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**Consideration of reports submitted by States
parties under article 40 of the Covenant**

Tunisia*

**Information received from Tunisia on the implementation of
the concluding observations of the Human Rights Committee
(CCPR/C/TUN/CO/5)**

[17 March 2010]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

1. At the outset, Tunisia wishes to underline the importance that it attaches to increasing its operation with the Human Rights Committee, as was explicitly affirmed, at the highest level, when Tunisia presented its fifth periodic report to the Committee on 17 and 18 March 2008. In responding, in this document, to the Committee's request for further information on certain paragraphs of the concluding observations issued by the Committee following its consideration of the report, Tunisia affirms that it stands ready to provide the Committee with further information in its next report. The request for additional information pertains to the following paragraphs.

Recommendation, paragraph 11

The State party should:

- (a) Ensure that all allegations of torture and cruel, inhuman or degrading treatment or punishment, not just allegations about violence, are investigated by an independent authority, provide detailed information on the prosecution and punishment of the perpetrators of such acts, including their hierarchical superiors, and ensure that the victims receive reparation, including appropriate compensation;
- (b) Improve the training of public officials in this area.

Reply

2. In addition to the information which Tunisia has already provided about this paragraph, stressing that all State institutions give paramount importance to protecting the physical and mental integrity of individuals and deal very firmly with law enforcement officers guilty of misconduct, abuse of authority or acts of torture or other cruel, inhuman or degrading treatment, Tunisia wishes to point out that the pursuit of this resolute State policy is driven by a desire on the part of the public authorities to strengthen the effectiveness of national and international mechanisms to monitor detention facilities and prisons, to prosecute officials guilty of torture or other cruel, inhuman or degrading treatment, to ensure that victims receive redress, including appropriate compensation, and, lastly, to continue efforts to improve the training of law enforcement officers.

(a) Continued efforts to strengthen the effectiveness of national and international mechanisms to monitor detention facilities and prisons.

3. With a view to preventing all forms of ill-treatment, national and international mechanisms to monitor detention facilities and prisons continue to be strengthened, in particular by the following means:

- The Chairman of the Higher Committee for Human Rights and Fundamental Freedoms has continued to carry out surprise visits to prisons and detention facilities to assess prisoners' conditions and treatment. Moreover, working groups including the Chairman of the Higher Committee and legal experts who are known for their competence and integrity have been established to monitor prison conditions and report back to the Head of State.
- The International Committee of the Red Cross (ICRC) has continued to visit prisons under the terms of the agreement it concluded with the Tunisian Government in 2005.
- Cooperation has been instituted between the Tunisian Association for the Rehabilitation of Former Prisoners and prison social services to help rehabilitate prisoners and reintegrate them into society.

- The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism visited Tunisia from 22 to 26 January 2010. The Special Rapporteur made several visits to the country's largest prison, where he was able to learn about the conditions of a number of inmates at first hand. He also visited a detention facility and the headquarters of an association for victims of terrorism. He spoke to a number of victims of terrorist crimes and to many officials and representatives of civil society.

(b) Prosecuting officials who perpetrate offences.

4. The Tunisian courts continue to punish illegal acts and practices and have no hesitation in prosecuting, trying and convicting individuals proven to have inflicted ill-treatment or to have abused their authority and impose stiff penalties on the perpetrators of such offences, commensurate with the gravity and nature of the offence. Court judgements issued in this regard include the following:

- Tunis Court of Appeal judgement No. 10372 of 2 February 2007, by sentencing a police station chief, in accordance with article 101 of the Criminal Code, to pay a fine of 500 Tunisian dinars for the offence of violence committed by a public official while on duty

5. The acts in this case occurred on 23 March 2006, when B.L., who had been arrested together with several young people, suffered a broken hand after being violently assaulted by the chief of the El-Ouardia police station:

- Tunis Court of Appeal judgement decision No. 12494 of 3 March 2009, convicting four police officers of ill-treatment leading to the death of a person in custody. Two of the officers were each sentenced to prison terms of 20 years for assault and battery causing unintentional death. The other two officers were sentenced as accomplices to terms of 15 and 10 years' imprisonment respectively.

