



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

Distr.: General
6 November 2014
English
Original: Arabic

Committee against Torture

**Consideration of reports submitted by States parties under
article 19 of the Convention**

Third periodic reports of States parties due in 1997

Tunisia*

Addendum

Additional updated report

[Date received: 13 October 2014]

* The present document is being issued without formal editing. Annexes to this report may be examined in the files of the Secretariat.



Contents

	<i>Page</i>
Part I General information	3
A. Introduction	3
B. General legal framework	3
Part II Information on each pertinent article of the Convention	13
Article 1	13
Article 2	14
Article 3	20
Article 4	21
Article 5	23
Article 6	24
Article 7	25
Article 8	28
Article 9	29
Article 10	30
Article 11	36
Article 12	50
Article 13	51
Article 14	55
Article 15	56
Article 16	57
Part III Key efforts of Tunisia to respond to the concerns of the Committee and to implement the Committee’s recommendations following discussion of the second periodic report.....	58

Tunisia submits herein an addendum to its Third Periodic Report, to be read as a complete report, to the Committee against Torture pursuant to article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Tunisia submitted its first report (CAT/C/7/Add.3) in October 1989. In November 1997, it submitted its second report (CAT/C/20/Add.7), which was discussed in November 1998 (CAT/C/SR.358, 359 and 363).

Part I

General information

A. Introduction

1. Tunisia prepared this addendum to its Third Periodic Report in fulfilment of its international obligations and pursuant to article 19 of the Convention against Torture, which the Republic of Tunisia ratified under Law No. 79/1988 (11 July 1988).
2. This addendum was prepared as a complete report (hereinafter “report”) in view of the significant constitutional, legislative and administrative reforms undertaken following the 17 December 2010 – 14 January 2011 Revolution.
3. This report highlights the initiatives, measures and procedures adopted by Tunisia during 1999-2014 to implement the Convention against Torture, particularly those adopted after the 17 December 2010 – 14 January 2011 Revolution in view of the importance and nature thereof.
4. Many meetings and working sessions were held concerning the preparation of this report with representatives of official government bodies and human rights associations.
5. The participation of all of the aforesaid actors provided an opportunity for intensive collaboration resulting in the production of this report.

B. General legal framework

6. The Republic of Tunisia, believing in and committed to human values and universal, elevated human rights principles, has adopted many initiatives and legal and institutional measures to entrench a culture of the human rights and to criminalize torture and ill treatment of all types and forms. Such initiatives and measures perhaps respond, if only partially, to the recommendations of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Mr. Juan E. Méndez, following his mission to Tunisia during 15-22 May 2011. Mr. Méndez recommended that constitutional, legislative and administrative reforms be expedited to ensure the establishment of solid safeguards against torture and ill-treatment.

B.1. Constitutional measures

7 The proceedings of the National Constituent Assembly, elected on 23 October 2011, culminated in the approval of the new constitution of Tunisia.

That constitution was signed on 27 January 2014. It includes reforms that strengthen human rights and has become known as the “2014 Constitution” (Annex 1).

8. Under the 2014 Constitution, article 6, the State guarantees freedom of conscience and belief. The Constitution dedicates an entire chapter, comprising articles 21-49, to the protection of human rights and freedoms. These articles concern: equality between male and female citizens in respect of rights and duties; the right to the sanctity of life; protection of human dignity and physical inviolability and the prohibition of torture; the protection of privacy, inviolability of the home and the confidentiality of correspondence, communications and personal data; freedom to choose a place of residence and move within the country; prohibition of denaturalization, expulsion from a country, extradition and prevention from returning to the country; guarantee of the right to political asylum and to the non-extradition of political asylees; the presumption of innocence until guilt is proven in a fair trial; a provision that punishments must be individual and must be imposed solely pursuant to a legal provision promulgated prior to the occurrence of the punishable act, except in the case of a provision that is more lenient for the accused; a provision under which no person may be arrested or detained except in cases of flagrant delicto or pursuant to a judicial order; a provision under which a person placed under arrest must be immediately informed of his rights and the relevant charges, and may appoint a lawyer to represent him or her; a provision that every prisoner shall have the right to humane treatment that preserves his dignity; a provision under which the State, in executing a freedom-depriving punishment, must take into account the interests of the family and must act to rehabilitate the prisoner and reintegrate him into society; a provision that guarantees freedom of opinion, thought, expression, media and publication and does not allow these freedoms to be subject to prior censorship; a provision under which the State guarantees the right to information and the right to access to information and seeks to guarantee the right to access to communication networks; a provision guaranteeing academic freedoms and freedom of scientific research; the guarantee of the right to hold elections, vote and stand for election; action to guarantee the representation of women in elected councils; the freedom to form parties, unions and associations; the guarantee of the syndical right, including the right to strike; and the guarantee of freedom of peaceful assembly and demonstration.

9. The 2014 Constitution, article 38, provides for the right to health for every person, whereby the State ensures free health care for persons lacking support and persons with limited income and guarantees the right to social assistance. Article 39 of the Constitution makes education mandatory until the age of 16, provides for right to free public education at all levels and provides for state action to disseminate the culture of human rights. Article 40 states that the State shall take the necessary measures to ensure that employment is based on competence and fairness and that all citizens have a right to decent working conditions and to a fair wage. Article 41 guarantees the right to property and intellectual property. Article 42 guarantees the right to culture and creativity. Under article 43, the State supports sports. Article 44 guarantees the right to water. Article 45 guarantees the right to a healthy, balanced environment. Article 46 provides for the protection, support, and development of the rights gained by women, guarantees equal opportunity for men and women in assuming various responsibilities in all fields and requires the State to achieve equal representation for women and men in elected councils and to take the necessary measures to eliminate violence against women. Article 47 affirms the

rights of children that are incumbent upon their parents and provides for the State's guarantee of the rights of children to dignity, health, care, education and all forms of protection for all children without discrimination in accordance with the best interests of the child. Article 48 protects persons with disabilities from any form of discrimination and requires the State to adopt all necessary measures to ensure the full integration of such persons in society.

10. Of particular note are safeguards against prejudicing the substance of the above-mentioned rights and freedoms when establishing limitations on the exercise thereof, which is treated below in paragraph 49.

11. Article 23 of the 2014 Constitution provides for the State's protection of human dignity and physical inviolability. It prohibits psychological and physical torture. It states explicitly that crimes of torture are not subject to the statute of limitations.

12. Article 29 of the Constitution states that no person may be arrested or detained except in cases of flagrant delicto or pursuant to a judicial order. A person placed under arrest must be informed immediately of his rights and the relevant charges and may appoint a lawyer.

13. Article 30 the Constitution states that every prisoner should have the right to humane treatment that preserves his dignity, and that the State, in executing a freedom-depriving punishment, shall take into account the interests of the family and shall act to rehabilitate prisoners and reintegrate them within society.

B2. Legislative additions during 1999-2010

14. The Tunisian legislator adopted a number of legislative measures during 1999-2010 relating directly to prevention of torture (Annex VI).

B3. Legislative and regulatory additions and measures adopted after 14 January 2011 (in chronological order)

15. The Tunisian legislator also adopted legislative and regulatory measures after 14 January 2011 relating directly or indirectly to the prevention of torture (Annex VI). However, these additions require some clarifications.

16. Decree No. 106/2011 (22 October 2011) Amending and Supplementing the Criminal Code (which defines offenses) and Criminal Procedure Code (which regulates procedures in respect of offenses) requires some remarks due to the importance of the amendments contained therein, particularly article 101 bis (new) of the Criminal Code, which replaces the previous article 101 and includes a new definition of torture (Annex IV, remark on article 1).

17. In addition, article 103 (new) of the Criminal Procedure Code strengthens the penalty for public officials and the equivalent who infringe on the personal freedom of another person without legal cause.

18. A key aspect of the Criminal Code, as amended by the aforesaid decree, is the inclusion of a penalty for a person who himself or through another person mistreats a suspect, witness or expert for giving a statement or to obtain a statement or a confession. The amended provision adds a witness and expert who provides testimony against a perpetrator of the offense of torture, which strengthens deterrence.

19. Article 101 bis (new) exempts from punishment public officials or the equivalent who receives an order to torture, abets torture, or becomes aware of the occurrence of torture if they report the torture to the administrative or judicial authorities, where the latter would have otherwise been unaware of the offense, if doing so enables the detection or averting of the offense.

20. Article 101, third paragraph (new) prohibits the fining or criminal punishment of a person who in good faith reports. Such a person is protected and exempt from liability.

21. Under the aforesaid article, the punishment is reduced in many cases if the reporting of information averts continued torture, allows for the detection or arrest of perpetrators of torture, or averts homicide or bodily harm.

22. The punishment is strengthened if torture is imposed on a child or if it results in the amputation or breaking of a limb or a permanent disability.

23. The statements or confessions of a suspect or the statements of a witness are deemed invalid if it is established that they were made as result of torture or coercion.

24. Decree No. 69/2011 and Decree No. 70/2011 (both dated 29 July 2011) amend and supplement the Military Penal and Procedural Code (Code of Military Justice). These decrees regulate the Statute of Military Judges and the military judiciary. They introduce important amendments that strengthen guarantees for both accused persons and victims consistent with current developments. They also introduce new theories on the components of criminal justice, including:

- The principal of litigation at two levels before the military courts.
- The possibility of bringing an action regarding a personal right and of bringing an action on one's own liability before the military judiciary.
- The possibility of appealing all decisions of a military examining judge to the Indictment Division.
- Harmonization of appeal deadlines in military judgments and decisions with the deadlines in effect in the judicial system.
- Repeal of the Prosecution Order issued by the National Minister for Defence.

