



**Convention on the Rights  
of Persons with Disabilities**

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**Committee on the Rights of Persons with Disabilities**

**Fifth session**

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**Implementation of the International Convention on the  
Rights of Persons with Disabilities**

**Consideration of reports submitted by States parties in accordance with  
article 35 of the International Convention on the Rights of Persons with  
Disabilities**

**Replies submitted by the Government of Tunisia to the list of  
issues (CRPD/C/TUN/Q/1) to be taken up during the  
consideration of the initial report of Tunisia  
(CRPD/C/TUN/1)\* \*\***

[18 February 2011]

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\* 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.

\*\* The annex may be consulted in the files of the Secretariat.

## **Replies of Tunisia to the list of issues to be taken up during consideration by the Committee on the Rights of Persons with Disabilities of the initial report of Tunisia**

### **1. Please explain whether persons with intellectual forms of disabilities are considered “persons with disabilities”, and therefore entitled to the benefits accorded to such persons under General Principles Act No. 83 of 2005.**

1. Persons with intellectual disabilities are considered persons with disabilities if medical, psychological and functional tests prove that their disability permanently impairs their mental capacity to perform one or more essential personal or social daily activities and limits their inclusion in society.

2. The Regional Committee for Persons with Disabilities uses the disability assessment scale when considering case files in order to determine an individual's level of independence in terms of communication, motor skills, self care, home life and major areas of life (study, work and personal financial transactions), relationships, dealings with others and social life.

3. When the Committee finds that a person, including persons with intellectual disabilities, meets the disability criteria in accordance with the disability assessment scale, the Ministry of Social Affairs issues a disability card to that person, which enables him to obtain the benefits and privileges guaranteed by General Principles Act No. 83 of 15 August 2005 on the advancement and protection of persons with disabilities.

### **2. Please indicate what institution or organization, if any, has the authority to decide on the types of cases enumerated in paragraph 41 of the initial report (CRPD/C/TUN/1) and who may submit cases for decision. Please explain whether the law provides for a regular review of such decisions. If so, when are the reviews conducted and at what intervals?**

4. The institution competent to decide on the types of cases enumerated in paragraph 41 of the initial report (CRPD/C/TUN/1) (nature and degree of disability, type of disability card, validity period and renewal of the card, benefits and entitlements conferred by the card, files concerning requests for equipment, prostheses and technical assistance and files on children with disabilities recommended for inclusion in regular schools) is the Regional Committee for Persons with Disabilities, in accordance with Decree No. 3086 of 29 November 2005 establishing regional committees for persons with disabilities, defining disability and setting the criteria to be met in order to obtain a disability card. The Regional Committee is authorized to consider and decide on the following:

- Files referred to it in order to establish “disabled person” status and to identify the nature and degree of disability, type and validity period of disability card, benefits and entitlements granted on the basis of the disability-related requirements and socio-economic situation of the person concerned
- Files referred to it concerning requests for equipment, prostheses and technical assistance that would facilitate inclusion and assistance to others

- Files of children with disabilities recommended for inclusion in regular schools and guidance on educational and vocational establishments and training appropriate to their situation
- Guidance to persons with disabilities recommended for vocational training, rehabilitation and employment on approaches to integration appropriate to their situation
- Requests for placement with a foster family or an institution for the care of persons with disabilities
- Requests for home care services for severely disabled persons who are unable to move
- Any other issues submitted by regional governors relating to the advancement and protection of persons with disabilities

The opinion issued by the Committee is binding and is automatically adopted by the authorities concerned in order to provide the aforementioned services.

5. With regard to the frequency of its meetings, Decree No. 3086 of 2005 provides that the Regional Committee of Persons with Disabilities shall meet twice monthly or as the need arises.

6. In order to ensure transparency in the Committee's work, if an application for a "disability card" is refused or if a requested service is not approved the person concerned can submit a request by registered letter to the relevant regional office for a review of the decision. In this case, he must submit new supporting elements no later than two months from the date on which he was notified of the decision. In addition, a cardholder can block a request for review of his file should there be a change or development in the state of his health, supported by medical justification.

7. Furthermore, the Committee submits a report on its activities during the previous 6 months (no later than 15 days from the end of each 6-month period) to the Minister for Social Affairs. The authority that may submit files to the Regional Committee is the provincial department responsible for social affairs.

### **3. Please indicate the measures in place to follow up on recommendations made by civil society organizations for persons with disabilities. Please provide details and timelines.**

8. Numerous measures have been taken to follow up on the implementation of recommendations made by civil society organizations, including the following.

#### **Accessibility**

9. Some associations have expressed concern that some public spaces in some parts of Tunisia continue to fall short of accessibility requirements; they have called on the competent national authorities to remedy the situation by redesigning those spaces and by adding pictorial symbols to written signs that designate both private and public places.

10. In response to that concern, it should be noted that the national accessibility plan applies to all public spaces in every governorate in Tunisia as part of a programme that is being implemented gradually, according to the available options and priorities (schools, institutes, hospitals, sports and cultural spaces). The offices of all relevant ministries or structures are following up on the accessibility programme.

**Freedom and security of persons with disabilities**

11. In order to increase the effectiveness of its role as a national mechanism for monitoring implementation of the United Nations Convention on the Rights of Persons with Disabilities, the Higher Committee on Human Rights and Fundamental Freedoms held a meeting at its headquarters on 17 June 2009 at which the leading associations for persons with disabilities aired their concerns, suggestions and aspirations. Proposals included the following:

- A representative committee should be formed to monitor all categories of disability, (visual, hearing, physical, mental and multiple disabilities) and should meet biannually. With regard to a representative committee, the various associations working in the field of disability and representing all categories thereof contribute to the different councils and committees concerned with disability, express their views and make proposals and recommendations that are taken into account. With regard to a follow-up committee, the Higher Committee on Human Rights and Fundamental Freedoms has been designated as the national mechanism to monitor and follow up on the implementation of the Convention, to which associations can resort whenever they deem necessary.
- A plan should be formulated to raise awareness among the parties concerned of the need for action to ensure the full implementation in all areas of the legal and administrative provisions for persons with disabilities.

12. In this connection, it should be recalled that numerous activities have been organized in order to publicize General Principles Act No. 83 of 2005 on the advancement and protection of persons with disabilities and to raise awareness among the parties concerned regarding the provisions thereof, including by holding seminars in each of the provinces, attended by various government representatives at the provincial level and associations working in the field of persons with disabilities and their guardians. A pamphlet containing the relevant legal and administrative provisions and the Convention has also been issued and distributed widely and awareness-raising efforts continue to be made using radio and television.

- Efforts should be made to add certain disabilities to the list of chronic illnesses that are fully covered, as muscular dystrophy is.
- The relevant authorities should allow persons with disabilities to enjoy tax and customs exemptions in respect of machines and equipment for their use.

13. In this regard it should be emphasized that mechanical, teaching and pedagogical aids for persons with disabilities are exempt from tax and customs. Associations can submit a written application for the inclusion of other machinery or equipment in the exemption category.

- The establishment of associations to assist severely disabled persons in the home should be encouraged, given the unmet needs of persons with muscular dystrophy for such assistance

14. In response to this proposal, an association to assist severely disabled persons at home has been established. In addition, numerous associations and their local offices offer welfare and rehabilitation services for persons with severe disabilities in their homes, including persons with muscular dystrophy. Associations are established at the individual or collective initiative of citizens and there is no barrier to their doing so, in any field of activity.

- A programme should be established for the Higher Committee for Human Rights and Fundamental Freedoms to conduct visits to associations and foundations, as part of its mandated functions

15. In accordance with the provisions of article 5 of the Act regulating the Higher Committee for Human Rights and Fundamental Freedoms, the Chairperson of the Committee carries out unannounced visits to entities concerned with persons with special needs in order to ascertain the extent to which the national legislation on human rights and fundamental freedoms is applied.

### **Freedom from exploitation, violence and abuse**

16. Associations have called for increased efforts in legislative, administrative, social, educational, cultural and other spheres to prevent such practices.

17. In this regard we should like to mention that the Child Protection Code promulgated by Act No. 92 of 9 November 1995 guarantees children in general and children with disabilities in particular freedom from various forms of exploitation, violence and abuse. Under the said Code, sexual or economic exploitation and habitual mistreatment of children are considered as difficult situations that require swift intervention by both child protection officers and family judges in order to protect children.

#### *Child protection officers*

18. Child protection officers are experts on social issues and intervene in all situations in which the physical or mental health and safety of children could be at risk as a result of the environment in which they live or because they are vulnerable to various forms of abuse and exploitation.

19. Child protection officers are one of the most important social protection mechanisms for children at risk; there is one child protection officer in every province, although there can be more than one, if needed, in order to ensure swift and effective intervention and to protect children from all possible harm.

20. Given the importance of reporting mechanisms in strengthening society's role in protecting children from various forms of violence, abuse and exploitation, the Child Protection Code provides that all situations in which children are living in difficult circumstances must be reported to a child protection officer, focusing on threats to children's physical, mental and economic health and safety.

21. To underscore the importance of this mechanism in the protection of children at risk, although persons bound by professional secrecy do not have a duty to report, those who do so enjoy legal protection through impunity as they are acting in good faith by reporting, even if the report proves to be incorrect.

#### *Family judges*

22. Family judges in cases involving children with disabilities at risk of exploitation, violence or abuse are required to take the appropriate decision in order to remove them from the difficult situation in which they are living, taking into account their best interests, which all courts, administrative authorities and public or private social welfare establishments must take into consideration when taking any action relating to children.

23. When the source of the violence, exploitation or abuse is the child's family, a family judge can decide to remove the child from his family and place him in a foster family, a specialized social or educational institution or a training or educational centre. He may also send a child who has suffered physical or mental harm as a result of exploitation, abuse or violence for medical treatment, in order to ensure the child's reintegration in society.

24. A child who is the victim of a crime of violence is in a difficult situation that requires the intervention of a family judge to address the underlying causes and the conditions in which the child was subjected to such a crime.

#### **Personal mobility**

25. Some associations have called for all equipment and aids that facilitate the lives of persons with disabilities and promote their integration in society to be exempt from tax and customs duties. They have also called for the implementation programme of the national accessibility plan to be expedited and for priority to be given to making administrative centres and public institutions accessible, in order to facilitate the access of persons with disabilities to services.

26. In this connection, we note that all prosthetic equipment and devices used by persons with disabilities that facilitate their integration, in addition to pedagogical, educational, scientific, cultural, sporting and leisure apparatus, tools and equipment that facilitate their integration are exempt from tax and customs duties for import, manufacture and sales, in accordance with article 49 of General Principles Act No. 83 of 2005. Moreover, implementation of the national accessibility plan has begun with the elaboration of sectoral programmes to make ministries and their organs more accessible, in order to increase the mobility of persons with disabilities.

#### **Habilitation and rehabilitation**

27. Associations have emphasized the need to make more modern equipment and human and material resources available in order to ensure the quality of habilitation and rehabilitation. Associations receive financial and technical support to improve the services that they offer to their beneficiaries (financing of projects and programmes, distribution of computer equipment and appropriate software, provision of buses with specialized staff, reskilling and training for educators, teachers and administrative staff). It should be noted that the amount of funding allocated to associations was increased by 60 per cent for the period 2009–2014.

#### **Work and employment**

28. Associations have proposed that a forward-looking strategy should be developed that would enable persons with disabilities to acquire relevant modern professional skills, combined with greater efforts to raise awareness with regard to their employment. Furthermore, the Tunisian Association for the Assistance of Persons with Mental Disabilities has called for the development of a legal framework for sheltered workplaces, which continue to be the most effective means of integrating this group.

29. In this connection, all training specializations and programmes have been reviewed, taking into account persons with low educational levels and including persons with disabilities. With regard to awareness-raising in connection with the employment of persons with disabilities, labour inspection officials have begun to raise awareness during their visits to institutions and have provided a pamphlet on the issue to the Tunisian Union for Trade and Industry, for circulation to the institutions under its banner. In addition, a radio time quota has been allocated on all radio stations and seminars and events on the issue are held.