6. The acts in this case occurred when an altercation broke out between M.S. and police officers in the town of Soliman after the former refused to pay for drinks he had consumed at the Medi Sea Hotel. The officers sprayed him with gas and assaulted him, before tying him up and placing him in a car. These actions led to the victim's death:

- Monastir Court of Appeal judgement No. 1579 of 11 June 2009, convicting two police officers of committing acts of violence while on duty. The officers in question were each sentenced to two years' imprisonment.

7. The acts in this case occurred when F.B. was assaulted by a police officer in a nightclub at the Cap Serail Hotel: the officer had led the victim's female companion away in order to talk to her and when F.B. attempted to pull her away, the officer had attacked him before handcuffing him and his friend. The officer then beat both F.B. and his friend all over their bodies with a truncheon and bundled them into an official car.

8. The following table shows the number of police officers, during the period from 1999 to September 2009, who were prosecuted for ill-treatment to whom final judgements were handed down.

<i>Year</i>	<i>Number of officers</i>
1999	4
2000	5
2001	2
2002	3
2003	9

<i>Year</i>	<i>Number of officers</i>
2004	27
2005	33
2006	29
2007	43
2008	32
2009 (until 25 September)	41
Total	228

9. The term “ill-treatment” does not refer only to offences involving violence, but includes the following:

- Abuse of authority, accompanied by violence
- Use of violence by public officials during the performance of their duties
- Use of violence against suspects to extract confessions
- Arbitrary arrest and detention
- Miscellaneous forms of abuse of authority and ill-treatment

10. It should be noted that prosecutions and convictions in such cases are without prejudice to any other disciplinary action which the authorities may deem necessary to take against their officers in accordance with the principle that a criminal and disciplinary offence attracts dual penalties. The perpetrators of such offences generally face disciplinary proceedings for dismissal.

11. The table below shows the number of officers removed from their posts between 1999 and September 2009, in accordance with article 53 of the statute of the internal security forces, after being prosecuted for ill-treatment

<i>Year</i>	<i>Number of officers</i>
1999	1
2000	1
2001	-
2002	7
2003	2
2004	4
2005	2
2006	-
2007	-
2008	1
2009 (until 25 September)	-
Total	18

(c) Ensuring that the victims receive redress, including appropriate compensation.

12. Under Tunisian law, the victim of an offence has the right to bring an action for appropriate compensation against the perpetrator of that offence. The victim can either sue for damages in the criminal proceedings or file a separate civil suit.

13. Examples of cases brought before the Tunisian courts include one heard by the Tunis Court of Appeal in 2002, where four prison officers had shackled the legs of a recalcitrant prisoner and the victim's feet had become gangrenous and had had to be amputated. The court sentenced each of the four officers to 4 years in prison for abuse of authority, complicity in committing abuse of authority and the offence of carrying out a violent assault on an inmate while on duty leading to amputation of a limb.

14. In accordance with article 49 of the statute of the internal security forces (Act No. 70 of 6 August 1982), which stipulates that the authorities must afford victims the right to claim damages if an officer of the internal security forces is prosecuted for committing a wrongful act in or during the course of duty, the court ordered the Ministry of Justice, as represented by a State attorney, to pay the plaintiff M.A.M. the sum of D200,000 in compensation for physical injury, D100,000 for psychological injury and D6,000 in costs for artificial limbs to be fitted.

(d) Improving the training of law enforcement officers.

15. Tunisia attaches great importance to improving the training of law enforcement officers and places particular emphasis on the promotion of a human rights culture. Tunisia believes that education constitutes the principal means by which such a culture may be disseminated and behaviour may be changed for the better, since the effectiveness of laws and regulations (important as these may be) depends on the degree to which a human rights culture has been developed and promoted.

16. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and other international instruments pertaining to victims of abuse of power are taught in training schools for the security forces (the National Guard and the police), as well as in the Prisons and Rehabilitation Training School, the Higher Institute of the Judiciary and the Higher Institute for Lawyers.

17. As integration of information on the prohibition of torture into training courses for law enforcement officers is a key to disseminating a human rights culture, for some time now, efforts have been made to deepen and widen the integration process so as to reach all law enforcement officers, in particular officers from the Ministry of the Interior and Local Development and the Ministry of Justice and Human Rights.

18. In training schools for the security forces, in addition to awareness-raising and training courses, instruction on human rights and ethical conduct is integrated into basic, specialist and ongoing training for the different ranks, including cadres and police deputies. Similarly, the centre for training and retraining of staff from the Ministry of the Interior and Local Development plays an active role in disseminating a culture and awareness of human rights among staff of the Ministry. Trainees at the Higher Institute of Internal Security Forces are required, inter alia, to carry out research and studies on human rights. Subjects studied during the 2009 academic year included torture and degrading treatment as addressed in Tunisian law, legal instruments on countering terrorism, a new and more progressive approach to the penalty of imprisonment, and the offences of trafficking women and children.

19. In recent years, the Ministry of the Interior and Local Development has organized numerous meetings and seminars on the subject of human rights, including:

- Scheduled talks and seminars as part of training courses and workshops run at training schools for the security forces at different levels
- Discussions on the theme of protecting human rights and public freedoms held during periodic seminars for district and regiment chiefs as well as meetings of brigade and police station chiefs
- Regional study days, held in conjunction with the judiciary, to raise awareness of procedures and new amendments to existing legislation
- Weeks exclusively devoted to human rights and awareness-raising sessions of national mechanisms for human rights protection, organized at the National School for Auxiliary Police Officers in Bizerte

20. Moreover, a guide to United Nations and national documents on human rights has been published, along with updates. The guide has been distributed as a work and reference tool to all law enforcement officers. The main international instruments in the guide include:

- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment
- Extracts from the Code of Criminal Procedure relating to the custody and treatment of detainees
- The Act on the organization of prisons
- The Code of Conduct for Law Enforcement Officials
- The Standard Minimum Rules for the Treatment of Prisoners
- The principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- The declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief
- The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
- The Basic Principles on the Role of Lawyers

21. The Ministry of Justice and Human Rights makes considerable efforts not only to administer justice, but also to provide human rights training and promote a culture of human rights, notably through the National School for Prisons and Rehabilitation. To this end, the Prisons and Rehabilitation Department has made human rights a core subject for all trainees taking basic training programmes for recruits, and for officers taking practical training courses. Moreover, numerous refresher courses have been held to improve the skills of prison officers, deepen their knowledge of, and familiarize them with, the latest developments in human rights. These courses have focused on the following themes:

- Rights and duties of prisoners and related regulations
- Treatment of prisoners
- Dialogue and communication skills

22. The Prisons and Rehabilitation Department has organized human rights awareness-raising days for public officials for its staff in all prisons and rehabilitation centres overseen by public administration cadres.

Recommendation, paragraph 20
Steps taken to ensure respect for and protect the peaceful activities of human rights organizations and defenders, and information on investigations of allegations of intimidation and harassment

Reply

23. At the outset, it should be emphasized that the Tunisian authorities encourage and protect human rights activists, and have established an appropriate legal framework within which they may conduct their human rights activities, whether they relate to individuals or organizations.

24. It should also be stressed that there are no special provisions of law on this matter, since the Criminal Code and the Code of Criminal Procedure contain general provisions affording equal protection to all citizens. Any measure designed to grant special legal protection to a given category of persons would, moreover, be contrary to the principle of equality enshrined in the Constitution.

25. It should likewise be underlined that no special practical measures have been taken in this regard; to do so would violate the principle of equality, by which all individuals should be treated alike.