25. Other important legislative developments, not related directly to Tunisia's implementation of the Convention against Torture, include Decree No. 40/2011 (19 May 2011) on the repair of damage resulting from the disturbances and popular actions that occurred in Tunisia, Decree No. 97/2011 (24 October 2011) on compensation of the martyrs and injured of the 14 January 2011 Revolution, and other decisions relating primarily to the compensation of families of the martyrs and of persons injured of the revolution. It should also be noted that the Tunisian judiciary, in its handling of the cases of persons killed and injured in the revolution, framed the acts committed as premeditated homicide, erroneous manslaughter, and violent assaults of various types. However, no party was referred to the criminal chambers after investigations into the torture of such persons were initiated. We should also recall the provisions that regulate public meetings, demonstrations, processions and parades under Law No. 4/1969 (24 January 1969) and the provisions regulating freedom of assembly, freedom of expression, methods for treating demonstrators, use of force, the requirement for the graduated use of force

and observance of the principle of proportionality. These provisions all relate to torture, abuse and other relevant frequent allegations made during the events of the Revolution. The same applies to the General Amnesty Act for citizens involved in political cases (opinion trials), which has been in effect since Tunisia's independence, in the context of allegations that Tunisians were subjected to torture and ill-treatment.

B4. International conventions dealing with torture

26. Regarding international conventions dealing with torture and other cruel, inhuman or degrading treatment or punishment which the Republic of Tunisia has signed, the general coordinator of human rights in the Ministry of Justice signed an agreement with the regional representative of the International Committee of the Red Cross on 26 April 2005 permitting the committee's representatives to visit prisons and centres for the reform and rehabilitation of juvenile delinquents under the supervision of the Ministry of Justice and detention centres under the supervision of the Ministry of Interior. Since the agreement entered into force, the International Committee has conducted visits to various prisons and detention centres throughout the Republic, during which it has met separately with inmates so desiring and has heard them.

27. Under Decree No. 3/2011 (19 February 2011), Tunisia acceded to the Optional Protocol to the International Covenant on Civil and Political Rights, which was ratified under Order No. 551/2011 (14 May 2011).

28. Under Decree No. 4/2011 (19 February 2011), Tunisia acceded to the Rome International Communal Court Statute and Agreement on the Privileges and Immunities of the International Criminal Court, which it ratified under Order No. 549/2011 (14 May 2011).

29. Under Decree No. 5/2011 (19 February 2011), Tunisia acceded to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was ratified under Basic Law No. 43/2013 (23 October 2013) (article 25 thereof).

30. Under Decree No. 39/2011 (18 May 2011), Tunisia ratified the Headquarters Agreement between the Government of the Republic of Tunisia and the Arab Institute for Human Rights.

31. Under Decree No. 92/2011, Tunisia ratified a cooperation agreement between the Republic of Tunisia and the United Nations High Commissioner for Refugees and approved the establishment of a UNHCR office in Tunisia.

32. Under Decree No. 94/2011 (29 September 2011), Tunisia ratified an agreement between the Government of the Republic of Tunisia and the Office of the United Nations High Commissioner for Human Rights and approved establishment of an office for the OHCHR.

33. Tunisia previously declared its acceptance of the purview of the Committee against Torture in respect of the reports covered by articles 21 and 22 of the Convention.

B5. Torture prevention mechanisms and bodies

34. The Special Rapporteur concerned with torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, following his mission to Tunisia during 15-22 May 2011 remarked that, “While there are a considerable number of administrative orders regulating the treatment of detainees, their effective implementation requires the establishment of enforcement and monitoring mechanisms”. This key remark and recommendation compels us to provide a brief summary of several constitutional mechanisms and bodies and non-constitutional bodies created by Tunisia to strengthen general human rights and protect against the offense of torture in particular.

B6. Constitutional bodies

35. The 2014 Constitution, chapter 6, creates independent constitutional bodies that function to support democracy. These bodies possess a legal personality and financial and administrative independence. They are elected by an enhanced majority of the Assembly of the Representatives of the People. They include the High Independent Electoral Commission, Audio-Visual Communication Commission, Human Rights Commission, Commission on Sustainable Development and the Rights of Future Generations, and the Good Governance and Anti-Corruption Commission.

Human Rights Commission

36. Law No. 37/2008 (16 June 2008) created the Higher Committee of Human Rights and Fundamental Freedoms as a national human rights institution with its own legal personality and financial independence. That law authorizes the Committee to intervene in any issue to support human rights and fundamental freedoms, participate in preparing draft reports for Tunisia’s submission to United Nations human rights bodies and committees, monitor remarks issued by United Nations bodies, prepare and publish the annual national report on the state of human rights, and expand the Committee’s composition to include additional competencies, specialties and schools of thought. However, the limited effectiveness of the Committee in protecting and promoting human rights prompted the National Constituent Assembly to recast the Committee in the 2014 Constitution as an independent constitutional body called the “Human Rights Commission”. The concerned agencies are currently reformulating a law that governs the Commission and defines its authorities and structure consistent with the Paris Principles, which regulate such institutions, to ensure that it operates effectively.

B7. Non-constitutional bodies

37. The Tunisian legislator has created bodies other than those provided in the Constitution, including: the National Authority for the Prevention of Torture, whose establishment fulfils Tunisia’s obligation arising from its ratification of the Optional Protocol to the Convention against Torture; and the Truth and Dignity Forum established under the Basic Law on the Establishment and Regulation of Transitional Justice.

National Authority for the Prevention of Torture

38. The National Authority for the Prevention of Torture was established under Basic Law 43/2013 (21 October 2013). It constitutes the national machinery for

preventing torture. It is an independent public commission possessing a legal personality and administrative and financial independence. Its 16 members must possess integrity, independence and impartiality. Six of the members must be representatives of civil society organizations and associations concerned with defending human rights, and the other members must be specialized in various areas, including medicine and psychiatry, to enable the commission to detect the effects of psychological and physical torture as provided in article 23 of the Constitution.

39. The members of the National Authority for the Prevention of Torture are selected without gender discrimination, which allows the commission to deal with both males and females who have been denied their freedom. The Authority is an administrative authority. Its members enjoy immunity that extends beyond the end of their membership in the Authority. Thus, the chairman and members of the Authority may not be prosecuted or arrested for their views or actions concerning the discharge of their functions even after the termination of the membership. They cannot be prosecuted for a felony or misdemeanour unless a majority of the Authority's members vote to lift their immunity. An arrest must be terminated, even in a case of flagrante delicto, if the Authority so requests.

40. The mandate of the National Authority for the Prevention of Torture extends to all places of detention, particularly those housing civil prisoners, reform centres for juvenile delinquents, centres for the sheltering and supervision of children, detention centres, psychiatric institutions, centres for the sheltering of refugees and asylum seekers, immigrant centres, health quarantine centres, transit areas in airports and ports, discipline centres, and vehicles used to transport persons who have been denied their freedom. Authority members may enter all places of detention and their installations and facilities to conduct private interviews with persons who have been denied their freedom or any other person who can provide information. They may do so without the presence of witnesses in a private manner or with the help of a sworn interpreter. Thus, the Authority has broad authorities that enable it to operate without considerable special restrictions. No authority may obstruct a periodic or surprise visit by the Authority to one of the aforesaid locations except for urgent reasons related to national defence, public safety, natural disasters or a serious disturbance at the location of the visit which temporarily precludes the visit. In the latter case, a written, justified decision must be conveyed immediately to the Authority chairman stating the duration of the temporary prohibition on visits. Any person who violates the aforesaid provisions is subject to disciplinary consequences. The National Constituent Assembly is seeking to surmount the difficulties surrounding the election of the Authority's members (some groups eligible to serve in the Authority have yet to submit their nominations for membership) (Annex II).

Truth and Dignity Forum

41. Tunisia promulgated another basic law, Basic Law 53/2013 (December 24, 2013) on the Establishment and Regulation of Transitional Justice, whose objectives pertain to the enforcement of the Convention against Torture. These objectives include accountability, which is ensured through a series of mechanisms that prevent evasion of punishment and responsibility. The specialized judicial chambers created under this law examine cases of serious human rights violations as defined in international conventions ratified by Tunisia, including the Convention against

Torture, and in the law itself. These violations include in particular premeditated murder, rape, any form of sexual violence, torture, forced disappearance and execution without fair trial guarantees. Reconciliation, while an objective of the aforesaid law, does not mean evasion of punishment and accountability for violators (article 15 of Basic Law 53/2013).

42. The National Constituent Assembly elected the members of the Truth and Dignity Forum. The Ministry of Justice, Human Rights and Transitional Justice held an international roundtable focusing on the forum during 9-11 June 2014 with the attendance of Mr. Pablo de Greiff, Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. Order No. 2887/2014 was issued on 8 August 2014 to establish criminal chambers specialized in transitional justice (Annex III).

B8. Status of international conventions in the Tunisian legal system

43. The 2014 Constitution, article 20, provides for the incorporation of international conventions in the national legal system as follows: “International agreements approved and ratified by the Assembly of Representatives of the People shall be superior to laws and inferior to the Constitution”. Such conventions are thus a part of national legislation.

B9. Use of extraordinary circumstances as a pretext for torture

44. No Tunisian law permits the use of extraordinary circumstances as a pretext for torture. This matter is elaborated in the comment below on article 2 of the Convention.

B10. Judicial and administrative authorities

45. Under the 2014 Constitution, article 102, the judiciary is an independent authority that ensures the administration of justice, the supremacy of the Constitution, the rule of law and the protection of rights and freedoms. Article 23 of the 2014 Constitution prohibits the offense of torture. It is thus a duty of the judiciary, as the protector of rights and freedoms, to examine cases of torture.