#### **Adequate standard of living and social protection**

30. Associations have emphasized the need to increase grants made to persons with disabilities who are unable to work. In this regard, the grants made to persons with disabilities in need who are unable to work have been increased at the same rate as

increases in commodity prices, which was 12 per cent in 2010. Furthermore, the children of persons with disabilities who are enrolled in schools benefit from an additional grant ranging from between 16 to 48 per cent of the amount of the grant, depending upon the number of children.

#### **Participation in political and public life**

31. Associations have called for a quota of persons with disabilities to be appointed as representatives on all municipal and legislative councils, committees and bodies. In this regard it should be noted that the international conventions provide that voting procedures for election to public office shall be free (article 21 of the Universal Declaration of Human Rights and article 24 of the International Covenant on Civil and Political Rights); this principle is applied in Tunisian law relating to nomination to legislative councils, municipalities or bodies and is the right of all citizens without discrimination on the basis of sex, disability or other form of discrimination.

32. Tunisia has adopted quotas for persons with disabilities in the organs and councils to which members are appointed, such as the Chamber of Counsellors, the Economic and Social Council, the Higher Council for Social Development and the Care of Persons with Disabilities and the Higher Committee on Human Rights and Fundamental Freedoms.

#### **Participation in cultural life and in leisure, recreational and sporting activities**

33. Associations and, in particular, the National Union for the Blind have emphasized the need to make cultural discourse accessible to all, including the blind, by means of audio described cinema tracks (audio vision) or by the creation of special areas for blind persons in museums. The National Union for the Blind has also called on the State to establish special incentives for artists with disabilities. Work is currently under way in coordination with the National Union for the Blind to implement this proposal.

#### **Women with disabilities**

34. Associations have pointed to the need to include women and girls in professional training programmes and to provide them with assistance for start-up enterprises. The Tunisian Association for Aid to the Deaf has advocated greater social awareness of the problems of deaf women and has called on ministries and organizations involved in women's issues to ensure that deaf women are fully and actively included in all areas, and to promote research and studies on the situation of deaf women.

35. Professional training programmes at public or association centres are open to both sexes, provided that the substantive requirements in the field of specialization are met.

36. In addition, a gender-based approach has also been taken into consideration in the preparation of studies, research and programmes, including in the field of persons with disabilities in general.

#### **Children with disabilities**

37. Associations have pointed to the potential role of the media in raising awareness of the rights of children with disabilities and have called for it to be strengthened; at the same time, they have emphasized the role of the family in instilling the values, principles and foundations of a culture of rights for children with disabilities.

38. In this field, we note that media programming in Tunis has developed during the past decade; the media have come to serve as a mechanism for ensuring care for children and as a means of expression available to children that speaks of their status and situation without discrimination of any kind.

*Information for children*

39. The interest of the popular daily press in our country in children's issues is evident in that it has allocated greater space to them. Moreover, the increasing number of magazines for children has opened up spaces in which information on the culture of rights for children can be disseminated at a pace in step with their health, social and cultural needs. Children's magazines seek to educate children and inculcate the values, principles and foundations of a culture of rights for children in the family and society.

40. Furthermore, television channels have sought to strengthen the slots allocated to children's programming. Children's programmes focus on children's interests, concerns and expectations. They seek to connect them with their surroundings and environment and provide them with opportunities to contribute to children's programmes in order to develop their capacities and to cultivate a spirit of entrepreneurship and responsibility.

41. A large part of seasonal and occasional television on the two national satellite channels is allocated to programmes produced by the national channel, in addition to selected imported programmes, in accordance with children's needs and with a view to achieving the following objectives:

- Enable children to familiarize themselves with the measures and legislation introduced on their behalf in order to instil in them habits of responsibility and participation and to give substance to their fundamental rights
- Mainstream the goals of the second 10-year plan for children, "A world fit for children"
- Provide media coverage and communicate information on gains for children in Tunisia, such as the Children's Parliament and municipal councils for children, and follow-up on their sessions
- Encourage the principle of non-discrimination in children's programming content by highlighting equality of opportunity and rights among children
- Endeavour to protect children from all forms of violence by avoiding all violent scenes
- Endeavour to bring out the spirit of tolerance and citizenship in children and develop their civic awareness

42. The network strives to offer all creative and outstanding children in any field opportunities to show their talents and make their activities known on television, and to involve children, adolescents and members of the Children's Parliament, whether by direct participation in dialogues in studio or by targeted reporting.

43. National radio stations are endeavouring to allocate more time to children's programming, which amounts to some 21 hours a week in addition to coverage of special events.

44. These programmes highlight children's rights and duties; they emphasize a set of values, in particular Tunisian identity, patriotism, love of parents. In addition, they sow a sense of solidarity, tolerance and labour and raise awareness of the importance of the environment, hygiene and traffic regulations. Moreover, they emphasize the importance of communicating with others and, in particular, of dialogue in the family with siblings and parents and in the school setting or in the third sphere of learning.

45. Tunisian radio stations also broadcast coverage of the sessions of the Children's Parliament, which are held in the Chamber of Deputies, as well as the activities of some of the municipal councils for children in a number of areas where they are directly involved.

46. The electronic press is one of the most important media; its distinctive, interactive manner of showing and broadcasting information make it an effective means of communication and enable it to:

- Identify and follow up on accomplishments achieved on behalf of children (such as the creation of children’s clubs, youth buses and cultural centres)
- Allocate significant editorial space to a number of child-related topics such as violence at school, children’s programming, nursery school, children and advertising, kindergartens and oversight
- Highlight overall gains and presidential actions announced for Tunisian children (such as the Children’s Parliament, amendments to the Child Protection Code, protection of child victims of violence) on various Tunisian websites and commend Tunisia’s forward-looking approach in this regard
- Cover various child-related events and forums (such as book fairs and the national Children’s Cultural Festival)
- Involve the electronic press in efforts to promote digital literacy among children, in particular those with special needs, by highlighting the various mechanisms that have been established for them in this field such as the establishment of an information centre for children with disabilities
- Introduce the new draft legislation for adoption on children as part of point two of the presidential programme “Meeting the Challenges Together”, which includes the establishment of appropriate mechanisms to protect children and take account of their particular situation during the investigation and trial stages in court cases relating to physical or moral violence against them

#### *Information on children*

47. The Observatory of Information, Training, Documentation and Studies on the Protection of Children’s Rights prepared the national strategy for the promotion of a culture of rights for children that culminated in the development of a training of trainers programme on the topic. At the national level, 40 professionals from various sectors involved in children’s issues and from associations active in the field of child welfare were included in the first phase of the programme. During 2010, the Observatory began to train a number of professionals working on child-related issues at the provincial level, in order to ensure that the culture of rights for children is disseminated and mainstreamed in the various provinces.

48. In addition, the African Centre for Training Journalists and Communicators contributes to the development of child-oriented programmes on television and in the press by organizing training courses supervised by specialists in the field.

#### **4. Please explain whether the denial of “reasonable accommodation” is considered as a form of discrimination under Tunisian law. Please outline the relevant legislation. How does this concept apply to education and work?**

49. The Convention defines “reasonable accommodation” as necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure that persons with disabilities enjoy or exercise all human rights and fundamental freedoms on an equal basis with others. This concept

includes measures and procedures applied in the context of “positive discrimination” and the introduction of quotas in the fields of education and employment.

## **Education**

### *Preparatory year*

50. In order to enable children with disabilities to exercise their right to the services of preschool classes in inclusive schools, 216 preschool classes were made accessible during the school year 2009/10. They currently take 90 children with disabilities, and are guided by the regional committees for persons with disabilities. During the school year 2010/11, efforts to mainstream preschool classes in inclusive schools and increase the number of children with disabilities who attend them will continue.

### *Special education centres*

51. Special education centres, of which there were 290 in 2010, provide teaching and education in order to rehabilitate children with disabilities and to prepare them to enter the workforce. There are 15,939 children with disabilities enrolled in these centres. The State, in partnership with civil society, has sought to improve the coverage of delegation offices by expanding the network of associations and by constructing centres; as a result, there are now 101 associations, with 233 local offices.

52. In addition, efforts are made to maintain the infrastructure, equipment and teaching resources of these centres through the implementation of the three presidential programmes to support, fit and equip special education centres (1998–2009), allocations for which amounted to 16.7 million dinars.

53. It should be noted that special education services have expanded to include rehabilitation and care at home for children with severe disabilities who are unable to move, of whom there are 748 between 1 and 19 years of age. Associations working in the field of disability provide these services through specially trained home helps.

54. Furthermore, support will be given to bringing services closer to those who are eligible from 2011 by sending mobile teams to provide social and health services to persons with disabilities in their homes. In order to facilitate the activities of associations working in the field of disability, 20 buses were added in 2010 to the supporting fleet of buses assigned to associations, increasing the total number of buses in the fleet to 294, or approximately one bus per centre. Moreover, a financial provision of 5 million dinars was allocated for the period from 2011 to 2014 in order to increase the number of these special centres and enhance the performance of persons working in them.

### *Enabling children with disabilities to study*

55. The national plan for the inclusion of children with disabilities in regular schools continues to be implemented. At the start of the school year 2010/11, 1,496 children with disabilities were enrolled at some 327 schools throughout the country. During the same year, 4,453 pupils with disabilities were automatically included in regular schools, of whom 2,653 were enrolled in primary schools, 1,019 in secondary basic and 781 in secondary schools. Moreover two schools and an institute have been established for blind children, namely Al-Nur School in Bi'r al-Qas`ah in Bin Arus, Al-Nur School for the Blind in Qabis and the Institute for the Blind in Sousse.

56. In addition, efforts are being made to provide training to teaching staff by boosting awareness campaigns and developing the necessary teaching materials in cooperation with the ministries concerned. Moreover, the Ministry has equipped some primary schools with

special corridors and public facilities (lavatories, multiple-function classrooms); allocations for this purpose have amounted to some 4 million dinars during the past four years.

57. Furthermore, education-related measures have enabled a number of pupils with disabilities to be included, as follows:

- 1,600 pupils with disabilities have been included under the national programme for the inclusion of children with disabilities in regular schools
- 5,000 pupils with disabilities have been automatically included and are given full accommodation during examinations or interviews in terms of additional time, writing assistance and accompaniment

#### *Work*

58. Article 29 of the General Principles Act No. 83 of 2005 provides that persons with disabilities who meet the conditions stipulated in the Act and who are qualified and fit to perform the work required shall be accorded priority for no less than 1 per cent of annual public sector positions. Article 30 provides that no less than 1 per cent of posts in public and private establishments that employ 100 or more individuals shall be reserved for persons with disabilities. A minimum of 3 per cent of places at public vocational training centres is reserved for persons with disabilities. A national plan for the inclusion of children with disabilities in regular schools has been established and measures have been adopted to accommodate children with disabilities during examinations or interviews in terms of additional time, writing assistance and accompaniment (art. 23). Since 2005, these special measures have enabled 4,017 persons with disabilities to find employment, distributed by sector as follows:

- Public sector: 496
- Private sector: 3,521

## **5. Please explain how equality and freedom from all forms of discrimination in all areas of life is guaranteed to persons with disabilities.**

59. Persons with disabilities enjoy the same constitutional right to equality and protection from all forms of discrimination in all areas of life as any Tunisian citizen; article 6 of the Constitution provides that “all citizens have equal rights and duties and are equal before the law”. Their equality is reflected in numerous areas, including:

#### **Education**

60. Under article 1 of General Principles Act No. 80 of 2002 on education and teaching, which provides that “education shall be compulsory from the age of 6 to 18 years and is a fundamental right guaranteed to all Tunisians without discrimination”, all 6-year-olds may enrol in primary school, including those with disabilities.

61. Should a child’s file contain information that would indicate that his disability could have an impact on his school career, he is directed to the Regional Committee for Persons with Disabilities. In accordance with article 3 of Decree No. 2086 of 29 November 2005 establishing regional committees for persons with disabilities, defining disability and setting the criteria to be met in order to obtain a disability card, as amended by Decree No. 1859 of 3 July 2006, the Regional Committee considers and decides on the cases of children with disabilities who are candidates for inclusion in regular schools and directs them to the appropriate educational, vocational and training institutions.

### **Work**

62. Under Tunisian law, persons with disabilities are guaranteed the right to work like other individuals. Article 26 of General Principles Act No. 83 of 2005 provides that “no citizen who is suitably qualified may be denied employment in the public or private sector on the basis of disability”.