26. The Tunisian authorities guarantee the rights of human rights activists and defenders and wish to draw the attention of the Human Rights Committee to the following.

First

27. Human rights activists and defenders must not use their position for personal gain or to engage in activities incompatible with the peaceful purposes and noble aims associated with human rights values and principles. If such a position is exploited, it loses its *raison d'être*, and the activist or human rights defender will be in a worse moral position than a lawbreaker who does not take on or is not attributed such a role.

28. The politicization of human rights by certain human rights defenders does not at all serve the cause of such rights. The State makes every effort to assist human rights activists and defenders to carry out their work and seeks to resolve problems or misunderstandings which arise, primarily through dialogue, eschewing all actions which may exacerbate matters.

Second

29. There is no doubt that human rights activists or defenders are capable of breaking the law by, *inter alia*, abusing their positions; they are not infallible. Hence, in keeping with the principle of equality of citizens, the status of human rights activists or defenders cannot be used as a pretext to shield such individuals from prosecution for any illegal actions they may perpetrate. In a State governed by the rule of law and respect for institutions, human rights activists or defenders, however important and noble their status, cannot be granted more rights than other citizens.

30. As the authorities in Tunisia are convinced that human rights defenders have a noble mission, however, they have pledged to promote their activities and to drive the human rights education process forward as it is key to ensuring that such activities flourish and achieve their worthy aims. It will, however, require patience and forbearance before everyone understands that defending human rights is not a matter of conflict between human rights activists and the authorities but rather is a constructive and ongoing development process in which human rights evolve continuously on the ground, in an atmosphere characterized by moderation and restraint.

Third

31. The Tunisian authorities attach as much importance to the communications concerning allegations of intimidation and harassment which are sometimes submitted by human rights workers as it does to complaints from individuals against human rights workers. Regardless of their provenance, all complaints and allegations are carefully considered by the various organs of the judiciary, including the Office of the Public Prosecutor, which investigates all cases referred to it, and the courts which rule on cases of both kinds.

Fourth

32. From the investigation conducted into allegations referred to the Office of the Public Prosecutor by persons claiming to work in human rights, it was concluded that the allegations were unfounded, or were based on misinformation or that persons found guilty in cases that were investigated had not been convicted because they were human rights advocates or on account of their activities in defence of human rights. This may be illustrated by the following two examples from Tunisian case law.

Example 1

33. In the first half of 2008, following the emergence of a protest movement in the town of Redeyef in the governorate of Gafsa, allegations were made to the Tunisian authorities that a number of trade union advocates and activists had been prosecuted and imprisoned for their human rights and union activities. However, when the matter was investigated, it was found that the individuals involved had come to an agreement to stir up civil disobedience. As a result, the civil trade union protest movement was transformed into a rebellion, and leaflets calling for violence were distributed. Violence did indeed occur. Petrol bombs and knives were used and public roads and railway lines were blocked. Many people sustained injuries and damage was done to public and private property. Those guilty of participating in these actions were convicted and granted conditional release.

34. This case demonstrates that a distinction must be drawn between activities conducted with a view to defending human rights, including trade union rights, and criminal activities resulting in attacks on persons and property.

Example 2

35. In October 2008, allegations were made that Mr. Mokhtar Jalali, a human rights activist and member of an opposition party, had been arrested because of his human rights activities. Investigators ascertained that Mr. Jalali had been involved in a traffic accident in Tunis on 13 October 2008 in which a pedestrian had died.

36. Mr. Jalali was tried and found guilty of committing manslaughter in a road accident; he was found to bear responsibility for the road accident, since he had been driving at excessive speed and without due care in a built-up area.

37. The above clearly shows that this human rights activist was not prosecuted because of his human rights activities but because of a traffic accident for which, as the investigation proved, he was responsible.