46. The Constitutional Court, which was created under article 120 of the 2014 Constitution, may examine, inter alia, any law referred to it by courts due to a litigant’s filing – according to the procedures established by law – of a petition pleading the unconstitutionality of the law. Under article 123 of the 2014 Constitution, if the Constitutional Court is seized of a plea of unconstitutionality, the Court must limit its examination to the contested matters raised.

47. Under the 2014 Constitution, article 110, first paragraph, “Courts shall be classified pursuant to a law. It shall be prohibited to establish exceptional courts or to enact exceptional procedures conducive to prejudicing the principles of a fair trial”.

48. Under the 2014 Constitution, article 115, “The Office of the Public Prosecutor shall be part of the judiciary and thus covered by the guarantees provided for the judiciary in the Constitution. The judges of the Office of the Public Prosecutor shall discharge their functions within the framework of the criminal policy of the State according to procedures regulated by the law”.

49. The National Constituent Assembly, which formulated the 2014 Constitution, was conscious of the general wording of most of the previous constitution's provisions guaranteeing human rights and freedoms. It was particularly conscious of oft the repeated provision that such rights and freedoms are to be exercised "as regulated by the law". However, the law itself emptied the content of those rights and freedoms and prejudiced their substance. This was particularly so in the absence of a constitutional court and binding decisions. Therefore, the 2014 Constitution, article 49, affirms that, "The law shall specify the limitations on the rights and freedoms guaranteed by this Constitution and the limitations on the exercise of such rights and freedoms in a way that does not prejudice the substance of the rights and freedoms. Such limitations shall be established only as required by a civil democratic state to protect the rights of others or as required for public security, national defence, public health, or public morals. Such limitations shall be in proportion to the reasons for the limitations. The judicial authorities shall ensure that rights and freedoms are protected from any violation. No amendment that prejudices any human rights gains or freedoms guaranteed in this Constitution shall be allowed".

B11 Factors and difficulties that may affect fulfilment of commitments under the Convention

50. Key factors and difficulties that may affect fulfilment of commitments under the Convention include:

- Difficulty in changing ways of thinking due to the cumulative effects of the heavy legacy of excesses and violations.
- Difficulty in the democratic transition and the novelty of the democratic experiment in Tunisia.
- The criminal law system requires comprehensive revision.
- Difficulty in developing legislation and harmonizing it with international standards due to the obligations of the National Constituent Assembly and the density of the legal articles with which it must deal.
- Lack of theoretical and applied training, and weak skills.
- Failure to keep pace with current interrogation and investigative techniques.
- Weak infrastructure of prisons and detention facilities, many of which have deteriorated; and difficulty in renovating them due to economic difficulties.

B12. Recommendations arising from the Committee's discussion of Tunisia's second report and other reports

51. The Committee examined – in its 358th, 359th, and 363rd sessions held during 18-20 November 1998 (CAT/C/SR.358, 359 and 363) – Tunisia's second periodic report. The Committee called upon Tunisia, in its conclusions and recommendations, to: end abusive torture practices; increase enforcement of the law; ensure the scrupulous implementation of the law and police detention and custody procedures; ensure the strict execution of registration procedures, including notifying families of persons placed under custody; guarantee the right of torture victims to file a complaint without fear of reprisal, harassment, harsh treatment, or

prosecution even if an investigation does not prove their allegations; and guarantee the right of victims to obtain justice if their allegations are proven.

52. The Committee also recommended ensuring the administration of medical examinations automatically immediately upon an allegation of abuse, the conduct of an autopsy if a person dies in custody, and the public announcement of torture investigation results, including: details of any offenses committed; the names of the perpetrators; the dates, locations, and circumstances of the concerned incidents; and the sentence imposed on persons convicted of torture.

53. The Committee also urged Tunisia to adopt a number of measures, e.g., reducing the period of police custody to a maximum of 48 hours, harmonizing the relevant articles of criminal law with the definition of torture in article 1 of the Convention and amending relevant legislation to ensure the inadmissibility of any statement obtained through torture in any trials except in trials of persons accused of torture as evidence that the statement was made.

54. The Committee urged Tunisia to submit its third periodic report before 30 November 1999.

55. The Special Rapporteur on torture, in his recommendations following his mission to Tunisia during 15-22 May 2011, dealt with the countering of evasion of punishment for violations committed during the previous period, detention conditions, guarantees of protection from torture, the expedited introduction of constitutional, legislative and administrative reforms and the establishment of enforcement and monitoring mechanisms.

56. The comprehensive periodic review of Tunisia was conducted at the 21st session held in Geneva in 2012. The dialogue resulted in recommendations supported by Tunisia. These recommendations can be divided into three categories: 1) reform of the security sector and training of police personnel, combating of prison overcrowding, reform of the detention system, reduction of the maximum period of detention to 48 hours, enabling of attorneys to be present at interrogations, and provision of legal grounds and arrest records to detainees' families and defence attorneys; 2) accountability for previous human rights violations, provision of remedies, and transitional justice mechanisms and measures; and 3) the creation of a national mechanism to prevent torture, and the non-prescription of the offense of torture.

57. The third part of this report is devoted to Tunisia's main efforts to respond to the Committee's concerns and to implement the Committee's recommendations arising from the discussion of the second report. Throughout this report, we respond to the recommendations of the Special Rapporteur concerned with torture and the recommendations arising from the comprehensive periodic review of Tunisia.

Part II

Treatment of each article of the Convention

New measures and developments relating to the implementation of the Convention

58. The National Constituent Assembly is examining a draft law to amend certain provisions of the criminal procedure code and to add other provisions, which may be found in the table comparing existing legal provisions with proposed amendments and additions in the draft (Annex V).

Article 1

1. Definition of torture

59. Torture is defined under article 101 bis (new) of the Criminal Code as amended by decree 106/2011 (22 October 2011).

60. The aforesaid decree repeals article 101 bis (old) and replaces it with article 101 bis (new), which reads as follows: “Torture shall mean any act producing physical or mental pain or extreme suffering inflicted intentionally upon a person in an effort to obtain from him or a third party information or a confession to an act he committed or an act that he or a third party is suspected of committing. Causing fear or distress to a person or third party to obtain the above shall be considered torture. Inflicting pain or suffering or causing fear or distress motivated for any reason of racial discrimination shall fall within the scope of torture. A public official or the equivalent who orders, incites, consents to or is silent about torture in the course of or in connection with the performance of his job shall be considered to have committed torture”.

2. Definition of a public official

61. The term “public official” in the definition of torture requires clarification regarding the capacity of a public official. The Tunisian Criminal Code, article 82, as amended by Law No. 33/1998 (23 May 1998), broadly defines a public official as any “person who is assigned the authorities of a public authority, or works for a state office, local government, public office or enterprise, public establishment or other entity that participates in the management of a public facility. Any person who has the capacity of a public official, or who has been elected to represent a public office, or has received a judicial appointment to serve as judicial official shall be equivalent to a public official”.

3. International instruments that include broader-scope provisions

62. Regarding international instruments that include or may include provisions with a broader scope of application, see B4 above, which concerns international conventions that treat torture (paragraphs 26-33 above).

Article 2

63. The 2014 Constitution affirms the right to life, human dignity and physical inviolability. Article 19 of the Constitution stipulates the national security force's enforcement of the law while ensuring respect for freedoms with total impartiality. Tunisia has also adopted other constitutional measures (see B1, paragraphs 7-13 above).

64. The 2014 Constitution, article 23, clearly states that crimes of torture are subject to the statute of limitations.

65. The 2014 Constitution, article 148, paragraph 9, does not permit prescription of offenses, including torture with the passing of time in the context of the application of the transitional justice system, consistent with article 9 of Basic Law 53/2013 on the Establishment and Regulation of Transitional Justice.

66. The 2014 Constitution thus amends a provision in Decree No. 106/2011 (mentioned above) which sets at 15 years the period for the prescription of a public action arising from the felony offense of torture.

1. Period of detention and preventive detention, and regulations relating thereto

67. In addition to what is stated in the 2014 Constitution, article 29, concerning the arrest or detention of a person, and what is stated in article 30 concerning the humane treatment of every prisoner, the Tunisian legislator reduced, effective 2 August 1999, the duration of detention to three days with the possibility of one three-day extension, compared to the previous duration of four days with the possibility of one four-day extension and an additional extension when necessary for two days.

68. The duration of preventive detention was also lowered to six months with the possibility of one three-month extension for misdemeanours (maximum of nine months) and six months with the possibility of two extensions, each up to four months, for felonies (maximum of 14 months). Previously, Law No. 26 (November 1987) set the period of preventive detention at six months with the possibility of one six-month extension for misdemeanours (maximum of 12 months) and six months with the possibility of two six-month extensions for a felony (maximum of 18 months).

a. Regulation of detention measures and expansion of the scope of mandatory release

69. The Criminal Procedure Code, article 84, clearly stipulates that preventive detention is an extraordinary measure. In support of this principle, the legislator amended the Criminal Procedure Code, article 85, under Law No. 74/2008 (11 December 2008) to expand the scope of mandatory release. The amendment requires the provision of grounds for arrest warrants and the ordering of the release of an accused person upon the lapse of the maximum period of preventive detention. It also establishes new procedures for upgrading detainee status.

70. The scope of mandatory release was expanded to include the release of any accused not previously sentenced to more than six months' imprisonment for an offense carrying a maximum penalty by law of two years' imprisonment. Under the old provision, mandatory release was stipulated for an accused not previously

sentenced to more than three months' imprisonment for an offense carrying a maximum penalty by law of one year's imprisonment. The new article states that "an accused person shall be released on bail or without bail five days after being questioned, provided he has a fixed abode in Tunisia and has not previously been sentenced to more than six months' imprisonment for an offense whose maximum penalty by law does not exceed two years' imprisonment, excluding the offenses mentioned in articles 68, 70 and 217 of the Criminal Code". The aforesaid articles concern, respectively: conspiracy to violate state domestic security; demonstration of an intent to conspire to violate state domestic security; and perpetrators of involuntary and or negligent homicide, failure to take precautions, negligence, inattentiveness or failure to observe the law.