63. In cases where that principle is breached, individuals may resort to the courts (the labour chamber of the Court of First Instance for private sector cases and the Administrative Tribunal for public sector cases). If an employer alleges that a person with disabilities is in breach of his professional duties, his right to bring his case before the joint administrative committee, which will enable him to defend himself, is guaranteed under the Labour Code. Moreover, persons with disabilities have recourse to the General Inspectorate of Labour and can seek reconciliation in cases where an employer or employee is in breach of his legal obligations and commitments towards him on grounds of his disability.

### **Health**

64. Persons with disabilities benefit from health insurance cover and treatment free of charge in Tunisia as a matter of principle, whether they and their beneficiaries are covered by social security or not.

65. Persons denied this right can exercise their right to free treatment and medication through recourse to the provincial and central public health authorities. In addition, they may apply to the Administrative Tribunal in order to benefit from this right.

### **Culture and sports**

66. Pursuant to the agreement concluded between the Ministry of Social Affairs and the Ministry of Culture and Heritage Preservation, cultural spaces and centres have been opened for cultural activities to the beneficiaries of associations working in the field of disability.

67. Furthermore, persons with disabilities benefit from a range of incentives and facilities, including free entry to museums and archaeological sites, playgrounds and leisure areas, and are allocated spaces at sports facilities.

## **6. In the light of the low percentage of women with disabilities recognized among members of the disabled community (33.6 per cent), please explain how information on women with disabilities is collected.**

68. The proportion of women with disabilities to which the report refers is estimated at 33.6 per cent of the total persons with disabilities. This is a broad figure that does not take into account age groups and differences between them. The relevant statistical indicators are distributed as follows.

### **Over 60 years of age**

69. The proportion of women with disabilities in this age group is 30.7 per cent, which is low in comparison with the proportion of men. The low proportion of women in this group is due to objective factors related to culture, customs and local traditions that cause a significant proportion of women not to declare their disability, in particular as the system for obtaining a disability card in Tunisia is declarative and disability cards are issued at the request of the person concerned, or their guardian.

**Under 9 years of age**

70. The proportion of girls with disabilities in this age group is 47.8 per cent. This is close to the proportion of boys, estimated at 52.2 per cent. The convergence of these figures can be attributed to the awareness campaign conducted by the provincial offices of the Ministry of Social Affairs, which urged families to declare family members with disabilities and made known the benefits and privileges conferred by obtaining a disability card. This information on women with disabilities is collected based on:

- The results of the general population and housing census conducted by the National Institute of Statistics every 10 years, which contains data and indicators on disability (disaggregated by sex, type of disability, age) pursuant to Act No. 32 of 13 April 1999 on the national statistical system (the most recent population and housing census in Tunisia was conducted in 2004)
- The results of sectoral surveys conducted by the Ministry of Social Affairs, which are updated using special software for persons with disabilities

**7. Please explain the specific measures provided for in the Child Protection Code to protect children with disabilities. How are cases of violence against children with disabilities dealt with?**

71. Article 5 of the Constitution guarantees the physical integrity of all without discrimination on grounds of sex, age, disability or other form of discrimination. In addition, article 2 of the Child Protection Code accords special attention to children in that it guarantees the child the right to benefit from various preventive measures of a social, educational or medical nature and from other provisions and procedures intended to protect him against all forms of violence, injury, physical or mental harm, sexual abuse, neglect or negligence that might lead to ill-treatment or exploitation.

72. Children with disabilities are protected from violence by the provisions of the Criminal Code and the Child Protection Code, as follows.

**Criminal Code**

73. As part of the follow-up to the recommendations of the Committee on the Rights of the Child following its consideration of Tunisia's second periodic report, Tunisia promulgated Act No. 40 of 26 July 2010 amending article 319 of the Criminal Code by the deletion of the words "castigation inflicted on a child by persons having authority over him or her shall not give rise to punishment".

74. This Act forms part of Tunisia's efforts to substantiate its choices in respect of child protection by eliminating provisions that are no longer consistent with those choices from the criminal justice system, through removing the legal excuse for the use of physical violence by persons with authority over children as a means of discipline.

75. Accordingly, the Criminal Code criminalizes all forms of violence against children, including children with disabilities, whether perpetrated in the family, in the school environment, in public or in private, and establishes criminal penalties in that regard according to the nature of the violence perpetrated against the child and the degree of gravity.

- Anyone who commits violence that does not lead to serious or lasting damage to the health of the victim shall be liable to a term of 15 days' imprisonment and a fine of 4.8 dinars (Criminal Code, art. 319).

- Anyone who wilfully commits assault or battery or any other act of violence or assault not covered by the provisions of article 319 of the Criminal Code shall be liable to a term of 1 year's imprisonment and a fine of 1,000 dinars (art. 218 (1)). Where there are aggravating circumstances such as premeditation the penalty shall be increased to a term of 3 years' imprisonment and a fine of 3,000 dinars (art. 218 (3)). Attempted assault or battery are also punishable offences.
- An act of violence causing the loss or loss of the use of a limb, facial deformation or permanent disability not exceeding 20 per cent shall be punishable by a term of 5 years' imprisonment (art. 219 (1)). The penalty shall be increased to a term of 6 years' imprisonment if the degree of permanent disability caused by the violence exceeds 20 per cent (art. 219 (2)).
- Intentional assault or battery without intent to cause death that results in death shall be punishable by a term of 20 years' imprisonment, increasing to life imprisonment where there are aggravating circumstances such as premeditated assault and battery (art. 208).
- Anyone who commits the acts provided for under article 212 (neglect of a child) shall be liable to a term of 12 years' imprisonment if the neglect causes a child or child with disabilities to suffer damage to or loss of limbs or physical or mental disability. If the neglect results in death it shall be punishable by life imprisonment.
- Anyone who habitually ill-treats a child or other minor in their custody or charge shall be liable to a term of 5 years' imprisonment and a fine of 120 dinars, without prejudice to the more severe penalties established for assault with violence and battery (art. 224 (1)). If the habitual ill-treatment results in physical disability in excess of 20 per cent or involves the use of a weapon, the penalty shall be doubled (art. 224 (2)). If the habitual ill-treatment results in death, it shall be punishable by life imprisonment (art. 224 (3)).
- A woman who kills her child at or soon after its birth shall be liable to a term of 10 years' imprisonment (art. 211).
- Anyone who has sexual intercourse with a female under the age of 10 years shall be subject to the death penalty (art. 227).
- Anyone who has sexual intercourse without violence with a female under 15 years of age shall be liable to a term of 6 years' imprisonment (art. 227 (1) bis). If the victim is over 15 and under 20 years of age, the penalty shall be a term of 5 years' imprisonment (art. 227 (2) bis).
- Sexual harassment shall be punished by a term of 1 year's imprisonment and a fine of 3,000 dinars (art. 226 (1) ter). The penalty is doubled if the offence is committed against a child or other persons targeted specifically because of their physical or mental inability to resist the offender (art. 226 (3) ter).
- Anyone who commits an indecent act against another person, male or female, without their consent shall be liable to a term of 6 years' imprisonment (art. 228 (1)). The penalty shall be increased to 12 years' imprisonment if the victim is under 18 years of age (art. 228 (2)).
- Anyone who commits an indecent act without force against a child under 18 years of age shall be liable to a term of 5 years' imprisonment (art. 228 (1) bis).
- If the perpetrator is an ascendant of any kind of the victim, has authority over him or is his teacher, servant, doctor, surgeon or dentist or if a number of people are involved in the abuse, the penalty for the offences referred to in articles 227 bis, 228 and 228 bis shall be doubled (art. 229).

- Anyone who is involved in or acts as an intermediary in prostitution shall be liable to imprisonment for 1 to 3 years and a fine of from 100 to 500 dinars (art. 232). If the crime is committed against a minor, it shall be punishable by from 3 to 5 years' imprisonment and a fine of from 500 dinars to 1,000 dinars (art. 233).

### **Child Protection Code**

76. Children who are subjected to violence enjoy the same protection and measures mentioned above in reply to question 3, with regard to the protection of children from exploitation, violence and abuse.

## **8. Please provide information on the concrete channels available to children with disabilities to express their views on all matters concerning them. Please explain how it is guaranteed that their views are given serious consideration, on an equal basis with other children.**

77. Children with disabilities have opportunities to express their views on matters concerning them through a number of channels:

### **The Children's Parliament**

78. The Children's Parliament was established by Act No. 41 of 17 April 2002 as a space in which children could express their views on topics related to their rights, that would instil in them a spirit of responsibility and sense of citizenship. Article 5 of the rules of procedure of the Children's Parliament provides that children with special needs must be represented on it. A disabled girl is currently a member of the said Parliament.

### **The Youth Parliament**

79. The Youth Parliament was established by Act No. 23 of 17 May 2010 in order to prepare young people between 16 and 23 years of age, including those with disabilities, to participate in political life and develop their interest in and capacities with regard to public affairs, in particular by addressing current and future societal issues and teaching them how to think collectively and conduct dialogue, through simulating the fundamental process and principles of parliamentary action.

### **Municipal councils for children**

80. Municipal councils for children have been in place in all Tunisian municipalities since 1987. The Municipalities Organizational Act No. 48 of 17 July 2006 provides that children's municipal councils shall be established in every municipality and shall function and be regulated along the lines of municipal councils. In order to ensure that these councils function properly, they are managed by the chairman and secretary of each municipal social and family affairs committee and their activities must be included on municipal council agendas.

81. Municipal councils for children meet 4 times a year, 15 days before the date on which the regular sessions of the municipal council are held. There are currently 4,366 members of municipal councils for children (municipal authority 2005–2010) in 264 municipalities; of this number, 1,935 (44.3 per cent) are girls.

82. Every municipal council for children forms four standing committees on: hygiene, care for the environment and health; sports, culture and recreation; mutual assistance and solidarity; and information, awareness-raising and relations with other municipal councils for children.

83. Their main activities include organizing awareness campaigns on maintaining cleanliness in educational establishments and surrounding areas, public areas and neighbourhoods; caring for green zones and tree planting; participating in the national day for cleanliness and environmental protection celebrations and the national coastal rehabilitation programme; and visiting hospitals to offer gifts to patients on holidays.

**9. Please explain the steps being taken to ensure that information about the Convention, relevant awareness-raising material and legislation related to disability rights and non-discrimination are made available in accessible versions including sign language(s), Braille, and plain language formats. In this context, please also elaborate on any awareness-raising programmes that may have been established, their target audiences and whether they involve public officials.**

84. In the context of promoting awareness of the Convention and in view of the importance of the print media in promoting greater social awareness of respect for disability rights, the Ministry of Social Affairs has produced and distributed numerous leaflets and other publications on the Convention and the relevant domestic legislation.

85. The Ministry has also compiled a booklet on the legislative provisions concerning the advancement and protection of persons with disabilities and the Convention on the Rights of Persons with Disabilities, 3,000 copies of which were produced in Arabic and French and distributed widely in 2009.

86. Numerous national forums and seminars have included presentations on the extent of the concordance between national legislation on the advancement of persons with disabilities and the requirements of the Convention. The most recent such event was the tenth General Conference of the Arab Federation of Organizations Working with the Deaf, which was held in Tunisia from 25 to 27 November 2010. Furthermore, care centres for persons with disabilities have organized numerous workshops on the Convention and the rights that it guarantees to persons with disabilities for their professional, specialist and regular staff.

87. With regard to steps to ensure that information about the Convention and legislation on the rights of persons with disabilities is made available in accessible versions including sign language and Braille, the National Union for the Blind has issued a Braille edition of the Convention and the Tunisian Association for Aid to the Deaf has issued a compact disc with the text of the Convention in writing, as a sound recording and in sign language.