Recommendation, paragraph 21
Information regarding the registration of associations for the protection of human rights, review of all appeals brought in cases where registration is refused and examples of such rejections and appeals

Reply

38. Promoting civil society is a policy choice made by Tunisia. In this regard, the Organization Act No. 92-25 of 2 April 1992 has strengthened the appeal process in cases where a registration application from an independent human rights association is rejected.

39. Examples of cases considered by the Tunisian administrative justice include case No. 3643 in which the Tunisian League for the Defence of Human Rights lodged an appeal against a decision of the Interior Minister of 14 May 1992 classifying the League as a general purpose association.

40. The plaintiff argued that the administration had not provided legal guarantees when preparing the contested decision, including in particular the right of defence.

41. The administrative court held that, since the Tunisian League for the Defence of Human Rights had not been informed of the preparation of the decision against it and had been unable to present its views prior to the decision being issued, the decision on classification of the League, which faced possible dissolution, was illegal, as it had been taken without the League taking part in the proceedings, as required under article 3 of the relevant Act. The decision could thus have serious repercussions on the association's activities. In the light of the above, the court upheld the appeal on the form and the merits and annulled the contested decision on 21 May 1996.

42. It should, however, be noted that registration applications submitted by associations are not rejected because these associations are actively involved in human rights but rather because they have been established illegally or undermine public order. The right to freedom of assembly and freedom of expression is thus guaranteed, subject, however, to the limits imposed by law. Membership of an association actively involved in human rights does not confer immunity from prosecution.

43. The registration process is monitored to ensure that associations do not pursue aims which are incompatible with the republican order and do not promote religious extremism, discrimination, racism, intolerance, hatred for religion or terrorism.

44. The Tunisian authorities strive to build consensus between the parties which monitor the association registration process and to set deadlines which help to safeguard and support the right to freedom of assembly in compliance with international standards.

45. Lastly, it should be noted that in its dialogue with the Human Rights Committee, and given the importance the Committee attaches to promoting rights and freedoms and, in particular, to strengthening guarantees for persons deprived of their liberty, Tunisia has recently developed its legislation in many fields, promulgating the following laws.

Act No. 21 of 4 March 2008, on extending the duration of police custody and pretrial detention

46. By this Act, articles 13 bis, 57 and 85 of the Code of Criminal Procedure were amended to include explicit provisions stating that any decision to extend police custody or pretrial detention must be supported by a written statement setting out the factual and legal grounds for the decision. Under this Act, public prosecutors who monitor police custody are required to evaluate the grounds for an extension, such as the need to establish whether or

not an offence has been committed and to prevent further offences being committed. They must weigh up factors of the extension pertaining to the investigation such as hearing of witnesses and the apprehension of an accused person who has absconded, and must assess the overall evidence used to justify holding the person in custody.

47. The fact that an investigating judge must justify a pretrial detention order allows the indictment division, on appeal, to assess the validity of grounds given and to take an appropriate decision, verifying, inter alia, compliance with mandatory release orders, in accordance with the principle that freedom must be the rule and deprivation of liberty the exception to the rule.

48. The requirement to justify such decisions also safeguards the legitimate interests of the accused, without prejudice to the purposes which police custody and pretrial detention serve in terms of controlling crime, gathering evidence and apprehending and bringing offenders to justice, while maintaining public order and security.

49. This amendment to the law is likely to improve the criminal justice system by providing additional safeguards for all individuals deprived of their liberty and establishing legal rules which prevent those safeguards being violated. Moreover, it ensures that police custody is subject to judicial oversight and highlights the exceptional nature of pretrial detention, in keeping with the Constitution.

Act No. 58 of 4 August 2008 on the treatment of pregnant and breastfeeding women in detention

50. Under this Act, an area is to be set aside in prison for prisoners who are pregnant or who are breastfeeding and the maximum age up to which children may remain with their imprisoned mothers is revised.

A. Setting aside an area for prisoners who are pregnant or breastfeeding

51. Unlike other female prisoners, pregnant or breastfeeding prisoners fall into a special category; both they and their children in detention with them require specialized medical, psychological and even social care. Hence, an area resembling a normal environment must be set aside for them, in which prisoners' children receive the medical and psychological care they require, enjoy a sound upbringing and are protected from harm.