71. All of the aforesaid is accompanied by a requirement to provide the grounds for arrest warrants and to release the accused person within the maximum period set for preventive detention.

72. Law No. 21/2008 (4 March 2008) requires the provision of the grounds for every preventive detention warrant, including the factual and legal grounds justifying the warrant. Article 85 of the Criminal Procedure Code stipulates that "a suspect may be detained preventively in felonies and misdemeanours and whenever there exists strong evidence requiring detention as a means of security to avoid the commission of new offenses, or to ensure the enforcement of a sentence or to provide for the sound conduct of an investigation".

73. The Criminal Procedure Code, article 85, second to last paragraph, explicitly requires the release of an accused person upon the lapse of the maximum period of preventive detention, as follows: "A decision by the Indictment Division to refer a case to the investigating judge for the continuation of certain proceedings required to prepare a case for rendering a verdict may not result in the exceeding of the maximum period for which the accused may be held in preventive detention. If such period is exceeded, the investigating judge or indictment division, depending on the case, must order the release of the accused temporarily without such release precluding the adoption of the necessary measures to ensure the appearance of the accused".

b. Rules governing the rights of detainees to be represented by an attorney, undergo a medical examination and to contact family members and others

74. The Criminal Procedure Code, article 13 bis, contains procedures to ensure the fundamental rights of suspects upon arrest or detention, including the right to representation by an attorney, to undergo a medical examination and to contact family members (Annex V).

2. Imprisonment in isolation from the outside world

75. Tunisian law provides for no form of confinement in isolation from the outside world. The list of penal institutions and arrest and detention centres is stated by law.

76. In addition to the provisions of the 2014 Constitution, articles 29 and 30, and the Criminal Procedure Code, article 13 bis mentioned above, Law No. 52/2001 (14 May 2001) regulates the prison sector and requires "when a prison sentence is served, the balancing the prisoner's rights with the assurance of the security of the

penal institution and other inmates”. In this regard, many rights have been established for prisoners particularly the right to:

- Be informed of the Prisons Law and prison regulations, so that the prisoner is aware of his rights and duties.
- Protection of his/her physical and psychological inviolability and to not be subjected to any form of ill treatment.
- Health care and mental health care and the provision of his/her daily needs.
- Visits by children who are at least 13 years of age without barriers.
- Provision of care in the case of female inmates who are pregnant during and after pregnancy, and the provision of medical and social care in the case of inmates who are mothers accompanied by a child.

The code also stipulates the duties of a prisoner, the violation of which is punishable by a disciplinary punishment.

77. The competent authorities (Prisons Department and the judicial authority) also permit the authorization of requests to visit without a barrier or to enable prisoners to attend the funerals of their relatives.

78. Regarding the punishment of placement in solitary confinement as a type of isolation from other prisoners and the outside world, the Minister for Justice’s Circular of 13 November 2008 stipulates safeguards that must be provided for a prisoner who is punished with solitary confinement for having committed a violation. The safeguards include observance of the legal procedures and safeguards concerning solitary confinement, formation of an impartial disciplinary committee, the need to obtain the prison physician’s written opinion before the committee makes a decision, the need for the prison physician to periodically monitor the health status of a prisoner undergoing such punishment, and the need for the disciplinary committee to consider the seriousness of an offense when determining the duration of solitary confinement.

3. Institutionalization and strengthening of the authorities of the sentence enforcement judge

79. Law No. 77/2000 (31 July 2000) Amending and Supplementing Several Articles of the Criminal Procedure Code introduces the post of sentence enforcement judge.

80. Law No. 29/2002 Amending and Supplementing the Criminal Procedure Code strengthens the authorities of the sentence enforcement judge.

81. Procedural arrangements have been adopted to establish the territorial jurisdiction of the sentence enforcement judge and to regulate his functions. Under such arrangements, the Tunisian legislator assigned the sentence enforcement judge to supervise the serving of prison sentences in penal institutions under the jurisdiction of the sentencing court. The legislator authorized the sentence enforcement judge to submit recommendations regarding the conditional release of certain prisoners. In this regard, the Criminal Procedure Code, article 342 bis, first paragraph, stipulates that “the sentence enforcement judge shall be responsible for supervising the conditions for the serving of freedom-depriving sentences in penal institutions under the jurisdiction of the sentencing court.

82. The sentence enforcement judge may visit a penal institution, interview prisoners and access their disciplinary records. The law authorizes him to grant conditional release for adjudicated misdemeanour offenders sentenced to up to eight months. He shares these functions with the Ministry of Justice.

4. Procedures for keeping juvenile offenders in contact with the outside world

83. The reform centres operate on the trimester system within the general pedagogical division for juvenile offenders. The children are in a semi-open system and are able to carry on with educational programs that are provided in collaboration with Ministry of Education organizations based on pedagogical tools and resources provided for this purpose, including books, curriculum guides, and instructors.

84. Children in the concentrated care system can also pursue educational and special guidance programs. Children placed in reform centres may pursue occupational or agricultural training programs in diverse specialties. The staffs of the Ministries of Education, Sciences, Training, Agriculture, Environment and Water Resources coordinate to enable these children to take tests and to receive training course completion certificates or occupational competency accreditation.

85. Order No. 2423/1995 (11 December 1995) on the Regulations of the Juvenile Reform Centre require the director of each centre to state, in the sealed booklet delivered to the director by the General Directorate of Prisons and Rehabilitation, the date and time of a juvenile's placement in, and departure from, the centre. It also requires the centre administration to provide three days' advanced notice of the juvenile's departure from the centre to the juvenile's legal guardian. If the legal guardian is unable to be present to receive the child, the juvenile remains at the centre. In this case, the centre advises the local and regional authorities with jurisdiction over the juvenile to summon the legal guardian or whomever the legal guardian authorizes. The centre administration provides the child with an exit card immediately upon the end of the period of placement in the centre and sends a copy of the card to the Directorate General of Prisons and Rehabilitation.

5. Measures for sheltering the mentally ill

86. Law No. 83/1992 (3 August 1992) on Mental Health and the Conditions for Hospitalization Due To Mental Illness, as amended and supplemented by Law No. 40/2004 (3 May 2004), regulates sheltering conditions. It generally stipulates that individuals be hospitalized due to mental illness in a way that respects individual freedoms and in conditions that ensure human dignity (article 1). It requires protection of any mentally ill person from any exploitation, violation, or inhuman or degrading treatment (article 3, paragraph 1). Under article 12 of the law, the restrictions imposed on the freedom of a person who is committed involuntarily to hospital must be maintained within the limits of what is required by his medical condition and treatment requirements. In particular, it requires that the person be informed of his legal status upon admission to the hospital or as soon as his medical condition permits. The law also regulates visits by the public health physician-inspectors to persons so sheltered and requires each sheltering institution to keep a numbered record approved by the medical inspection offices in the Ministry of Public health for the recording of precise data on the condition of sheltered persons.

87. Under Law No. 83/1992, article 37, the director of a sheltering institution may be punished by imprisonment and a fine if he does not fulfil the conditions for sheltering a person against his will as stated in article 15 of the aforesaid law or neglects to send the medical certificates an entry card as stipulated in article 7 of the law to the concerned office in the Ministry of Health at the designated times. Based on the request of a third party, the sheltering institution's psychologist directly prepares a medical certificate stating the hospitalized person's mental state and affirms or rejects the need for the person to remain hospitalized. The hospitalization institution director is punished if he blocks or countermands a complaint or request sent by a hospitalized person to the judicial or administrative authority through the channels provided in chapter III of the law (commitment requested by a third party and mandatory commitment). The law treats other cases in which the director is punished. The president of the court of first instance, public prosecutor, legal guardian and the regional mental health committee play a supervisory role.

6. Refraining from using extraordinary circumstances, emergency laws or the combating of terrorism as a pretext to restrict safeguards guaranteed for detainees

88. Under the 2014 Constitution, article 80, first paragraph, "In the event of imminent danger threatening the existence, security, and independence of the country in a way that precludes the normal operation of State institutions, the President of the Republic may take any measures necessitated by such an exceptional situation after consulting with the Prime Minister and the Speaker of the Assembly of People's Representatives and after so informing the President of the Constitutional Court. The President shall announce such measures in a statement to the people".

89. Order No. 50/1978 (26 January 1978) regulates states of emergency in Tunisia. The order provides for certain measures that may prejudice fundamental rights and general freedoms, e.g. regulation of the residency of persons, censorship of the press and all types of publications and the prohibiting of assemblies that could disturb order. However, it does not contain any provision that would prejudice the safeguards guaranteed for detainees. Accordingly, Tunisian law does not permit using emergencies as a pretext for prejudicing the legal rights guaranteed for detainees.

90. Under Republican Decree No. 39/2014 (for March 2014), the President of the Republic lifted, from all of Tunisia, the State of emergency declared in response to the 17 December 2010 – 14 January 2011 Revolution.

91. Law No. 75/2003 (10 December 2003), as amended and supplemented by Law No. 65/2009 (12 August 2009), regulates support of the international effort to combat terrorism and prevent money laundering. Nothing in the law prejudices the legal guarantees provided for any person suspected of committing a terrorist crime. The aforesaid law was reviewed, and a new draft law on combating terrorism and preventing money laundering was submitted to the National Constituent Assembly for discussion and approval.

7. Refrainment from using orders issued by the highest-ranking officials or a public authority as a pretext to justify torture

92. Nothing in Tunisian law permits the use of orders issued by the highest-ranking officials or a public authority as a pretext to justify torture. There is legal debate concerning article 42 of the Criminal Procedure Code. However, the following comment clarifies this matter.