**10. Please provide updated information on the implementation of the national accessibility plan launched in 2008. Please indicate whether the plan has been evaluated, and if so, the results that have thus far been achieved. Please outline the obstacles or challenges faced in this process.**

88. Although this is a recent plan, launched only two years ago, public and private establishments and structures and civil society organizations have achieved much in terms of access and mobility for persons with disabilities, particularly with regard to:

- Rail transportation: all recently acquired metro carriages are accessible to persons with disabilities and particular stations have been equipped with access pathways
- Land transportation: accessible buses have been acquired as part of the renovation of the fleet

- Air transportation: access to aircraft, in terms of boarding and disembarkation, has been improved and aircraft carry special mobility equipment for persons with disabilities

89. Ministries' reports on disabled access show that they have developed and embarked on sectoral programmes by taking stock of those of their premises that are open to the public at present or will be in the future, listing buildings that can be made accessible, identifying the required actions, preparing implementation programmes and schedules and requesting the necessary financial allocations. These implementation programmes have made it possible, for example, to:

- Introduce disabled access in 20 provincial head offices and 223 delegation offices
- Introduce disabled access in the central office of the citizens' relations bureau
- Introduce disabled access to 50 National Security and National Guard offices in accordance with the technical specifications on mobility access
- Install 248 disabled access corridors, 48 signs indicating their location and 19 disabled access lavatories in 227 municipalities (in 21 provinces) and 10 regional councils

90. Moreover, some municipalities have begun to conduct disability access pilot projects. The municipality of Djerba, for example, made the town of Djerba accessible in order to accommodate persons with restricted mobility when the Rehabilitation International conference was held there, while the municipality of Tunis has introduced some disability access pathways and public recreational spaces in the neighbourhood of Al-Buhairah.

91. In addition, disability access has been introduced at a number of new sports facilities, such as the Radis sports complex, and at some swimming pools. Moreover, at the initiative of some associations and institutions, disability access has been introduced at some beaches by the provision of disability access pathways, such as at Al-Marsa beach in Tunis.

92. It should be noted that sustained effort is required in this area over a relatively long period of time, since a change in mentality and considerable financial resources are required in order to translate this right into a reality. Furthermore, some old buildings cannot be made accessible and some buildings are classified as national heritage sites.

**11. Please explain the circumstances under which deaths in the home and institutions (residential institutions and hospitals) of persons with disabilities are investigated, as well as the steps taken to ensure an effective investigation.**

93. All deaths, including those of persons with disabilities, are regulated by:

- Articles 43, 44 and 46 of the Personal Status Code
- The Civil Status Act No. 3 of 1 August 1957, as amended by Act No. 71 of 4 July 1958
- Act No. 92 of 25 February 1997 regulating graves and burial places
- Decree No. 1326 of 7 July 1997 on burial arrangements

94. The procedures described below are followed in the event of the death of a person with disabilities.

**Death of the bearer of an identity document resident in a care home for persons with disabilities and admitted to hospital prior to death**

- A medical certificate is issued by the physician and the local municipality is contacted in order to complete funeral rites when the death is due to natural causes.
- In the event of a death in suspicious circumstances where it is noted that burial may not take place due to the need to conduct further investigations, the body is made available for autopsy. The public prosecutor is informed and orders a criminal inquiry, in which an autopsy is conducted on the corpse to verify that the cause of death was not a criminal act or medical error. According to the outcome of the autopsy, the prosecutor may either file an autopsy report which indicates that no crime was committed and that the death was natural, or launch an investigation with an examining magistrate if the autopsy establishes that the death of the person with disabilities involved a crime.

**Death of the bearer of an identity document resident in a care centre for persons with disabilities**

- The centre's physician conducts a post-mortem examination.
- A printed document known as a medical death certificate is issued, in addition to five copies of a handwritten death certificate containing detailed information on the circumstances of the death and the identity of the deceased by the centre's physician.
- The relatives of the deceased, if any, are contacted so that they can claim the corpse and obtain permission to move it. If the deceased has no family, the care home contacts the local municipality and submits the aforementioned medical documents in order to obtain a death certificate and permission for burial.

**Death of a person with disabilities without an identification document resident in a care centre (and actions taken prior to investigating his identity or use of an assumed identity)**

- The centre's physician performs a post-mortem examination and issues a death certificate for a person of unknown identity
- The Office of the Public Prosecutor is notified, in the person of the public prosecutor, in order to obtain permission to transfer the corpse for autopsy in the forensic medicine department of the hospital; the administration continues to cooperate with the security agencies with regard to the circumstances of the death

**12. Please provide updated information on the application of the concept of legal capacity in national law and practice, as applied to persons with disabilities, including relevant case law**

95. Article 3 of the Code of Contracts and Obligations defines legal capacity as follows: "Every person has the legal capacity to undertake and assert contractual obligations unless they have been declared legally incompetent." The concept of legal capacity applies to persons with disabilities as follows.

**Inherent legal capacity**

96. Persons with disabilities enjoy, as do other persons, inherent legal capacity to have rights; inherent legal capacity starts with the start of a human life and is supported

thereafter for all persons without discrimination on grounds of age, sex or mental or physical disability.

### **Actual legal capacity**

97. Every person, male or female, who is over 18 years of age, in principle enjoys actual legal capacity in accordance with article 7 of the Code of Obligations and Contracts.

98. The concept of actual legal capacity applies differently to persons with disabilities according to the nature of the disability.

#### *Physical disability*

99. A person with a physical disability has actual legal capacity. In order to ensure special legal protection for persons with physical disabilities, Act No. 60 of 23 May 1994 requires a notary to witness contracts of sale concluded by persons with major disabilities, such as deaf, deaf-mute and blind persons and persons with similar disabilities, in the presence of a person appointed by the district judge.

100. In addition, Act No. 103 of 1 August 1994 regulating identification by signature and the certification of the conformity of copies with originals provides that in cases where a person identified by signature has a hearing-, speech-, vision-related or similar disability, a report shall be made and read out in the presence of a witness who is competent to sign and has legal capacity to contract, and who has been chosen by the contracting party with a disability. The competent party shall sign and the report shall be read out to the witness.

#### *Mental disability*

101. The Personal Status Code identifies three types of mental disability, namely, insanity, mental impairment and profligacy. Pursuant to the provisions of article 5 of the Code of Obligations and Contracts, persons with disabilities who are insane have legal capacity to act only through their representatives. The capacity of persons with other types of mental disability is restricted, such that they have the capacity to act with the participation of their representatives.

102. Persons with mental disabilities can only be declared legally incompetent due to insanity, mental impairment or profligacy by a judicial decision issued by a judge and based on consultation with medical experts specialized in mental and psychological disorders. When a person with mental disabilities is declared legally incompetent, the judge appoints a guardian to assume responsibility for the rights of the person concerned, under the supervision of the judge.

103. In order to safeguard the right of persons declared legally incompetent on grounds of insanity, mental impairment or profligacy to restore their legal capacity, under article 168 of the Personal Status Code such persons are entitled to apply to the courts to overturn the decision without acting through their guardians, who may not wish to do so.

### **Case law with regard to the protection of persons with disabilities**

104. By way of illustration, we cite below judicial decisions in a number of cases that demonstrate that persons with disabilities have legal protection.

- Appeal Court decision No. 3509 of 18 May 1981. In this case, the Court found that while according to the medical certificate the appellant suffered from disturbances caused by schizophrenia, this did not impair his intellectual capacities and did not necessarily mean that he was incompetent to resort to law without a guardian.

- Appeal Court decision No. 24709 of 25 February 1992. In this case, the Court ruled to void a contract concluded by a mentally impaired person prior to his being declared legally incompetent because he was known by reputation to be mentally impaired at the time when the contract was concluded.
- Decision No. 35339 of 20 July 2005 of the President of the Court of First Instance in Tunis. In this case, the President of the Court decided not to agree to permit the person concerned to donate one of her kidneys to the National Centre for the Promotion of Organ Transplantation, although she had agreed to do so, as she had been demonstrated to be mentally impaired and her consent to donate was therefore contrary to the provisions of article 2 of Act No. 2 of March 1992 concerning the harvesting and transplantation of human organs, which requires the donor to be of sound mind.
- Decision No. 45062 of 14 November 2009 issued by the Qaranbaliyah Court of First Instance. In this case, the Court decided to revoke its earlier decision to declare an individual legally incompetent and to restore his legal capacity, as the person concerned had submitted a claim citing a medical certificate showing that he was of sound mind.
- Decision No. 20082 of 6 January 2011 issued by the Tunis Court of First Instance. In this case, the Court decided to reject an application to declare an individual legally incompetent as, in the Court's view, the principle was soundness of mind; an application to declare a person legally incompetent and to appoint a guardian for him would require evidence of a medical condition and it was insufficient merely to declare a person legally incompetent.

**13. Please elaborate on the forms of guardianship that exist in relation to persons with disabilities, and the actions that a person with disabilities subject to any form of guardianship is prevented from taking on his or her own, including entering into contracts, voting, marrying, taking decisions about one's health, and accessing a court.**

105. Persons with disabilities are not subject to any form of guardianship in the exercise of their right to vote, to marry and to habeas corpus. They enjoy special legal protection, as set out in reply to question 12.

106. Persons with mental disabilities who have been declared legally incompetent by a court decision are subject to the guardianship of their court-appointed guardians, as follows:

**Guardianship of persons with disabilities who are insane**

107. Persons with disabilities who are insane do not have any legal capacity to enter contracts, marry, vote or appear in court as a plaintiff or a defendant because they have completely lost their intellectual faculties. Consequently, they are assigned court-appointed guardians who assume direct responsibility for their rights under the supervision of the judge.

**Guardianship of mentally impaired or profligate persons with disabilities**

108. Persons with disabilities who are mentally impaired or profligate have restricted legal capacity, whereby they may conduct their affairs in various areas of public and private life, provided that they do so with the participation of their guardians. Under article 9 of the Code of Obligations and Contracts, they are entitled to improve their situation even without

the participation of their guardians by accepting gifts or other donations that would increase their earnings or acquit them of their obligations without any consequences for them.

**Court supervision of guardians of persons with disabilities who are insane, mentally impaired or profligate**

109. The role of the judge is not limited to appointing guardians for persons with disabilities who have been declared legally incompetent because they are insane, mentally impaired or incompetent; it extends to monitoring and reviewing the manner in which the revenues of persons with disabilities are managed by their guardians, as follows:

- Guardians are required to obtain the permission of the judge in respect of transactions relating to sale, trade and hire for a period exceeding three years and for the conclusion of company contracts, partnerships and mortgages. The judge gives permission only when necessary and in the clear interest of the person with disabilities concerned.
- The public prosecutor monitors the actions and accounts of guardians by receiving and investigating complaints from wards against their guardians, by referring the matter to the judge concerned and summoning guardians to submit their books of account.
- Guardians are liable in the event that they breach their obligations, that their dishonesty is established or that they are unaware of the requirements of their duty.
- A judge in the case of a person whose legal competence to manage his own finances has been restored can, at the request of the public prosecutor who summons the person concerned and his guardian, close and seal the account and book of account.

**14. Please provide information on the measures planned or undertaken to replace substitute decision-making (guardianship) by supported decision-making in the exercise of legal capacity, in accordance with article 12 of the Convention.**

110. In addition to the information contained in paragraphs 93, 96, 97, 154, 155 and 216 of the initial report, persons with physical disabilities enjoy the same legal capacity as other persons and have the right to conclude all kinds of contracts (including civil, commercial and marriage contracts) and to exercise their right to seek legal recourse, to vote and to stand for election.

111. Persons with disabilities who have been declared legally incompetent on grounds of insanity are not competent to manage their own affairs; the judge appoints guardians for such persons to manage their affairs, under his supervision.

112. Persons with disabilities whose legal capacity is restricted on grounds of their mental impairment or profligacy may exercise their rights in various areas, with the participation of their guardians in order to safeguard their interests, as explained in the replies to questions 13 and 20.

**15. Please indicate whether having disabilities, including intellectual, mental and psychosocial disabilities, constitute a basis for the deprivation of liberty under current legislation, either alone or in combination with other grounds. If so, please explain: whether steps are being taken to repeal or amend this legislation; the criteria for placing a person with disabilities in a specialized institution; and the details of the process for challenging placement decisions.**

113. Persons with mental, intellectual or psychological disabilities may not be deprived of their freedom on grounds of their disabilities except as provided for in Act No. 83 of 3 August 1992 concerning mental health and the conditions for admission to hospital for mental disorders.

114. Article 3 of Act No. 63 of 29 July 1991 concerning the organization of the health sector prohibits the admission of patients to private health institutions on grounds of insanity; therefore, persons with mental disorders are admitted to public health institutions.