52. As such, this Act represents a renewed focus on family welfare and recognizes the universality, complementarity and interrelatedness of human rights in keeping with the Tunisian Constitution. It also affirms the principle of protecting the best interests of the child; this principle is now an established element in Tunisian legislation, both in the Personal Status Code and the Child Protection Code.

B. Revising the maximum age up to which children may remain with their mothers in prison

53. Prisoners who are pregnant or breastfeeding are housed in a special area for the duration of their pregnancies or until they stop breastfeeding. They serve out the remainder of their sentences in a women's prison or in a prison wing set aside for them.

54. Under previous legislation, a child was allowed to remain in prison with the mother until the age of 3 before being handed over to the father or to a person designated by the mother. If this was not possible, the prison administration would notify the judge for the enforcement of sentences, who would refer the matter to the competent family judge responsible for authorizing measures to safeguard the child's best interests, such as entrusting the child to the care of a child welfare agency.

55. The three-year period established under the Act on the organization of prisons in Tunisia was considered rather long, given that when children turn 3 they start to become

conscious of their surroundings. It was feared that this could have a negative influence on children's psychological well-being, upbringing and development.

56. In the light of the above, the new Act sets the breastfeeding period at one year. This period may be extended by up to one additional year, further to a decision of the competent family court, at the request of the mother, and after consideration is given to the child's best interests. This corresponds to the established maximum breastfeeding period of two years. In taking this decision, the court will take into account the social circumstances and mental and physical health of the mother and child.

Act No. 75 of 11 December 2008 on strengthening the guarantees afforded to accused persons, improving the situation of inmates and easing conditions relating to rehabilitation

57. This Act focuses on improving the situation of inmates by ensuring that the statutory period of pretrial detention is not exceeded and by reviewing the conditions under which rights are restored in order to facilitate the reintegration of offenders.

A. *Improving the situation of persons in pretrial detention*

58. The new Act contains several provisions introducing tighter regulation on pretrial detention regime and broadening the scope of mandatory release.

1. Regulation of pretrial detention

59. Under article 85 of the Code of Criminal Procedure, an accused person could be remanded in custody for committing serious offences or flagrant major offences, or when serious allegations had been made which necessitate detention as a security measure to prevent further offences from being committed, to ensure that a penalty was enforced or to facilitate investigations, provided that the period of pretrial detention did not exceed six months. By means of a decision stating the grounds and following consultation with the prosecutor, that period could be extended once for up to three months for major offences and twice, for up to four months each time, for serious offences.

60. However, article 85 did not explicitly state whether the pretrial detention period included the time taken for an investigation following a decision of the indictment divisions to send a case back to the investigating judge to complete an investigation. In such cases, the investigating judge was no longer directly responsible for the case and was only responsible for executing the decision of the indictment division.

61. In order to safeguard the rights of the accused, the new Act specifically states that a decision of the indictment division to send a case back to an investigating judge to complete certain procedures necessary for the preparation of a case must not result in the accused being held beyond the maximum permitted term. Once this term has expired, the investigating judge or the indictment division must grant the detained a temporary release.

62. To ensure that a defendant who has been released appears before the court whenever required, the judge or the indictment division, as the case may be, is authorized to take the necessary measures to ensure that the defendant appears. These measures include inter alia compulsory residence in the district in which the court has jurisdiction, the obligation to report one's movements or, if necessary, a prohibition on travel.

2. Broadening the scope of release on and without bail

63. The final paragraph of article 85 of the Code of Criminal Procedure stated that if the maximum penalty prescribed by law is one year's imprisonment, an accused person had the right to be released on or without bail five days after being questioned, provided that he or

she had a fixed abode in Tunisia and had not previously been sentenced to more than three months' imprisonment.