93. The Criminal Procedure Code, article 101 bis (new), states, “A public official or the equivalent who orders, incites, consents to or is silent about torture in the course, or in connection with the performance, of his job shall be considered to have committed torture”.

94. A public official who remains silent about torture is considered to have committed torture under the aforesaid article and is punishable by the penalties specified in article 101, second paragraph (new). Supreme orders, including orders issued by the security and military authorities, cannot therefore be invoked to justify the practice of torture. Even a public official who remains silent about torture is classified as having committed torture and deserving of punishment. This is an approach affirmed by follow-on paragraphs in the law.

95. The Criminal Procedure Code, article 101 bis, third paragraph (new), exempts from punishment public officials or the equivalent who receive an order to torture, abet torture, or become aware of the occurrence of torture if they report the torture to the administrative or judicial authorities, where the latter would have otherwise been unaware of it, and if doing so enables the detection or averting of the offense.

96. The aforesaid article also reduces the punishment established originally for the offense by one-half if the reporting of information averts continued torture, allows for the detection or arrest of perpetrators of torture, or averts homicide or bodily harm. It also replaces the punishment of life imprisonment for the offense of torture resulting in death mentioned in article 101, second paragraph (new) (last paragraph), with imprisonment of 20 years [if the reporting allows for the detection or arrest of perpetrators of torture] and prohibits the fining or criminal punishment of a person who reports in good faith.

97. Criminal punishment for remaining silent about torture does not permit the invoking of supreme orders as a pretext for the practice of torture.

98. The Tunisian Criminal Procedure Code, article 41, states that “compulsion may not be derived from an offender’s obedience arising from the intensity of his glorification of the person who ordered him to commit the offense”. Thus, moral coercion and fear of an immediate superior may not be invoked as a pretext to evade liability for an act prohibited by the law.

99. The Criminal Procedure Code, article 42 states, “A person who commits an act under a provision of the law or an order of the competent authority shall not be punished”. The expression “act under a provision of the law” requires that the act be permitted legally, which is not the case of torture, which is prohibited and criminalized under the law.

100. Regarding the internal security forces, Law No. 70/1982 (6 August 1982) Regulating the Basic General Law of the Internal Security Forces, article 46, states, “Regardless of the provisions stipulated by special basic laws, any official of the domestic security forces, regardless of his rank in the hierarchy of his corps, shall be

responsible for the duties assigned to him and for the execution of orders which he receives from his superiors within the scope of legality”.

8. Effectiveness of measures adopted to prevent the practice of torture, including measures to ensure that justice is administered to persons responsible for practicing torture

101. Tunisia has introduced legislative amendments that stipulate, for example, the non-prescription of the offense of torture, the inadmissibility of statements and confessions of an accused or the statements of a witness if it is established that they were made under torture or coercion. Key measures have been adopted to prevent the practice of torture, e.g., the creation of an authority to protect against torture, the constitutionalization of the Human Rights Commission and the revision of the law regulating the Commission consistent with the Paris principles. Various official Tunisian bodies have also cooperated with United Nations and international organizations through diverse programs designed to train and develop the awareness of law enforcement personnel regarding torture and effects thereof. There are still concerns over a lack of respect for laws and measures adopted to combat terror, as demonstrated by a number of complaints received in this regard.

Article 3

1. Extradition in Tunisian legislation

102. Tunisian legislation prohibits the expulsion or return of a foreigner to another state if Tunisia has real grounds to believe that the person will be in danger of being tortured.

103. Tunisia ratified the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.

104. The Criminal Procedure Code, book 4 (entitled “Certain special measures”, chapter 8 articles 308-330, treats the extradition of foreign offenders.

105. Article 308 stipulates that the conditions and procedures for the extradition of an offender and the effects thereof are subject to the aforesaid chapter 8 unless otherwise provided by international conventions.

106. Decree No. 106/2011 (20 to October 2011) Amending and Supplementing the Criminal Code and Criminal Procedure Code, adds a third paragraph to article 313 of the Criminal Procedure Code: “Extradition shall not be granted...if it is feared that the extradition will expose the person to torture”.

2. The judicial authority’s jurisdiction to examine an extradition request

107. The judicial authority has jurisdiction to examine an extradition request. Such requests are examined by the Indictment Division of the Court of Appeal in the capital Tunis. The Indictment Division comprises a presiding judge and two other judges. Its decisions are subject to all procedures required in a fair trial and are issued after the Division conducts a legal, factual study of the status of the person whose extradition is requested, including any plea that the person will be subject to torture in the requesting country. Its decisions are binding on the executive authority, which cannot contravene a decision not to extradite, as confirmed in the

Criminal Procedure Code, article 323: “In other than the event stated in the previous article, the Indictment Division shall render a reasoned decision on an extradition request. The decision may not be appealed. If the Indictment Division finds that the legal requirements for extradition have not been met, or that there is an obvious error, it shall deny the extradition request. Its opinion shall be final, and extradition may not be granted notwithstanding it.

Article 4

108. Tunisian legislation criminalizes torture. The severity of the punishment for perpetrators of torture is graduated. The law encourages the reporting of torture.

1. Graduated punishment for torture

109. Under 2014 Constitution, article 23, “The State shall protect human dignity and physical inviolability and shall prohibit psychological and physical torture. Crimes of torture shall not be subject to the statute of limitations”.

110. See the comment on article 1 of the Convention above regarding the definition of torture in Tunisian law.

111. The Criminal Code, article 103, replaces old article 103 under Decree No. 106/2011 (20 to October 2011) Amending and Supplementing the Criminal Code and Criminal Procedure Code in order to strengthen the punishments for perpetrators of the offense of torture as follows:

- A public official and the equivalent who commits an act mentioned in article 101 of the code, which is mentioned above in respect of article 1 and which defines the offense of torture, is punished by eight years’ imprisonment and a fine of 20 000 dinars.
- The punishment is increased to 12 years’ imprisonment and a fine of 20 000 dinars if the torture results in the amputation or fracture of a limb or a permanent disability
- If torture is inflicted on a child, the punishment is 10 years’ imprisonment and a fine of 20 000 dinars.
- The punishment is increased to six years’ imprisonment and a fine of 25 000 dinars if the torture of a child results in the amputation or fracture of a limb or a permanent disability.
- Any act of torture resulting in death is punished by life imprisonment. However, this sentence does not preclude the imposition of stronger penalties established for assaults against persons if necessary.

2. Encouragement of reporting of acts of torture

112. Seeking to prevent torture, the legislator has exempted from punishment for the acts stated in the Criminal Code, article 101 bis (new) any person mentioned in the comment above on article 1 of the Convention, a public official or the equivalent who receives an order to torture, abets torture, or becomes aware of the occurrence of torture if he reports the torture to the administrative or judicial authorities and if doing so enables the detection or averting of the offense.

113. The punishment established originally for the offense is reduced by one-half if the reporting of information averts continued torture, allows for the detection or arrest of perpetrators of torture, or averts homicide or bodily harm.

114. The punishment of life imprisonment for the offense of torture resulting in death mentioned in the Criminal Code, article 101, second paragraph, is replaced with imprisonment of 20 years [if the reporting allows for the detection or arrest of perpetrators of torture].

115. In addition, an official convicted of infringing on individual freedoms, violent assault or torture may be denied certain rights, e.g., the right to be employed in the public sector, engage in certain occupations, vote, carry a weapon or bear official decorations.

116. The legislator was wary of reporting motivated by a desire to evade criminal liability and fines, indicating that no consideration will be given to a report made after the exposure of torture or launch of an investigation, whereby the Criminal Code, Article 101, third paragraph (new), prohibits the fining or criminal punishment of a person who reports in good faith.

117. Following is a table showing the number of torture cases heard in various courts during 14 January 2014 through 1 July 2014 followed by a statement of the status of the cases:

Tunis Court of First Instance	91	Mahdia Court of First Instance	1
Tunis Court of First Instance 2	1	Sfax Court of First Instance	8
Aryanah Court of First Instance	4	Sfax Court of First Instance 2	0
Manouba Court of First Instance	25	Kef Court of First Instance	0
Ben Arous Court of First Instance	5	Jendouba Court of First Instance	3
Bizerte Court of First Instance	6	Kasserine Court of First Instance	1
Béja Court of First Instance	2	Siliana Court of First Instance	4
Nabeul Court of First Instance	1	Gabès Court of First Instance	22
Grombalia Court of First Instance	5	Kebili Court of First Instance	0
Zaghouan Court of First Instance	4	Gafsa Court of First Instance	0
Sousse Court of First Instance	14	Tozeur Court of First Instance	0
Sousse Court of First Instance 2	1	Sidi Bouzid Court of First Instance	2
Kairouan Court of First Instance	0	Medenine Court of First Instance	25
Monastir Court of First Instance	5	Tataouine Court of First Instance	0
	164		66
Total: 164+66 = 230 cases			

- 165 cases remain under investigation.
- 20 cases were transferred to the Permanent Military Court in Tunis.

- Six cases have been closed pursuant to a decision to close the investigations due to a lack of legal grounds, inadequate proof, failure to identify the perpetrator, or extinction of the action due to lapse of time.
- In three cases, a sentence of imprisonment and a fine was adjudicated in absentia.
- In two cases, a sentence of imprisonment with a grant of deferred execution was rendered.

The preceding points to slowness in the adjudication of torture cases, which creates an impression of evasion of punishment.

118. The seriousness of the offense of torture is taking into account in sentencing as mentioned above with respect to the graduation of the severity of punishments for perpetrators of torture.