**Types of admission**

*Voluntary admissions*

115. Voluntary admissions are made with the consent of a patient who goes of his own volition to a hospital for the treatment of mental disorders. The person concerned enjoys the same rights with regard to the exercise of individual freedoms as patients admitted to hospital for other illnesses. In the case of a voluntary admission, the attending psychiatrist issues an admission document in accordance with the rules of admission at every hospital. The patient is free to leave the hospital and must be allowed to do so if he or his legal guardian submits a written request for his discharge.

*Involuntary admissions*

116. A person suffering from a mental disorder is only involuntarily admitted to hospital when:

- It is not possible to obtain the consent of the person concerned because of his disorder
- The person concerned requires urgent medical attention
- The mental state of the person concerned poses a threat to his own health or that of others

The restrictions imposed on a patient's freedom remain within the limits required by his medical condition and treatment.

117. An exhaustive list of persons authorized to request this type of admission has been established by law, namely, the patient's parents, children, spouse, dependents or legal guardian. Moreover, the law requires an application for an involuntary admission to be accompanied by two medical certificates issued within the previous 15 days, one of which must be issued by a psychiatrist, practising in a public health establishment who has examined the mental state of the patient being treated and can demonstrate that specific aspects of his condition warrant his involuntary admission to hospital.

*Compulsory detention in hospital*

118. Act No. 3 of August 1992 gave courts the exclusive power to issue compulsory hospital detention orders in respect of persons with mental disorders, as follows:

*Compulsory detention orders issued by the President of the Court of First Instance*

119. An application for the compulsory detention of a person suffering from a mental disorder in a hospital, accompanied by a written medical opinion authorizing compulsory admission to a public hospital, can be made by any public health authority or by the public prosecutor to the President of the Court of First Instance in the district in which the person concerned resides, when his mental disorder constitutes a danger to his own health or that of others, after he has been heard in court or, if that is not possible, at his place of residence.

*Compulsory detention orders issued by the judicial commission on criminal matters*

120. The criminal court handling the case can, on the basis of an expert medical opinion, allow the accused person to be transferred under a compulsory detention order to a public health institution that it appoints for the purpose in order to undergo observation and medical examination and, consequently, to ascertain his mental fitness and identify the extent of his responsibility for the actions for which he is being prosecuted.

**Guarantees of the restoration of liberty**

121. Since compulsory detention is a temporary restriction on the freedom of a person suffering from a mental disorder, specific procedures exist for the termination of a compulsory detention order.

**Termination of a compulsory detention order by law**

- When no decision to extend is issued after the maximum limit of three months has expired, the compulsory detention order is suspended by law and the freedom of the person concerned is restored
- When the President of the Court of First Instance does not issue a compulsory detention order within eight days of the date on which the public prosecutor admits a person on a temporary basis because of the emergence of an immediate threat to the safety of the person concerned, or that of others, due to his evident mental disorders, the freedom of the person concerned is restored
- When the attending psychiatrist issues and transmits a medical certificate to the President of the Court of First Instance stating that the person concerned may be discharged, if the President of the Court of First Instance does not take immediate action and communicate his decision within 48 hours, the order is suspended by law

**Termination of a compulsory detention order by request**

A compulsory detention order may be terminated at the request of:

- The person admitted
- The ascendants, descendants, spouse, dependents or legal guardian of the person admitted
- The public prosecutor
- The President of the Court, of his own accord after consultation with the psychiatrist at the institution concerned
- The attending physician, if he decides that the patient no longer needs to be hospitalized under a compulsory detention order
- The regional committee on mental health, of which there is one in every province with an institution for persons with mental disorders

122. Pursuant to Act No. 37 of 16 June 2008 concerning the Higher Committee on Human Rights and Fundamental Freedoms, the Chairperson of the Higher Committee can conduct unannounced visits to these institutions in order to ascertain the extent of their compliance with the national legislation on human rights and fundamental freedoms.

123. The following table shows judicial activity with regard to the compulsory detention of persons due to mental disorders from 2003 to 2010.

<i>Judicial year</i>	<i>No. of cases filed</i>	<i>No. of cases decided</i>
2003–2004	1 840	1 780
2004–2005	2 015	2 059
2005–2006	2 494	2 469
2006–2007	2 549	2 593
2007–2008	2 518	2 509
2008–2009	2 622	2 601
2009–2010	2 586	2 502

**16. To what extent are persons with disabilities represented in the criminal justice system? What special measures are provided for in the law for persons with disabilities? Please outline the training programmes established for judicial officials and for prison officials on the rights of persons with disabilities, and to what extent they are mandatory.**

**Persons with disabilities and the criminal justice system**

124. The proportion of persons with disabilities in the criminal justice system is very low, at 0.35 per cent. This low figure is indicative of the success of the national policy to provide comprehensive care for persons with disabilities in order to minimize deviance rates among this group and so avoid conflict with the criminal justice system.

125. The following special procedures and measures apply to prisoners with physical disabilities in penal establishments:

- Prisoners with disabilities are housed in special accommodation for sick prisoners, regardless of the crime committed.
- They are allowed family visits automatically and without hindrance.
- Visitors with physical disabilities and also blind, deaf and deaf-mute persons can visit their family members in prison automatically and without hindrance.
- Prisoners with disabilities are subject to regular medical monitoring and are periodically examined by the attending physician. Moreover, a specialized psychiatrist monitors their psychological condition by conducting in-depth discussions with them to ascertain their personal concerns and capacity to communicate, and to help them to adapt and acclimatize in order to reduce their stress levels and prevent them from becoming withdrawn or depressed.

**Training of judges and prison staff with regard to disability rights**

126. Both the Higher Institute of the Judiciary and the National Prisons and Rehabilitation School oversee the training of court officials, judges, court assistants, court clerks and prison officers in the field of human rights, including the rights of persons with disabilities. The training is mandatory.

127. Pursuant to the decision of the Minister of Justice and Human Rights of 26 July 1993, human rights was included as a topic in the training programme at the Higher Institute of the Judiciary.

128. With regard to the rights of persons with disabilities, all of the relevant United Nations conventions and resolutions are taught and, in particular, the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto.

129. The training programme at the Higher Institute for the Judiciary includes the following topics.

#### **Criminal law and criminal procedure**

130. The most important subjects taught as part of this topic are legal protection for persons with disabilities against all forms of discrimination, freedom of access to justice, and the right to defence and to representation by legal counsel.

#### **Civil law**

131. Family law, in particular the rules relating to personal status, is a traditional topic in civil law that occupies a privileged place at the core of the academic programme. The topic includes marriage, divorce, custody, visitation, guardianship of minors, consent of the mother to the marriage of her minor child and maintenance and alimony guarantee funds.

#### **Labour law**

132. Persons with disabilities enjoy the support of State institutions and public bodies. In addition, every possible effort is made to ensure that this group is integrated in economic and professional life. Numerous laws and regulations have been enacted for that purpose, notably: Decree No. 1679 of 11 September 1995 on the promotion of the International Labour Organization (ILO) Vocational Rehabilitation and Employment (Disabled Persons) Convention (No. 159) of 20 June 1983; and General Principles Act No. 83 of 15 August 2005 on the advancement and protection of persons with disabilities, which guarantees equality of opportunity for persons with disabilities and others with regard to work and provides for special mechanisms for the advancement of persons with disabilities and to safeguard their employment.

#### **Professional ethics**

133. Court officials study all professional and ethical rules relating to human rights, in particular those relating to the rights of persons with special needs, and endeavour to safeguard equality of opportunity for all citizens and the acquired rights of persons with disabilities.

134. Furthermore, it should be noted that during the second year of their studies, court officials prepare graduate theses on a number of legal topics including those relating to persons with disabilities, which have included:

- “Legal protection of legally incompetent persons under civil law”, thesis presented and defended during the academic year 2001/02
- “Protection of insane persons in Tunisian law”, thesis presented and defended during the academic year 2004/05
- “Legal protection for persons with disabilities: the Tunisian model”, thesis presented and defended during the academic year 2006/07

135. All of these theses are deposited at the library of the Higher Institute for the Judiciary and are available for scholarly research to judges, lawyers and university professors in addition to court officials and any researcher interested in the topic.

136. In addition, it should be noted that in the context of cooperation between the Tunisian Government and a number of international organizations in the field of human rights, a number of judges have participated in training sessions organized by the Wallenberg Institute in Sweden on human rights in general and women's rights and disability rights in particular.

**17. Please indicate whether specific legislation exists to protect persons with disabilities from being subjected to medical experiments or treatment without their free and informed consent, including forced abortion or sterilization on women with disabilities. Please provide information about the legal and regulatory framework concerning the use of restraining equipment and forced treatment in mental health services. Please outline the protocols and training programmes in place, if any, that ensure that persons are not subjected to restraints and forced treatment.**

137. Decree No. 1155 of 17 May 1993 promulgating the Code of Medical Ethics, in the section on rules relating to research and experimentation involving human beings, establishes the conditions under which such experimentation may be conducted, as follows:

- There must be a genuine hope that the experiment will save the patient's life, restore his health or reduce his suffering (art. 103 (1))
- The free and informed consent of the patient must be obtained or, if he is legally incompetent, the consent of his legal guardian (art. 103 (3))

138. In addition, an ethics committee at university hospitals under the oversight of the National Medical Ethics Committee (CNEM) requires a special file in cases involving clinical, pharmaceutical or experimental studies on patients, containing a consent form signed by the person concerned.

139. Moreover, Act No. 93 of 7 August 2001 concerning reproductive medicine provides that the following conditions must be met for consent to benefit from medically assisted reproduction:

- A written request is required from both members of a couple, who must be alive and of reproductive age
- Only gametes from the couple concerned may be used
- Gametes and embryos may not be donated
- A surrogate mother may not be used to bear a foetus
- Organs with specific genetic characteristics may not be donated, in accordance with the provisions of article 5 of Act No. 22 of 25 March 1991 concerning the harvesting and transplantation of human organs

140. In addition, the Criminal Code criminalizes abortion and imposes criminal penalties on perpetrators, as follows:

- Anyone who by means of food, drink, medicines or any other means induces or attempts to induce an abortion in a woman who is clearly or probably pregnant, with

or without her consent, shall be sentenced to a term of 5 years' imprisonment and/or a fine of 10,000 dinars (art. 214 (1)).

- Any woman who procures or seeks to procure an abortion for herself or agrees to the use of methods designed or administered for that purpose shall be sentenced to a term of 2 years' imprisonment and/or a fine of 1,000 dinars (art. 214 (2)).

141. The Criminal Code authorizes abortion only under the following circumstances:

- During the first three months of pregnancy, by a physician legally practising his profession in a hospital, health-care establishment or authorized clinic (art. 214 (3)).
- Beyond three months, abortion is permitted if continuation of the pregnancy would compromise the health or mental balance of the mother or the child would be likely to suffer from a serious disease or infirmity, in which case abortion must be performed in a licensed establishment (art. 214 (4)).

**18. Please provide updated information on short- and long-term strategies developed for the deinstitutionalization of persons with disabilities. Please indicate which law sets out how persons with disabilities can benefit from health services and rehabilitation in their homes and explain the criteria for benefiting from these services.**

142. Social policy on the advancement and protection of persons with disabilities is based on the principle of keeping persons with disabilities in normal family and domestic surroundings and, in exceptional cases, providing institutional care where absolutely necessary or where a child has no family. Consequently:

- Families caring for disabled family members receive financial assistance in the form of a grant.
- Placement with foster families for children with disabilities who do not have a family is encouraged. Foster families are given financial assistance and assistance in kind in order to meet the basic needs of the child concerned, in addition to support services and psychological and moral support. Forty-eight persons with disabilities have benefited from this mechanism since it was launched at the end of 2008.

143. With regard to health and habilitation services offered to persons with severe disabilities in their homes, the State provides grants to associations working in the field of disability to help them to provide care and habilitation services to this group. Care services in the home will be further supported as part of the implementation of the programme adopted for the period 2009–2014, on the establishment of 12 mobile units to bring services closer to families and persons with severe disabilities, by the provision of means of transport and the allocation of funds to finance this activity.

