance of Tunisia to enable it to deal with the economic and security challenges upon which the success of its democratic transition depends. It reiterates the call it made in 2012 to the principal international partners of Tunisia to support the relaunch of the country's economy and tourism sector and encourages the Tunisian authorities to use the fight against corruption as a tool for the country's return to growth.
17. It also invites these international partners to pursue their co-operation in the area of security, while respecting Tunisian sovereignty, and considers the Tunisian initiative for Libya to be the best solution at present for enabling the Skhirat Agreement, negotiated under the aegis of the United Nations, to be implemented. As regards the management of Tunisian nationals returning from conflict zones, it encourages Tunisia to establish co-operation with countries that have attained convincing results in the field of deradicalisation, such as Norway or the Netherlands.
18. Taking account of the economic and security challenges currently facing Tunisia, the uncertain geopolitical context within which it is operating and the importance of the economic and human ties that bind it to Europe, the Assembly considers that Europe should do its utmost to prevent Tunisia from becoming destabilised by its immediate surroundings. Tunisia and Europe share a close destiny. A deterioration in the situation in Tunisia would have immediate repercussions for the European continent in terms of both migration and security. Consequently, the Assembly:
- 18.1. urgently calls on the member and observer States of the Council of Europe and the European Union to take all appropriate measures to maintain stability and to contribute to Tunisia's transition to democracy;
- 18.2. draws the attention of the competent institutions of the European Union, and in particular of the European Commission, to the importance for Tunisia of securing a complete and comprehensive free trade agreement that is fair, in particular in the area of agriculture.
19. The Assembly welcomes the intense and fruitful co-operation between Tunisia and the various bodies of the Council of Europe, which is making a strong contribution to its democratic transition. This co-operation should be developed further and extended to other sectors, including Tunisia's decentralisation process, with which the Congress of Local and Regional Authorities of the Council of Europe has been called upon to assist.
20. The Assembly considers that this co-operation would be more effective if it were supplemented by dialogue at a

**Amendment 2**

**Tabled by Ms Anne BRASSEUR, Mr  
Constantinos EFSTATHIOU, Ms Stella  
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DESTEXHE, Sir Roger GALE**

*In the draft resolution, paragraph 17, second sentence, after the words "in the fields of deradicalisation", delete the following words: ", such as Norway or the Netherlands".*

parliamentary level. It is ready to reinforce its links with the Assembly of People's Representatives and invites Tunisia's elected representatives to take full advantage of the opportunity which it provides to participate in European parliamentary dialogue.

## B. Draft Recommendation

1. The Parliamentary Assembly refers to its Resolution ... (2017) on political transition in Tunisia. It also refers to its Recommendation 1972 (2011) on the situation in Tunisia and the reply thereto from the Committee of Ministers.
2. It welcomes the decisive advances made by Tunisia in the area of democracy, the promotion of human rights and the establishment of the rule of law as well as the contribution made through co-operation between the Council of Europe and Tunisia to the country's reform process. In this regard, it expresses its satisfaction that Recommendation 1972 (2011) has been implemented.
3. Taking account of the high degree of co-operation between Tunisia and Council of Europe bodies, along with the results obtained, the Assembly recommends that the Committee of Ministers increase the volume of requests for funding through voluntary contributions in preparation for the 2018-2020 Neighbourhood Partnership, so as to consolidate and reinforce programme resources relating to:
  - 3.1. the promotion of women's rights, in particular in relation to combating discrimination against women;
  - 3.2. the defence of children's rights, in particular through the provision of support to Tunisia with its accession to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, "Lanzarote Convention");
  - 3.3. freedom of expression and freedom of the press;
  - 3.4. decentralisation, an area in which co-operation should be stepped up following the municipal and regional elections scheduled for December 2017.
4. Lastly, taking account of the economic and security challenges currently facing Tunisia, the uncertain geopolitical context within which it is operating and the importance of the economic and human ties that bind it to Europe, the Assembly considers that Europe should do its utmost to prevent Tunisia from becoming destabilised by its immediate surroundings. Tunisia and Europe share a close destiny. A deterioration in the situation in Tunisia would have immediate repercussions for the European continent in terms of both migration and security. The Assembly invites the Committee of Ministers to endorse this statement and to draw consequences from it when implementing the neighbourhood policy of the Council of Europe.

### **Amendment 3**

**Tabled by Ms Anne BRASSEUR, Mr Constantinos EFSTATHIOU, Ms Stella KYRIAKIDES, Mr Tiny KOX, Mr Alain DESTEXHE, Sir Roger GALE**

*In the draft recommendation, paragraph 3, replace the words "2018-2020 Neighbourhood Partnership" with the following words: "post-2017 co-operation document".*