Article 5

119. The Tunisian courts have jurisdiction to try all offenses committed in Tunisian territory or on board a ship or aircraft registered in the State, or when the offender is a Tunisian national. They also have jurisdiction to prosecute and try cases where the offender, whether the principal or accomplice in a felony or misdemeanour, is outside Tunisian territory, when the victim is a Tunisian national.

1. Principle of the territoriality of a criminal provision

120. Tunisian law adopts the principle of the territoriality of a criminal provision, which grants Tunisian courts authority to try all offenses that occur in Tunisian territory.

2. Jurisdiction of Tunisian courts to hear torture offenses committed on board a ship or aircraft registered in Tunisia

121. The Criminal Procedure Code, article 29, as amended by Law No. 85/2005 (15 August 2005), stipulates, for the purpose of extending the jurisdiction of the Tunisian courts to crimes committed on board ships and aircraft, as follows: “The court of the region in which an offense is committed, or the court of the locale in which the suspect’s residence is located, or the locale of the suspect’s last place of residence, or the court of the locale in which the suspect is located shall examine the offense. The court that is first assigned the case shall decide the case”.

If an offense is committed on board or against a ship or aircraft registered in Tunisia or leased without a crew to a user whose main headquarters or permanent residence is located in Tunisian territory, the court with jurisdiction to hear the case shall be the court of the locale in which the aircraft landed or the ship docked.

Such court shall also have jurisdiction, even if one of the conditions mentioned in the previous paragraph is not met, if the aircraft lands or the ship docks in Tunisian territory and the suspect is on board.

3. Jurisdiction of Tunisian courts to hear torture offenses where the perpetrator is a Tunisian national

122. The jurisdiction of the Tunisian courts shall cover offenses committed by Tunisia nationals outside Tunisia pursuant to the Criminal Procedure Code, article 305, provides for the extension of the jurisdiction of Tunisian courts to crimes committed by Tunisian nationals outside Tunisian territories as follows: “A Tunisian citizen may be prosecuted and placed on trial by Tunisian courts for a misdemeanour or felony offense committed outside the territory of the Republic, that is punishable under Tunisian law, unless the offense is not punishable in the country where it was committed, or the accused can show that he was definitively sentenced abroad and that the sentence has been served or has lapsed or that he has benefited from an amnesty”.

The provisions of the preceding paragraph also apply to a perpetrator who acquires Tunisian nationality after committing an offence.

4. Prosecution and trying of an offender, as a principal or accessory, in a felony or misdemeanour, where the victim is a Tunisian national

123. The Criminal Procedure Code, article 307 bis, states, “Any person who commits, as a principal or an accessory, a felony or misdemeanour outside Tunisian territory against a Tunisian national may be prosecuted. A person may be prosecuted by the Office of the Public Prosecutor solely based on a complaint submitted by the victim or his heirs. The accused may not be prosecuted if he can show that he was definitively sentenced abroad and that the sentence has been served or has lapsed or that he has benefited from an amnesty”.

124. No cases of this type have occurred.

Article 6

125. A foreigner who is taken into custody in Tunisia enjoys the same legal and procedural safeguards as those enjoyed by Tunisians.

126. When a person is taken into custody in Tunisia on suspicion of committing an offense punishable under its previously established criminal law, the concerned Tunisian authorities immediately make a preliminary inquiry into the facts.

127. Any foreign person in custody is assisted in communicating immediately with the nearest competent consular authority of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.

128. The Tunisian authorities, upon taking a person into custody, immediately notify the authorities of that person’s State of the circumstances which warrant his detention and the launching of a preliminary investigation and whether they intend to try the person.

129. There is no general procedural rule or explicit provision providing for a foreigner in custody to contact a representative of his State. However, such contact is in practice customary under international customary law.

130. The procedures provide for the summoning of a foreign suspect for questioning. If the suspect does not appear, the examining judge may issue a

summons to the suspect. The summons must state the charge and the legal provisions applicable to the charge and include a warrant for the judicial police officials to arrest the person. The examining judge may, after questioning the suspect, issue an incarceration order after obtaining the opinion of the public prosecutor if the act is punishable by imprisonment or a more severe penalty. Upon being questioned for the first time, the suspect may choose to respond only in the presence of an attorney of his choosing and an interpreter. A detained suspect may be visited by his attorneys at any time after questioning.

131. The Convention against Torture has been considered to be an integral part of the Tunisian legal system since being ratified by Tunisia in 1988, as upheld by the 2014 Constitution, article 20. Thus, recourse is had to the Convention in the absence of a national legal provision.

132. Tunisia has also concluded judicial cooperation agreements with a number of countries. In many cases, these agreements regulate the communication mentioned in article 6 of the Convention. Examples of such agreements include:

- Egypt: Legal and Judicial Cooperation Agreement on Civil and Commercial Matters, Personal Status Matters and Criminal Matters (12 May 1976); and a Memorandum of Understanding on the Administration of Justice.
- Ivory Coast: Judicial Cooperation Agreement (1 March 1978).
- Spain: Agreement on Judicial Cooperation in Criminal Matters (21 May 2002); Agreement on Judicial Cooperation in Civil and Commercial Matters and the Recognition and Execution of Judicial Judgments (21 May 2002).

Article 7

133. The same procedures and penalties are applied wherever the offense of torture is committed, regardless of the nationality of the perpetrator.

I. Guarantees of a fair trial in the pre-trial phase under Tunisian law

1. The right to detain only in exceptional cases, and the right of a person placed in preventive custody to be informed immediately of his rights and the charge against him

134. In addition to the guarantees provided in the 2014 Constitution, article 29, the Criminal Procedure Code, article 85, affirms the principle of the exceptional nature of resort to preventive detention, stating, “A suspect may be taken into pre-trial detention when apprehended in the commission of a felony and misdemeanour or when there is strong evidence requiring detention as a security measure to prevent the commission of further offences, or to ensure that a penalty is executed or to facilitate an investigation.”

135. The presence of an attorney during questioning by the judicial police has been made possible by Law No. 17/2007 (22 March 2007), which complements certain provisions in the Criminal Procedure Code requiring officers to inform a suspect, before questioning for the purpose of executing a warrant, of his right to “have an attorney of his own choice with him and to so stipulate in the record” and to the notification of that attorney in advance of the conduct of proceedings.

136. Preventive detention ordered by an investigating judge may be appealed to a higher body, namely the Indictment Division, as stated explicitly in the Criminal Procedure Code, article 87. Any decision to extend detention must be justified consistent with the exceptional nature of preventive detention.

2. The right to communicate with the outside world

137. In addition to what is stated in the comment on article 2 above, a person in custody is entitled to communicate with one of his family members. A foreigner in custody is entitled to communicate with a representative of his government under the Criminal Procedure Code, article 13 bis, and Law No. 52/2001 on the Prison System, article 36, which allows consular or diplomatic officials responsible for consular functions to visit nationals of their countries who have been imprisoned. A foreigner in custody is also entitled to request the assistance of a physician and to receive visitors during the period of his custody or preventive detention.

138. The Criminal Procedure Code, article 70, permits a suspect in custody to communicate at any time with his attorney. However, the investigating judge is authorized to prohibit, for 10 days, communication with a suspect held in detention. The judge's decision must be reasoned. It is renewable once and may not be repealed. Such a prohibition cannot in any case be applied to the suspect's attorney.

3. The right of the accused to adequate time to prepare a defence, and the rights of the accused during questioning

139. A person who has been charged with an offence, whether or not he or she has been taken into custody, is entitled to adequate time to prepare his or her defence. Adequate time means time to allow the accused to contact his or her attorney, so that the attorney may examine the documents in the case file, scrutinize the evidence and submit evidence and pleas.

140. The accused, during questioning, is entitled to the presence of an attorney as guaranteed under Law No. 17/2007 (22 March 2007). The law forbids coercing the accused to confess. A coerced confession is inadmissible and null, inasmuch as the Criminal Procedure Code, article 199, states that any action that contradicts the basic procedural rules or the legal interest of the accused is null. Thus, an accused may remain silent. However, under the Criminal Procedure Code, article 74, "If a suspect refuses, or pretends he is unable, to answer questions, the investigating judge shall warn him that the investigation in the case does not depend on his answer. The warning shall be entered into the record".

141. The Court of Cassation upholds this approach in several of its decisions, stating, "The court of merits is bound to respond to any substantive plea bearing on its decision. Accordingly, blocking the court from examining a plea that contradicts a confession attributed to an accused person renders the contested decision groundless and open to appeal" (Criminal Cassation Decision No. 8616 of 25 February 1974).

4. Right of the accused to request the assistance of an interpreter

142. The Criminal Procedure Code, article 66, entitles an accused to request the assistance of an interpreter during questioning if the accused does not understand or speak the language used by the court.

143. The Tunisian Court of Cassation, in a number of its decisions, regards the right of an accused person to request the assistance of an interpreter as a basic right relating to the accused person's legal interest, the denial of which renders any procedures null and void (Criminal Cassation Decision No. 54929 of 29 December 1993).

5. The right to humanitarian treatment during the period of custody

144 Under the 2014 Constitution, article 23, "The State shall protect human dignity and physical inviolability and shall prohibit psychological and physical torture. Crimes of torture shall not be subject to the statute of limitations". Under article 30 of the 2014 Constitution, "Every prisoner shall have the right to humane treatment that preserves his dignity".

II. Guarantees of a fair trial under Tunisian law in the trial phase

1. Constitutional guarantees concerning the judiciary

145. The 2014 Constitution, Chapter 5, which regulates the judicial authority, affirms the independence of the judiciary. It requires judges to possess competence, impartiality, and integrity and grants them immunity from criminal prosecution. It also provides for the legal profession's role in contributing to the administration of justice and defence of rights and liberties and grants attorneys legal guarantees that protect them and enable him to discharge their functions.