144. The fact that institutional care is the exception is reflected in the fact that there are a mere 3 residential homes in Tunisia, with under 350 residents, as follows:

- Al-Sanad Social and Educational Centre in Sidi Thabit is a public foundation that takes in wards of the State with disabilities over 6 years old and adults with disabilities; it can accommodate 130 residents
- Al-Aman Centre for Social Care is a public foundation that accommodates persons without family support who have completed their treatment at public mental health institutions and are mentally stable; it can accommodate 110 residents

- The Centre for Mentally Retarded Persons without Family Support in Manubah is a foundation belonging to the Tunisian Union of Social Solidarity; it can accommodate 110 persons with disabilities

**19. Please provide updated information on the extent of the implementation of the 2003 national plan for inclusion in primary, secondary and tertiary education of persons with disabilities. Please explain the criteria by which it is determined that a child with disabilities is placed in a mainstream or specialized school.**

145. With regard to updated information on the extent of the implementation of the national plan for inclusion in regular schools of children with disabilities launched during the school year 2003/04, the major accomplishments at the primary and secondary school levels have been achieved in three main areas, as follows:

**Adaptation of educational establishments**

146. Some 386 inclusive schools, attended by 1,680 pupils with disabilities, have been adapted; multiple-function classrooms have been constructed and lavatories and ramps have been constructed and adapted.

**Training of trainers**

147. Fifty provincial teaching coordinators, two from each provincial office, have participated in training courses on support and encouragement and have subsequently organized training sessions on the same topic in their turn for educators.

**Communications and outreach strategy**

148. In this context, seven handbooks have been prepared, as follows:

- A national school reference handbook (national repository on the inclusion of children with disabilities in schools) intended for various actors in the field (teachers, social workers, physicians)
- A practical guidance handbook (orientation guide to school inclusion) intended for various actors in the field (teachers, social workers, physicians)
- Four technical handbooks by type of disability, intended for educators
- An information handbook, intended for parents

149. With regard to higher education, in addition to making the physical architecture of universities and colleges more accessible the major accomplishments have been in the following areas:

**Facilitation of the university orientation process**

150. The orientation process for undergraduates with disabilities has been facilitated in order to bring them closer to their families. In this context, all requests for orientation from students with disabilities were responded to at the start of the academic year 2010/11. There were 57 such requests, distributed by disability as follows:

- 14 persons with physical disabilities
- 2 persons with hearing disabilities
- 39 persons with visual disabilities

- 2 persons with multiple disabilities

### **Support and encouragement for students with disabilities at university**

151. The principal enabling measures to support and assist students with disabilities are annual assistance in kind, such as wheelchairs, and material assistance. In addition, grants are available for students with disabilities to help them to continue their studies abroad, and prizes are distributed to distinguished students with disabilities at the end of the academic year.

### **Distance learning (virtual university)**

152. A model computer science and Internet programme has been developed for students with disabilities at the Virtual University of Tunis in cooperation with the National Union for the Blind, in accordance with international digital access standards. The programme includes six units on the basic precepts of computer science and the Internet.

### **University subjects**

153. At the university level:

- A teaching module on the rehabilitation of persons with disabilities and their integration in the workforce has been introduced at the Institute for the Advancement of Persons with Disabilities, which is a specialized academic institution
- An applied degree in special education has been introduced at the Faculty of Human and Social Sciences of Tunis
- Language laboratories for deaf students are planned at various universities

### **Promotion of scientific research in areas of interest to persons with disabilities**

154. The information and communication technology research unit at the University of Tunis, represented by the head of the unit, Mr. Mohamed Jemni, won the 2010 World Summit Outstanding Regional Achievement Award for mobile phone innovations in the Arab world in the social integration sector for MMS Sign, a service that makes mobile phones accessible to persons with hearing disabilities.

155. With regard to the criteria by which it is determined that a child with disabilities is registered in a regular or specialized (inclusive) school, all children may register at a regular primary school at 6 years of age, including children with disabilities.

156. In a case where a pupil's medical file indicates that his disability would have an impact on his progress through the regular education system, he is directed to the Regional Committee for Persons with Disabilities. In accordance with article 3 of Decree No. 3086 of 29 November 2005 establishing regional committees for persons with disabilities, defining disability and setting the criteria to be met in order to obtain a disability card, as amended by Decree No. 1859 of 3 July 2006, the Regional Committee considers and decides on the cases of children with disabilities who are candidates for inclusion in regular schools and directs them to the appropriate educational, vocational and training institutions.

**20. Please provide information about the progress achieved toward ensuring full scholastic inclusion of children with disabilities. Is it foreseen that the goal will be achieved by the year 2015 as planned? If not, what obstacles will prevent it from being achieved? Please outline any contingency plans adopted or being developed to address the situation.**

157. The Ministry of Education has taken various initiatives in order to ensure that children with disabilities are fully included in the school system. It has:

- Participated in the development and formulation of a national strategy to fully include children with disabilities in the school system
- Developed a programme of action for implementation
- Developed a communication strategy
- Mobilized all actors to improve the multidimensional specialized support (social, medical, educational and psychological) offered to children with disabilities in regular classes
- Developed practical handbooks for all actors on the full inclusion of children with disabilities in the school system
- Organized training and awareness programmes for teachers, directors and inspectors
- Made schools accessible for children with disabilities
- Established a national plan in 2003 to ensure that children with disabilities are fully included in the school system by 2015

158. At the end of 2010, 1,496 pupils with disabilities were included at more than 336 primary schools as a result of the implementation of the national plan. Although progress has been made, some obstacles remain and these are related to:

- Lack of specialized training for all actors at the various ministries concerned
- Lack of pedagogical tools
- Lack of coordination between the various actors
- Failure to register all children with disabilities of school age

159. The following plan has been adopted in order to address these obstacles:

- Create a framework for reflection in order to adopt a programme of action that includes a medium- and long-term plan to improve coordination between the various actors involved in ensuring the full inclusion of children with disabilities in the school system
- Relaunch workshops with the officials in the relevant ministries and members of the community responsible for overseeing the follow-up of case files on full inclusion in the school system, in order to identify the difficulties and means of overcoming them and, consequently, ensure that the goal is attained by 2015
- Strengthen the communication and information strategy on the national plan for the full inclusion of children with disabilities into the school system

**21. Please indicate if there is any programme in place to disseminate information pertaining to sexual and reproductive health. Please also indicate whether this information is provided to persons with disabilities in an accessible form.**

160. The competent offices in the Ministry of Public Health, namely, the National Office for the Family and Population and the Basic Health Care Department, implement public information and awareness programmes on reproductive health.

161. As part of this activity, they organize awareness-raising campaigns for persons with disabilities, in particular deaf and blind persons, in order to disseminate information on sexual and reproductive health through the headquarters and local offices of associations working in the field of disability.

162. Moreover, a specific programme to disseminate information on sexual and reproductive health launched in 2004 encourages cooperation with civil society representatives.

163. Since 2007, platforms for this information have been created, particularly television spots in which Tunisian (kinetic) sign language is used.

164. In addition, it should be noted that a 20-page manual in Arabic on reproductive health has been developed and made available in Braille, in the framework of cooperation between the Tunisian Association of Reproductive Health and the National Union for the Blind.

**22. Please indicate the percentage of persons with disabilities who have access to rehabilitation and technical assistance for rehabilitation and what, if any, technical services and aid are supplied free of charge for persons with disabilities and low incomes. Please also indicate whether these services and aid are affordable for other persons and the extent to which rehabilitation programmes are based in the community.**

165. Rehabilitation services (including speech therapy, massage, physiotherapy, accompanying support services to assist with eating and walking) are the right of every person with a disability who requires them because of his physical condition. These services are provided free of charge, either by the National Health Insurance Fund for those who are covered, or by the State for those who are not.

166. With regard to technical assistance, the State provides needy persons with disabilities and those with limited incomes who are not covered by social security with 25 types of device, including various types of wheelchair, hearing and visual aids, optical lenses and other prosthetic devices. Meanwhile, the National Health Insurance Fund meets the cost of a certain number of prosthetic devices for persons with disabilities and their beneficiaries who are covered by social security.

167. All requests for prosthetic devices (technical assistance) from persons not covered by social security are responded to on a consecutive basis, when eligibility conditions are met and subject to the availability of funds. In other words, there is a relative delay in the response to some requests. The State has sought to reduce this delay by increasing allocations for the acquisition of technical equipment by 71 per cent from 700,000 dinars to 1.2 million dinars in 2010, in order to respond to needs in a timely manner, particularly with regard to schoolchildren and working persons with disabilities.

**23. Please indicate the percentage of persons with disabilities disaggregated by sex in employment in relation to the general population, both in the open labour market and in special working programmes.**

168. The General Population and Housing Census of 2004 indicated that of the total population of persons with disabilities in Tunisia, 19,500 were working, of whom 16,400 were males, while 4,800 were unemployed. The proportion of persons with disabilities in work was 18.1 per cent.

169. In the context of developing employment programmes, the State has pursued a number of policies on workforce inclusion that take into consideration the needs of persons with disabilities, including work in a sheltered environment.

170. This form of employment uses sheltered workshops belonging to disability associations and is given appropriate material and human support. In order to support these workshops and ensure that they continue to operate, the Prime Minister issued circular No. 6 of 3 February 1994 in which he called on public establishments and State installations to purchase products and equipment produced by sheltered workshops, provided that their prices were not more than 20 per cent higher than those of other establishments.

**24. Please provide updated information on the implementation of the programme for the employment of persons with disabilities launched in 2005. Please elaborate on any obstacles encountered impeding its full implementation. Please explain how the programmes ensure that persons with disabilities are able to choose their own vocations, to receive the necessary educational support and training to enter into the workplace on that basis, and to obtain wages and conditions of work equal to those of other persons.**

171. The quantitative objectives of the programme for the employment of persons with disabilities launched in 2005 are to:

- Employ between 100 and 120 persons with disabilities in public service. This target is met annually.
- Achieve a minimum 1 per cent employment rate of staff with disabilities in public establishments and installations. This target has been met.
- Launch 500 projects as part of the national programme to create sources of livelihood for persons with disabilities who are able to work, taking into consideration increases in the cost per project. Some 700 projects are funded annually and allocations for this programme will be increased gradually every year from 2011 until the end of 2014 when they will amount to 2.5 million dinars, having been increased by an estimated 78 per cent. The objective is to increase the average allocation to individual projects and the number of persons with disabilities who are beneficiaries thereof.
- Allocate at least 4 per cent of all loans from the Tunisian Solidarity Bank to persons with disabilities. At present, the proportion is 3.8 per cent.
- Respond to all requests for training from persons with disabilities who are able to attend regular vocational training centres. All requests are met.

- Train 100 persons with disabilities in information and communication technologies through the 21-21 National Employment Fund. This target has been achieved and persons with disabilities continue to be trained in this field.
- Train 1,500 persons with disabilities in various specializations through the 21-21 National Employment Fund. This target has been achieved and training continues in this field.
- Train labour inspection officials and employment advisers to identify workplaces suited to different disabilities and to support and accompany working persons with disabilities, as necessary.
- Create accessible jobs at a number of public and private installations and establishments.

**25. Please outline the measures taken to publicize among employers the provisions concerning the employment of persons with disabilities of General Principles Act No. 83 of 15 August 2005 on the advancement and protection of persons with disabilities. Please provide information on any measures taken to ensure their enforcement, in particular the system of quotas.**

172. The State grants concessions to private employers when they employ persons with disabilities, such as exemption from payment for vocational training costs and from contributions to the Social Housing Promotion Fund. Moreover, establishments are exempted from payment of one half, two thirds or all employers' social security contributions for every employee with disabilities, in accordance with article 34 of General Principles Act No. 83 of 2005.

173. The task of monitoring the employment of persons with disabilities in public service was assigned to the National Agency for Employment and Independent Work. The Agency has also developed a system for monitoring the employment of persons with disabilities in the private sector.

174. In order to give further impetus to the implementation of General Principles Act No. 83 of 2005 on the employment of persons with disabilities, the heads of Labour Inspection Office inspection and conciliation sections:

- Inform private establishments about the provisions of General Principles Act No. 83 of 2005 on the advancement and protection of persons with disabilities in respect of the employment and inclusion in the workforce of persons with disabilities
- Raise awareness in institutions of alternatives to direct employment when reports from the Labour Inspection Office and the Labour Inspection physician indicate that direct assignments are not feasible
- Increase oversight of institutions in order to encourage them to respect the obligation to employ persons with disabilities; examine all cases of contraventions; issue reports on those cases and transmit them to the judicial services concerned
- Incorporate a table (in a standardized format) to monitor the employment of persons with disabilities in public and private establishments in the monthly report of the Labour Inspection Office inspection and conciliation sections

175. Moreover, under the work programme approved for the period 2009–2014, persons with disabilities will be able to work from home in production and sales.