64. However, this article was rarely applied, since only very few accused persons met both conditions. To emphasize that pretrial detention is an exceptional measure, the new Act broadens the scope of release on or without bail five days after questioning to include accused persons with a fixed abode in Tunisia who have not previously been sentenced to more than six months in prison, if the maximum penalty prescribed by law is two years' imprisonment.

65. This rule is not absolute, however, exceptions are allowed for certain serious crimes which impinge on public safety.

B. Facilitating reintegration

66. The main new elements introduced by this Act include:

- Revised time frames for rehabilitation by the pardons commission: under the previous legislation, offenders had to wait between one and three years before applying to the pardons commission to recover their rights; the length of time depended on whether the offender had been convicted for a major or a serious offence. There is no doubt that the time limits were excessive, since they hindered the detainee from finding employment quickly. Under the new Act, the time limits have been reduced, from one year to six months for a major offence, and from three years to two years for a serious offence.

67. Revised time limits for the automatic restoration of rights. Under the previous legislation, for automatic restoration of rights, the offender could not be reconvicted of a major or serious offence within a given time period. This period depended on the nature of the offence committed. For financial penalties, it was 3 years from the date on which the payment was registered or from when the penalty no longer applied, as the statute of limitations had run out, 5 years for penalties of deprivation of liberty imposed for a major offence, and 10 years for penalties of deprivation of liberty handed down for a serious offence. These time limits took effect when the prison term ended or when the penalty no longer applied under the statute of limitations.

68. Since it is preferable to reduce the time necessary for rehabilitation so as to allow offenders to reintegrate into society and find employment more quickly, the new Act has reduced the penalty for a minor offence from 3 years to 1 year, has reduced prison terms for major offences from 5 years to 2 years and prison terms for serious offences from 10 years to 5 years.

Act No. 68 of 12 August 2009 on punitive damages and alternatives to prison sentences

69. This new Act empowers a court ruling on a petty offence or a simple offence which carries a short-term prison sentence to replace a prison sentence with the payment, within a specified time period, of damages which are agreed upon by the victim and offender, subject to the proviso that the original sentence will be reinstated if the damages are not paid on time.

70. Punitive damages may be imposed as an alternative to a prison term for minor and major offences in which direct personal injury is done to the victim and which carry a prison sentence of up to 6 months. Such sentences are too short for offenders to benefit from the appropriate reform and rehabilitation programmes, which makes it less likely that they will achieve their objectives of effecting reform and more likely that the offender will reoffend.

71. When ruling on a case, a court may also safeguard the rights of the victim by requiring the offender to pay punitive damages of not less than 20 Tunisian dinars and not more than 5,000 dinars, even if there are multiple victims.

72. In order to balance the interests of the victim, the accused and society, the above-mentioned provisions do not apply to offences for which a prison term of 6 months or more is prescribed or which pose an inherent danger to society and for which the payment of compensation cannot make amends. Likewise, punitive damages may not be offered as an alternative to prison terms even of less than six months, for certain serious offences. Such offences include bribery and offences whose gravity depends on the status of the victim, for example, offences against minors. Some offences which are subject to particular legal procedures are also excluded, such as causing death or injury as a result of a traffic accident and writing a cheque with insufficient funds in the relevant account to cover it.

73. The accused, or his or her representative, or an ascendant, descendant, relative or spouse has three months to submit dated documentary evidence to the public prosecutor at the court which ordered the payment of punitive damages to show that the sentence has been executed or that the punitive damages have been paid.

74. If the offender does not pay the punitive damages or make other restitution within three months of the date on which the deadline for appealing the verdict of the court of first instance expires, or within three months of the final verdict being handed down, the public prosecutor will initiate procedures to enforce the original prison sentence.

75. If the punitive damages are paid within the legally stipulated time period, the prison sentence which was handed down will be extinguished.

76. In submitting this additional information to the Human Rights Committee, Tunisia wishes to reiterate its willingness to provide the Committee with further details in its next periodic report.