146. The National Constituent Assembly was aware of the danger of interference in the judicial process that occurred in the past. Therefore, the 2014 Constitution, article 109, prohibits any interference with the judiciary. Article 108 prohibits the establishment of exceptional courts and exceptional procedures conducive to prejudicing the principles of a fair trial. Under article 108, "Every individual shall be entitled to a fair trial within a reasonable period. Litigants shall be equal before the judiciary. The right to litigation and the right to a defence shall be guaranteed. The law shall facilitate resort to the judiciary. It shall ensure that persons without financial means shall be granted financial judicial assistance. The law shall guarantee the right of appeal. Court sessions shall be open unless the law requires that they be closed. Judgment shall be pronounced only in an open session". The 2014 Constitution, Chapter 5, also provides guarantees concerning the appointment, transfer, disciplining, suspension, exemption and punishment of judges.

147. Civil and criminal procedure rules allow for raising concerns about the impartiality of the court if, for example, a sitting judge has already been involved in another phase of the case. The Criminal Procedure Code, Chapter VI, which deals with the disqualification of judges (articles 296 to 304), provides guarantees for the impartiality of the court.

2. The right to a presumption of innocence

148. Under the 2014 Constitution, article 27, "An accused person shall be presumed innocent until proven guilty in a fair trial where he or she shall be granted all guarantees for a defence throughout all phases of prosecution and trial". The Tunisian judiciary had previously established, in many cassation decisions, the rule of granting the accused the benefit of the doubt, including Cassation Decision

No. 2859 of 17 October 2005, which states, “The accused shall be granted the benefit of the doubt. Acquitting an accused person is better than convicting an innocent person”.

3. The right of the accused not to be subject to the retroactive application of the law or to double jeopardy

149. The 2014 Constitution, article 28, affirms the aforesaid principles, stating, “Punishments shall be individual and shall be imposed solely pursuant to a legal provision promulgated prior to the occurrence of the punishable act, except in the case of the promulgation of a provision that is more lenient for the accused”. The Criminal Code, article 1, stipulates, “One may be punished only under an existing law. However, if a more lenient law enters into force after an act is committed and before a verdict is pronounced, the more lenient law shall apply”.

150. The apparent contradiction between the aforesaid principles and the exception provided in Basic Law 53/2013 (24 December 2013) on the Establishment and Regulation of Transitional Justice requires several clarifications.

151. The aforesaid Basic Law, article 16, creates the Truth and Dignity Forum. Article 42 of the law authorizes the forum to refer cases in which the commission of serious human rights violations has been proven to the Office of the Public Prosecutor for examination by the specialized judicial chambers in the courts of first instance that have been set up in the seats of the Court of Appeal. These chambers (indictment divisions) are assigned to examine such cases according to the aforesaid law and ratified international conventions, including the Convention against Torture (ratified in 1988) and the Rome International Communal Court Statute (joined in 2011). These violations include, in particular, premeditated homicide, rape, sexual violence, torture, forced disappearance, imposition of the death sentence in the absence of fair trial guarantees, falsification of elections, financial corruption, encroachment on public property, and forced migration for political reasons (article 8).

152. Cases referred pursuant to the aforesaid law (violations concerning, for example, the falsification of elections, which were not previously criminalized) do not violate the principles of double jeopardy and non-retroactivity of the law. However, under the 2014 Constitution, article 148 (9), “The State shall apply the transitional justice system in all its domains within the period set by legislation relating to the transitional justice system. In this regard, no claim of the retroactivity of laws, existence of a previous pardon, determinative effect of double jeopardy, or prescription of a crime or penalty shall be admissible”. This choice comes under the heading of the supreme will of the sovereign through its elected representatives and the efforts of the latter to combat the evasion of punishment, which is a general principle governing transitional justice in the world.

Article 8

153. Under the 2014 Constitution, article 26, “The right to political asylum shall be guaranteed as regulated by law. Political asylees may not be extradited”. This provision confirms the principle established by the Criminal Procedure Code.

154. Tunisia acceded to and ratified the Rome Statute of the International Criminal Court and the Agreement of Privileges and Immunities of the Court under Decree No. 4/2011 (19 February 2011) and Order No. 549/2011 (14 May 2011) respectively.

155. Excluding persons who enjoy political asylum status, Tunisia classifies the offenses mentioned in article 4 as extraditable offenses in every extradition treaty which it includes with another state.

156. Tunisia is also committed to regarding the Convention as the legal basis for extradition in respect of such offenses if it receives an extradition request from another State with which it has no extradition treaty.

157. Under all agreements concluded by Syria with numerous countries, the offense of torture is an extraditable offense.

158. The requirements, procedures and consequences of extradition are subject to the Criminal Procedure Code, articles 308-330, unless it is necessary to apply a bilateral agreement on judicial cooperation or an existing international convention, which take precedence over domestic law and must be applied even if they conflict with the Criminal Procedure Code.

Article 9

159. Tunisia has signed judicial cooperation agreements with a number of countries, examples of which are mentioned in the comment above on article 6 of the Convention.

160. The Criminal Procedure Code, article 331 cites examples of the forms of judicial cooperation Tunisia extends to other States, including states with which it has no agreements. Letters rogatory issued by a foreign authority are received through the diplomatic channels and referred to the Ministry of Justice. Such letters rogatory are executed when necessary according to Tunisian law. If both parties agree, the judicial authorities in both states may directly exchange letters rogatory”.

161. The Criminal Procedure Code, article 325 states: “Upon confirmation and based on a direct request issued by the judicial authorities of the requesting State, the State prosecutors may order the preventive detention of a foreigner upon being informed, via mail or via a faster means of communication that leaves a written impression, of the existence of evidence mentioned in article 316. Concurrently, a legal request regarding extradition must be sent through diplomatic channels to the Secretariat of State for Foreign Affairs. The State’s prosecutors must notify the public prosecutor of the detention.”

162. In the same context, the Criminal Procedure Code, article 332, provides that “if a foreign government deems it necessary to notify a person on Tunisian soil of judicial proceedings or a court decision, the notification shall be addressed to the person pursuant to articles 316 and 317 with an accompanying Arabic translation when necessary. The notification shall be carried out at the request of a representative of the Office of the Public Prosecutor. The same procedure shall be followed in returning the notification document to the requesting government”.

Article 10

163. The 2014 Constitution, article 39, stipulates the dissemination of the culture of human rights.

164. Under the 2014 Constitution, article 42, “The right to culture shall be guaranteed. The right to creativity shall be guaranteed. The State shall encourage cultural creativity and support the consolidation, diversification, and renewal of the national culture to entrench the values of tolerance, renunciation of violence, openness to different cultures, and inter-cultural dialogue”.

165. The State is making efforts to complete efforts it has initiated to educate about the culture of human rights in general. This includes providing comprehensive instruction and information on the prohibition of torture in training programmes for officers charged with enforcing laws, particularly laws relating to the Ministry of Interior and Ministry of Justice, Human Rights and Transitional Justice. The aforesaid ministries have started developing a comprehensive human rights strategy and a human rights culture education strategy in cooperation with several international partners.

I. Inclusion of education and information on the prohibition on torture in training programs

166. The various security organizations and agencies receive basic training in human rights.

1. Inclusion of education and information on the prohibition on torture in training programs for personnel in the security forces

The Ministry of Interior’s program and specific activities to combat ill treatment, degrading practices and torture

(a) Cooperation with specialized United Nations organizations and mechanisms

167. The Ministry of Interior cooperates with experts of the United Nations Development Program, Office of the High Commissioner for Human Rights, UNESCO and Geneva Centre for the Democratic Control of Armed Forces to support the human rights training capacities of the internal security forces by holding training courses for internal security forces personnel and developing a communication plan.

168. Cooperation programs were also created to develop codes of behaviour for members of the internal security forces, as follows:

- A code of behaviour for dealings between the internal security forces and journalists in cooperation with UNESCO.
- A pocketbook entitled *Human Rights Standards for the Internal Security Forces in Tunisia* (in Arabic) in cooperation with the Office of the High Commissioner for Human Rights.

- *A Model Document for Neighbourhood Police* (in Arabic) in cooperation with the United Nations Development Program. The document will be applied during 2014 at six model centres that were established through cooperation.

169. The Ministry of Interior cooperated with United Nations human rights machineries to ensure the success of visits to Tunisia by the special rapporteurs and the rapporteur of the African Commission on Human and Peoples' Rights during 2011 and 2012. The Ministry is seeking to follow up on the recommendations of the rapporteurs.

(b) Improvement of detainee treatment

170. *A Code of Professional Ethics for Members of the Security Forces* (in Arabic) was drafted in 2003. Following the 2011 Revolution, it was revised through expanded consultations.

171. There is cooperation with the International Committee of the Red Cross in the framework of the Tunisian Government's commitment to respecting the rights of persons who have been deprived of their freedom through visits to prisons and detention units of the internal security forces.

172. Implementation began in April 2013 of a Program to Improve the Treatment of Detainees. The program, which extends to 2016, includes:

- Improvement of physical detention conditions.
- Adoption of a targeted basic and supplemental training program to upgrade treatment of detainees according to a human rights-based approach. The first stage of the program included the training of 20 trainers, whose training courses have benefited more than 2000 security personnel.
- Adoption of a *Guide to Best Practices for Treating Detainees* (in Arabic). The guide was submitted for national consultation on two study days held on 19 October 2013 and 12 March 2014 in collaboration with United Nations bodies and relevant human rights organizations.
- Approval of a poster for placement in security centres dealing with safeguards of detainee rights.
- Adoption of quality standards for monitoring the improvement of detention conditions.

(c) Support for training to instil respect for human rights

173. The number of hours allocated for human rights training was doubled to 220 hours in 2013; 220 hours were dedicated to "the offense of torture and exceeding of the boundaries of authority" and 220 hours were dedicated to development, up 50 per cent from before 2010.