**26. Please elaborate on whether the general employment act protects persons with disabilities from discrimination, including the denial of reasonable accommodation and harassment at all stages of employment.**

176. The Labour Code guarantees workers legal protection without discrimination on grounds of sex, disability or other forms of discrimination. Pursuant to Act No. 66 of 5 July 1993, article 5 bis was added to the Labour Code, which provides that: “No discrimination between men and women shall be made in the application of the provisions of this Code and the legislation adopted to implement it.”

177. With regard to the protection of persons with disabilities from sexual harassment, sexual harassment was established as a crime in the Criminal Code for the first time in Tunisia with the promulgation of Act No. 73 of 2 August 2004.

178. Article 226 (3) of the Criminal Code defines sexual harassment as “any persistent harassment of another person by the repetition of actions, words or gestures that would undermine his dignity or affront his decency in order to induce him to respond to his own sexual desire or that of others or by exerting pressure on him that would weaken his will to resist those desires”.

179. Sexual harassment is punishable by a term of 1 year’s imprisonment and a fine of 1,000 dinars. The penalty is doubled when the offence is committed against a child or other person targeted specifically because of their mental or physical inability to resist the offender.

**27. Please indicate whether there are any restrictions based on disability on the rights of persons with disabilities to vote, to be elected, or to join public service on an equal basis with others. If there are any such restrictions, including through deprivation or restriction of legal capacity, please explain the nature of those restrictions and the implementing framework. Please clarify whether assisted voting is provided for in law. Please provide further information with regard to ensuring the right to participation in public and political life for persons with disabilities, in particular the right to vote of persons with intellectual, psychosocial and mental disabilities.**

180. Article 6 of the Constitution guarantees the principle that citizens are equal in rights and duties. The equality of persons with disabilities is reflected in their right to vote, stand for election and join public service, as set out below.

**The right to vote and stand for election**

181. The Constitution guarantees all citizens the right to vote and stand for election. This constitutional right is exercised in accordance with the conditions laid down in the Constitution and the Electoral Code, as follows:

## **General conditions for the exercise of the right to vote and stand for election**

### *Right to vote*

182. The right to vote is guaranteed for every citizen who has held Tunisian nationality for 5 years, is over 18 years of age, enjoys civil and political rights and has not been deprived of them in any manner.

### *Right to stand for election*

183. Every voter born of a Tunisian father or mother has the right to stand for election. Candidates must be over 23 years of age in respect of elections to the Chamber of Deputies and over 40 years of age in respect of elections to the Chamber of Councillors.

## **Special conditions applicable to persons with disabilities in connection with the exercise of the right to vote and stand for election**

184. Persons with disabilities exercise their right to vote and stand for election differently according to the nature of their disability.

### *Physical disability*

185. Persons with physical disabilities exercise their right to vote or stand for election as do other citizens, without discrimination. In order to facilitate voting for persons with physical disabilities who are not able to perform various related tasks alone, article 49 of the Electoral Code authorizes persons with physical disabilities to appoint a voter of their choice, who is not a candidate, to assist them in the exercise of their right to vote.

### *Mental disability*

186. A person with mental disabilities in respect of whom a court ruling has been issued declaring him legally incompetent or committing him to a specialized institution because of his illness is in a position where he would not be allowed to exercise the right to vote or stand for election, in accordance with article 3 of the Electoral Code.

## **Right to join public service**

187. Article 11 of Act No. 112 of 12 December 1983 concerning general statutes for employees of the State, local government and public administrative bodies provides that discrimination between the sexes and between persons in the application of the said Act is inadmissible.

188. Moreover, article 26 of General Principles Act No. 83 of 15 August 2005 provides that: "No suitably qualified citizen may be denied employment in the public or private sector on grounds of disability and the State shall formulate plans and policies to promote the employment of persons with disabilities."

189. In order to guarantee the inclusion of persons with disabilities in working life, article 29 of the said General Principles Act provides that at least 1 per cent of annual public service appointments shall be reserved for persons with disabilities. This principle was supported by the issuance of Prime Ministerial Circular No. 20 of 24 May 2006 on the employment of persons with disabilities.

190. During the period 2006–2009, 563 persons with disabilities were appointed to public service and a further 164 appointments are scheduled for 2010.

191. In addition to being allocated 1 per cent of annual public service appointments, persons with disabilities are subject to the same conditions in respect of regular

appointments in accordance with the statute for employees of the State and special regulations such as those applicable to higher level public health technicians, temporary workers or retirees. The appointment of persons over the legal age is subject to the prior approval of the Prime Minister.

**28. Please provide information on data collection criteria (including an analysis of gender perspective) and the legal framework which regulates the collection and maintenance of personal data, including that on persons with disabilities. Please explain whether statistical information on persons with disabilities is transferred to other ministries and services to ensure the establishment of intersectional public policies, and in this regard, explain how right to privacy of persons with disabilities under article 22 is ensured.**

192. Tunisia has defined the legal framework for the collection of personal data and has established a national statistical system, both of which are described below.

**Legal framework for the collection of personal data**

193. The legal framework includes general rules for the collection of citizens' personal data and specific rules on the collection of the personal data of persons with disabilities.

**General legal framework for the collection of the personal data of citizens**

*Legal provisions*

- Article 9 of the Constitution enshrines the principle of the protection of personal data
- Basic Act No. 63 of 27 July 2004 concerning the protection of personal data
- Decree No. 3003 of 27 November 2007 concerning the operating methods of the National Authority for the Protection of Personal Data
- Decree No. 3004 of 27 November 2007 concerning licensing and authorization requirements and procedures for processing personal data

*Legal framework for the protection of personal data*

194. Basic Act No. 63 of 27 July 2004 concerning the protection of personal data identifies the various parties involved in processing personal data, namely: the data controller who is responsible for the processing of personal data; the data processor, who processes data as required; and the data subject, whose data are processed.

195. It also defines the rights and duties of each of these parties, in accordance with the general policy with regard to the protection of private life. This distinction imposes obligations on the data processor while granting rights to the data subject.

196. In cases where a data processor fails to respect his obligations, the said Act imposes a criminal penalty of a term ranging from 1 month to 5 years' imprisonment and/or a fine of between 1,000 and 5,000 dinars. In addition, the Act establishes the National Authority for the Protection of Personal Data as an independent structure to monitor respect for personal data processing in the context of respect for the law and for the private life of citizens.

*Types of personal data*

197. Basic Act No. 63 of 27 July 2004 distinguishes between two types of personal data. The first type is ordinary personal data, namely, all data from any source and of any form that can be used to identify a natural person or make him directly or indirectly identifiable, with the exception of data that concern public life or are considered to do so by law. The second type is sensitive personal data that relate directly or indirectly to a person's ethnic or genetic origin, religious beliefs, political or philosophical opinions, trade union membership or health.

*Conditions for processing personal data*

198. The aforementioned Act defines the processing of personal data as the collection, recording, storage, organization, alteration, exploitation, use, transmission, distribution, publication, destruction of and access to personal data, in addition to all operations involving the use of databases, indices, records and cards or the use of interfaces.

199. The processing of personal data is subject to the following conditions:

- The data controller has a duty to guarantee the safety and security of data and to prevent damage by third parties.
- The data controller has a duty of confidentiality and must take all necessary precautions to prevent access by unauthorized persons to personal data.
- The data controller has a duty to inform the data subject of the processing of his personal data by giving prior written notice of the type of data concerned, the purpose of processing the data, his right of access to the data, his right to withdraw consent at any time, his right to object to the processing of his data and of the country to which the data controller intends to transfer the data concerned.
- The data controller must obtain the explicit prior consent of the data subject, in writing, with regard to the processing of his data; in the case of a minor, the consent of his parent and of the family judge is required.
- The data subject has the right of access to all his personal data, to be informed in relation to them and to obtain a copy thereof. In addition, he has the right to request the correction, completion, amendment, updating, alteration, clarification or deletion of his data if they are incorrect or ambiguous or if it is prohibited to process them.
- The data subject has the right to object to the processing of his personal data at any time for sound, legitimate and serious reasons except in cases where it is required by law due to the nature of an obligation.

*Prior procedures for the collection of personal data*

200. Personal data may be collected only after a prior authorization request has been deposited with the National Authority for the Protection of Personal Data or permission has been obtained from the Authority, depending upon the nature of the personal data concerned. The principle is that authorization and permission remain the exception. Permission must be obtained from the agency when:

- Visual monitoring methods are used
- Personal data are transferred to third parties without the explicit consent of the data subject
- Personal data are transferred abroad

- Personal health data are transferred to persons or institutions conducting scientific research in the field of health
- Data relating to ethnic or genetic origins, religious beliefs, political or philosophical opinions or trade union membership are processed

### **Legal framework for the collection of personal data relating to persons with disabilities**

#### *Definition of personal data relating to persons with disabilities*

201. Data relating to persons with disabilities pertains to health and is therefore categorized as sensitive data. Sensitive data may only be processed in the following cases:

- When the data subject has given explicit written consent to do so
- When the data are of a general nature
- When it is necessary to do so for historical or scientific purposes
- When it is necessary to do so in order to protect the vital interests of the data subject

#### *Legal framework for the processing of personal health data*

202. Personal health data are dealt with in a special section of Basic Act No. 63 of 2004. Personal health data are categorized as sensitive data; prior authorization must be obtained from the Authority in order to process them.

203. However, personal health data held by physicians, persons or institutions conducting scientific research in the field of health may be transferred, provided that the parties concerned submit a request to the Authority for permission to do so. The Authority can establish the precautions to be taken and the procedures to be followed in order to guarantee that personal health data are protected; moreover, it can prohibit the publication of data.

#### *Persons allowed to process personal health data*

204. Personal data may only be processed by physicians or other persons bound by professional secrecy.

205. In order to process genetic data, authorization must be obtained from the National Authority for the Protection of Personal Data, whereas in order to process personal health data, it is sufficient to deposit a prior authorization request with the Authority. Personal health data used in the context of scientific research must be stripped of all personal identifiers, when possible given the requirements of the research. Moreover, data relating to an identified or identifiable natural person must be stored separately and must not be compiled with other data, unless necessary for the purpose of the research.

206. Moreover, personal data being processed in the context of scientific research may only be published with the express consent of the data subject, his heirs or guardian by any means that leave a written record, or if it is necessary to publish them in order to present the findings of the research.

#### *Transfer of personal health data*

207. Public officials or private individuals or persons processing personal health data must obtain the express written consent of the data subject in order to transfer the data concerned.

208. Exceptionally, the Authority is allowed by law to grant permission to transfer personal data in the absence of the data subject's express written consent if it is in his vital

interests to do so or if the data are necessary in order to conduct historical or scientific research and study or in order to implement an agreement to which the data subject is a party.

209. Furthermore, physicians may transfer personal health data in their possession to persons or institutions conducting scientific research in the field of health. In such cases, authorization must be obtained from the Authority. When giving authorization, the Authority can determine the precautions to be taken and procedures to be followed in order to guarantee that personal health data are protected.

210. When personal health data are processed in the context of scientific research, the identity of the data subject must be concealed whenever possible. Moreover, these data may only be used for the purposes of scientific research.

#### *Publication of personal health data*

211. The express written consent of the data subject must be obtained prior to the publication of personal health data processed in the context of scientific research, unless it is necessary to publish them in order to present the findings of research on timely events or phenomena.

#### *Transfer of personal health data abroad*

212. Authorization must be obtained from the National Authority for the Protection of Personal Data prior to transferring personal health data abroad. The Authority is competent to assess the appropriate level of protection in the country to which the personal health data are transferred (Basic Act No. 63 of 2004, art. 51).

#### *Personal health data processing time limit*

213. Personal health data must be destroyed as soon as the purpose of the data processing has been served. The National Authority for the Protection of Personal Data monitors the destruction of personal health data; a data destruction report is issued by a notary in the presence of an expert appointed by the Authority.

#### *Destruction of personal health data transferred or ready for transfer to public officials*

214. Personal data that has been transferred or is ready for transfer to public officials cannot be destroyed or deleted without first consulting the officials concerned and obtaining the consent of the National Authority for the Protection of Personal Data.

#### *Destruction of personal health data held by health institutions*

215. Personal data must be destroyed as soon as the time limit for their storage has expired or the purpose of the processing has been achieved, and an administrative report to that effect must be issued.

### **Statistical system**

216. The national statistical system established by Act No. 32 of 1999 consists of the following elements:

- The National Statistics Council
- The National Institute of Statistics
- Other competent public statistical structures
- Statistical training establishments

217. The National Institute of Statistics is the central executive structure in the national statistical system and is responsible for the technical coordination of statistical activities.

218. The Institute collects, processes, analyses and disseminates statistical data, in coordination with the other competent public statistical structures. It also organizes national statistical documentation on development activity and assembles data produced by the various elements of the national statistical system. In this context, the Institute prepares an annual yearbook that reflects the various statistical activities of which the National Statistics Council is informed.

219. The work of the National Institute of Statistics is based on a number of criteria, namely:

- Confidentiality of statistical data
- Statistical reporting requirements
- Transparency
- Respect for the periodicity of statistics and for dissemination deadlines
- Consistency with global statistical methods and terminology

220. With regard to the legal framework regulating the collection of personal data, including data on persons with disabilities, article 5 of Act No. 32 of 13 April 1999 concerning the national statistical system guarantees the confidentiality of statistical information obtained in the context of statistical surveys. The said Act provides that:

“By statistical confidentiality of statistical data is meant that personal data contained in the statistical survey forms referred to in article 17 of the present Act shall not be disclosed by the authority holding that data until 60 years after the date on which a census, survey or other statistical operation is conducted.”

221. Personal economic or financial data recorded in statistical surveys may not be used for fiscal, economic or social monitoring purposes and legal proceedings relating to data access rights granted to the fiscal authorities may not be brought against the statistical authorities that hold this type of data. Statistical data may only be used for statistical purposes and officials handling statistical data are bound by professional secrecy.

222. In addition to the surveys conducted by the National Institute of Statistics, the Ministry of Social Affairs conducted a national survey of persons with disabilities between March 2002 and March 2003 that enabled it to identify this group, its needs and characteristics so that the Ministry could rationalize its programmes and activities in that regard.

223. The data that were collected have been updated using a software application for persons with disabilities that uses demographic, social and economic indicators collected by social workers during field visits to the persons concerned, whose activities are documented in social research and reports.

224. Personal data collected during these field visits are considered confidential, in accordance with the Social Work Code of Ethics. Selected data relating to persons with disabilities are transmitted by the ministry in charge of the welfare, advancement and protection of this group to other ministries and offices upon request, in accordance with their respective spheres of competence (for example, data on the educational and training levels of persons with disabilities are transmitted to the Ministry of Vocational Training and Employment).

**29. Please confirm whether all persons with disabilities, without exception, are covered by health insurance. Please provide the number and percentage of persons with disabilities whose health insurance is covered (a) by the State, or (b) by a social fund.**

225. The principle with regard to health insurance coverage for persons with disabilities is that they should receive treatment free of charge, regardless of whether or not they are covered by or are beneficiaries of social security. A total of 150,349 persons with disabilities benefit from health insurance, distributed as follows:

- The State provides health insurance for 100,112 persons with disabilities, or 65.5 per cent of the total
- The National Sickness Insurance Fund provides health insurance for 50,237 persons with disabilities, or 33.4 per cent of the total

**30. Please elaborate on the steps, if any, taken to ensure that the Higher Committee for Human Rights and Fundamental Freedoms meets the requirements of the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). Please indicate the specific role and attributes of the Higher Council for the Care of Persons with Disabilities in relation to the rights of persons with disabilities.**

**Stages on the path of the Higher Committee for Human Rights and Fundamental Freedoms to harmonization with the requirements of the Paris Principles**

226. Pursuant to Act No. 37 of 16 June 2008, the Higher Committee for Human Rights and Fundamental Freedoms became an independent national institution with the aim of promoting and protecting human rights, reinforcing the values and culture of human rights and contributing to ensuring the exercise of human rights.

227. The Higher Committee's path towards harmonization with the Paris Principles culminated in the issuance of the Decree of 9 June 2009 approving the Higher Committee's organizational rules, operating methods and internal regulations.

228. Pursuant to the said Act of 2008, the Higher Committee has legal independence, special regulations and budgetary independence in respect of the preparation, administration and monitoring of its budget, in addition to functional, administrative and logistical independence.

229. Moreover, the Act of 2008 expanded and clarified the mandate of the Higher Committee, in particular with regard to the legal provisions defining the composition of its membership and the scope of its functions. In addition, it enabled the Higher Committee to promote and protect human rights by empowering it to:

- Express an opinion on matters on which the President may consult it, take up of its own accord any issue relating to the support and protection of human rights and fundamental freedoms and draw attention to cases of human rights violations
- Submit proposals to the President in support of human rights and fundamental freedoms at the national and international levels, including with regard to ensuring that legislation and practices are appropriate and in conformity with the requirements of international and regional instruments on human rights and fundamental freedoms

- Receive, consider and, as appropriate, hear the authors of petitions and complaints on issues related to human rights and fundamental freedoms and, as appropriate transfer them to the competent authorities; inform the authors of petitions and complaints of the remedies available to them; report to the President in this regard
230. Moreover, under article 3 of the Act of 2008, the Higher Committee is responsible for:
- Conducting research and studies on human rights and fundamental freedoms
  - Following up on the observations and recommendations of United Nations bodies, committees, regional bodies and institutions when Tunisia's reports are considered and submitting proposals on how to benefit from them
  - Contributing to the preparation of draft reports submitted by Tunisia to United Nations bodies and committees and regional bodies and institutions and expressing opinions in this regard
  - Contributing to the dissemination of a culture of human rights and fundamental freedoms by organizing seminars at the provincial, national and international levels, distributing publications and holding lectures on related issues
  - Contributing to the preparation of human rights education plans and programmes and participating in the implementation of national plans
231. The functions of the Higher Committee for Human Rights and Fundamental Freedoms include international cooperation, whereby it is required to:
- Cooperate, within the scope of its functions, with the competent United Nations institutions and with regional and national human rights institutions in other countries
  - Cooperate with the International Coordinating Committee of National Human Rights Institutions and contribute to the effectiveness of its work, as well as with other regional groups of national institutions for human rights
  - Participate in meetings organized by national or international human rights institutions

**Roles and functions of the Higher Committee for Human Rights and Fundamental Freedoms with regard to the rights of persons with disabilities**

232. The Higher Committee for Human Rights and Fundamental Freedoms plays the role of a national follow-up and coordination mechanism with regard to the implementation of the United Nations Convention on the Rights of Persons with Disabilities, which Tunisia has ratified. It does so in accordance with article 33 (2) of the Convention, which provides that:

“States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.”

233. In this context, the Higher Committee for Human Rights and Fundamental Freedoms held a meeting at its headquarters on 17 June 2009 attended by the leading associations for persons with disabilities, namely:

- The National Union for the Blind
  - The Tunisian Union for the Support of Persons with Mental Disabilities
  - The Association for the Support of Persons with Hearing Loss
  - The Tunisian Association for the Welfare of the Deaf
  - Voice of the Deaf Association of Tunisia
  - The Association of Persons with Motor Disabilities
  - The Tunisian Muscular Dystrophy Association
  - The Tunisian Angels Association for parents of children with severe and multiple mental disabilities
234. At that meeting, in particular:
- The associations present were informed of the Higher Committee's function as a national mechanism to follow-up on and monitor the implementation of the Convention on the Rights of Persons with Disabilities
  - The associations present aired their concerns, proposals and aspirations
235. In addition, the following proposals were developed:
- A representative committee should be formed to monitor all categories of disability (visual, auditory, muscular, mental and multiple disabilities)
  - Specialized priority topics for persons with disabilities should be identified for the attention of the said monitoring committee
  - The Convention on the Rights of Persons with Disabilities should be studied and Tunisia's progress in implementing the Convention should be monitored
  - The Convention on the Rights of Persons with Disabilities should be disseminated, in cooperation with the parties concerned, as a booklet distributed to associations and parties concerned
  - A national observatory should be established with a database on disability, persons with disabilities and the relevant associations in Tunisia
  - The responsible authorities should endeavour to adopt sign language and teach it at university
  - The authorities concerned should be made aware of the professional training available for special translators for persons with disabilities and this profession should be given scientific, legal and social recognition
  - Professionals specialized in teaching sign language should be trained and work in associations for persons with disabilities
  - A plan of action should be formulated to raise the awareness of the parties concerned of the need for action to ensure that legal and administrative provisions for persons with disabilities are fully implemented in all areas
  - Efforts should be made to add certain disabilities to the list of chronic illnesses that are fully covered, as muscular dystrophy is
  - The relevant authorities should allow tax and customs exemptions for machines and equipment intended solely for persons with disabilities (including private cars and tricycles)

- The establishment of associations to assist severely disabled persons in the home should be encouraged, given the need of patients with muscular dystrophy for such associations
- Every association should submit a detailed periodic report to the Higher Committee on its activities in the course of implementing the Convention on the Rights of Persons with Disabilities
- A national plan should be developed to give effect to the Convention on the Rights of Persons with Disabilities, consisting of sectoral plans relating to employment, vocational training, education, economic production, media and awareness-raising
- A health plan for newborns should be developed based on prevention and early detection, in order to detect disabilities in newborn babies and children and identify hereditary, physical and genetic background factors and predispositions that cause disability at later stages in life
- Sign language for persons with disabilities should be standardized and sign language dictionaries should be made available throughout North Africa and the Arab world

236. Furthermore, it should be noted that the legal framework regulating the Higher Committee and, in particular, Act No. 37 of 16 June 2008, includes the welfare of persons with special needs and, in particular, of persons with disabilities among the functions of the Higher Committee.

237. In this context and in the context of the powers entrusted to it under article 2 of the said Act concerning the reception of petitions and complaints on issues related to human rights and fundamental freedoms, the Higher Committee endeavours to consider such petitions and complaints and, as appropriate, to hear their authors, refer them to the competent authorities and inform them of the remedies available. The Higher Committee takes particular care with all complaints that it receives from persons with disabilities and makes great efforts to help the authors.

238. In addition, pursuant to article 5 of the said Act, the Higher Committee conducts unannounced visits to penal and reform establishments, detention centres, children's centres and institutions for persons with special needs in order to verify the compliance of those institutions with national legislation on human rights and fundamental freedoms.

239. Moreover, the Committee is concerned with the legislative and institutional framework pertaining to persons with disabilities. It conducted a study on the rights of persons with disabilities in Tunisia, in which competent staff within and outside the Higher Committee participated. The study resulted in the formulation of a number of proposals on the promotion of the rights of persons with disabilities and was transmitted to the President.

240. Furthermore, it should be noted that the Higher Committee participated in the tenth General Conference of the Arab Federation of Organizations Working with the Deaf held in Hammamet in November 2010, where it made a statement on the role of national human rights institutions in protecting the rights of persons with disabilities.

241. The Higher Council for the Care of Persons with Disabilities was replaced by the Higher Council for the Social Advancement and Protection of Persons with Disabilities pursuant to Decree No. 3080 of 1 December 2010. Its functions were expanded to include all programmes and plans for the social advancement of persons with disabilities. The representation of associations working in the field of disability was maintained while political party representation was raised, to the level of secretary-general or first secretary of every opposition party represented in the Chamber of Deputies. In addition, the President of the said Council may invite any person he considers would make a useful contribution to the Council's work to attend.

**31. Please provide a copy of the latest report on the work of the Higher Committee for Human Rights and Fundamental Freedoms.**

242. Pursuant to article 12 of Act No. 37 of 16 June 2008, the Higher Committee for Human Rights and Fundamental Freedoms is responsible for the preparation of the annual national report on the situation of human rights and fundamental freedoms. These reports are published on the Higher Committee's website at <http://www.droitsdelhomme.org.tn>.

243. A copy of the Higher Committee national report on the situation of human rights in Tunisia in 2008 is attached herewith.

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