174. Support was also given to training and the holding of study days on human rights to entrench the human rights training curriculum according to international standards and best professional practices for the security forces regarding dealing with citizens during assemblies, freedom of expression, freedom of the press and the security of journalists. This was done in cooperation with experts of the Office of the High Commissioner for Human Rights and UNESCO. Attention was also given

to the “right to know the truth” during the 65th anniversary of the Universal Declaration of Human Rights.

(d) Relevant special activities

175. Participation in a national consultation on the reforms needed to prevent and end torture. The consultation took place during a study day for the adoption of a Guide to the Monitoring of Places of Detention, held in in Tunisia in February 2012 in cooperation with the World Organisation Against Torture.

176. Support for training courses to combat ill treatment during detention. Fifteen regional courses were held. The courses will continue until the end of the program in 2016 and will involve an evaluation of the effects of the program on the performance of security officials. In the first stage, more than 2000 members of the internal security forces benefited from these courses.

177. A study tour to Geneva was organized in cooperation with the International Committee of the Red Cross during September 2013 for the team leaders supervising the implementation of the Program to Improve Detainee Treatment.

178. A discussion was held in the general legislation committee of the National Constituent Assembly on a draft law to reduce the detention period to 48 hours. Under the draft, a detention period may be renewed once for another 48 hours based on a reasoned decision issued by the public prosecutor. The draft law also allows a detainee to request the assistance of an attorney, who is entitled to be present at questioning conducted by the preliminary investigator during the detention period.

179. The first national study day on “Improving Detainee Treatment” was held on 9 October 2013. Participants included human rights organizations and members of the audio-visual and print media.

180. Participation in the Fourth Regional Meeting of the North African and Middle East Countries on Observing and Monitoring Places of Detention. The meeting was organized by the Tunisian Association for the Defence of Human Rights in cooperation with the Danish Centre for Human Rights (DIGNITY) and the Restart Centre for Rehabilitation of Victims of Torture and Violence. It was held in Tunisia during 4-7 November 2013 and included the presentation of the Ministry of Interior’s plan for improving the detention situation and detainee treatment and the adoption of the Guide to Best Detainee Treatment Practices.

181. Participation in a seminar organized by the Ministry of Human Rights and Transitional Justice on “European Mechanisms for Protecting Human Rights” during 11-12 November 2013 in cooperation with the program of the European Technical Assistance and Information Exchange.

182. Holding of a study day on the dissemination of the culture of international humanitarian law and international human rights law and arrest and detention methods at the Advanced School of the Internal Security Forces in April 2012.

183. Organization of two study tours to Switzerland and Canada to conduct a comparative study of experiences in improving detainee treatment and the neighbourhood police approach.

184. The Ministry held, in cooperation with the Office of the High Commissioner for Human Rights, a training course in “Opposing Torture and Protecting the Rights of Refugees” for members of the 15th course at the Advanced School of the Internal Security Forces on 4-5 April 2014.

(e) Cooperation on monitoring protection of human rights at detention centres

185. The Ministry of Interior continues to cooperate with international governmental and non-governmental organizations to improve human rights protection standards through:

- Entrenchment of a policy of consultation with relevant civil society organizations to examine their proposals to reform the security establishment.
- Opening the way for the Tunisian Association for the Defence of Human Rights, International Association for the Support of Political Prisoners, Freedom and Justice Organization and Human Rights Watch to visit detention centres.

186. Human Rights Watch published a report in this regard in late 2013. The Ministry of Interior is following up on the report’s legislative and regulatory recommendations to improve detention conditions.

187. Since 2012, 103 security cadres have participated in United Nations peacekeeping missions in cooperation with the International Committee of the Red Cross. They participated in training sessions on the human rights protection role of United Nations peacekeeping missions.

2. Inclusion of education and information on the prohibition of torture in training programs for employees of human rights and transitional justice agencies, judges and prison and correctional staff

(a) Employees of human rights and transitional justice agencies

188. The Ministry of Justice, Human Rights and Transitional Justice initiated theoretical and practical training for its staff in human rights and transitional justice agencies. The training concerned monitoring and observing at places of detention. Training courses and field visits were organized for this purpose. They included:

- A training session on “human rights and visits to places of detention”, which was held from 6 to 8 February 2013 in cooperation with the OHCHR in Tunis. The session focused on theoretical training in techniques for conducting visits to prisons and detention centres and on international standards for the treatment of prisoners. It was coupled with field visits to several prison institutions.
- Two training sessions were held for staff of human rights agencies in September and December 2013 in cooperation with the Geneva Centre for the Democratic Control of Armed Forces on “strengthening human rights protection in Tunisia by visiting places of detention”. The first session focused on theoretical and applied training on visiting prisons. The second focused on theoretical and applied training on visiting places of detention. It culminated in a visit to the most important detention centre in Tunisia.

189. As a result of the aforesaid training courses, the Geneva Centre for the Democratic Control of Armed Forces prepared a draft guide to visiting places of detention. Adoption of the guide, which was discussed with the concerned entities in the Tunisian administration on 22 May 2014, is pending the completion of a review.

(b) Judges

190. The Higher Institute of the Judiciary, since its establishment in 1987, has provided training to its students and to practising judges on respect for human rights and freedoms, as follows

- The core curriculum of the Higher Institute of the Judiciary for students includes human rights subjects pursuant to the Minister for Justice's decision of 26 June 1993. The courses aim to familiarize students with the international conventions, recommendations and principles of conduct published by the United Nations and regional organizations in the field of human rights and to provide knowledge of international protection mechanisms and comparative law. In addition, these courses and the associated practical demonstrations — such as mock trials and other educational methods — aim to promote better understanding of international standards aimed at guaranteeing the rights of litigants and the administration of justice.
- With regard to practising judges, the Minister for Justice issued a second decision on 26 June 1993 requiring the Higher Judicial Institute to organize lectures in order to round out the expertise of judges, develop their skills and introduce them to new developments in the sphere of international conventions, human rights protection, national legislation and jurisprudence, in line with approaches designed to promote and protect human rights. These lectures are delivered in courses, conferences or meetings held in the main building of the Institute or in the courts, with the participation of judges.

191. Human rights are taught at the Institute as part of a skills and training package for students or as part of continued training for practising judges on international human rights mechanisms and human rights protection mechanisms. The following topics are covered:

- International human rights mechanisms:
 - o International conventions adopted by the United Nations and other international instruments (declarations, recommendations, codes of conduct).
 - o Model regional agreements adopted in the Arab, Islamic and African context and the American and European context.
- Human rights protection mechanisms:
 - o The relationship of the United Nations, other specialized agencies, the International Labour Organization and regional organizations with national legal and judicial systems.
 - o The role played by non-governmental organizations in disseminating human rights culture and protecting human rights.

192. In addition, the Institute organizes numerous human rights seminars as part of the core training of its students and of continuing training for practising judges.

(c) Training for prison and correctional facility staff

193. The Optional Protocol to the Convention against Torture has been incorporated, following its ratification by Tunisia, as a human rights study subject for all types of trainees. The trainees are familiarized with the functions of the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, which is an international preventive mechanism with a remit to visit places of detention housing persons denied their freedom.

194. The International Committee of the Red Cross held a course in 2013 to train staff of the Prison and Correction Department.

195. The Office of the High Commissioner for Human Rights – in furtherance of cooperation with the Ministry of Justice, Human Rights and Transitional Justice – has decided to organize a series of training courses for officers and officials of the prisons and correctional centres.

II. Incorporation of the prohibition of torture in laws and instructions applicable to law enforcement officers

1. Ministry of Interior

196. Following the revolution, the Ministry of Interior stepped up its efforts to strengthen legal guarantees and regulations concerning respect for the physical inviolability of detainees and the protection of their rights. The following were issued to personnel of the internal security forces:

- Action Note of 21 July 2011 instructing that maximum efforts be made to improve physical detention conditions in respect of accommodations, food, hygiene and health.
- Cable No. 15337 of 18 October 2012 on soliciting the views of the security cadres on improving relations between security personnel and citizens.
- Cable No. 12428 of 5 December 2012 on strengthening efforts to combat crime and pursue offenders while upholding legal guarantees granted to detainees.
- Cable No. 71877 of 7 December 2012 on expending greater efforts to incorporate the humanitarian dimension in field security work, incorporating the rule-of-law approach and entrenching the principle of security in the service of the citizen.
- Cable No. 5768 of 14 May 2013 directed to judicial police officers to remind them to observe the proper legal procedures in detaining a suspect, to coordinate with the Office of the Public Prosecutor and to prepare reports pursuant to formal and substantive procedures.
- Cable No. 10602 of 25 August 2013 directed to judicial police officers to remind them of the aforesaid Cable No. 5768 and to stress adherence to the

procedures and authorities granted to them under the law when detaining a suspect.

- Cable No. 10956 of 4 September 2013 directed to security personnel to remind them of the need to avoid and counter negative behaviours in treating detainees, as such behaviours violate human rights principles and are subject to legal and administrative actions. The cable also calls on senior officials to monitor officers, supervise investigations, interrogations and the treatment of suspects in compliance with the law, avoid all errors, and respond immediately to a detainee's request for a medical examination if necessary.

2. The Ministry of National Defence

197. All military personnel are prohibited from engaging in harsh or inhuman treatment. The *Manual of General Discipline Rules* (23 January 2002), article 24 (2), last paragraph, stipulates, "It shall be prohibited for military personnel to harm the life of a person, the physical well-being of a sick, injured, or shipwrecked person, captive or civilian, whether by killing or various forms of disfigurement, harsh treatment, abuse and torture".

198. The State's Prosecutor General/Director of the Military Judiciary issued an action memorandum to all military courts on 29 November 2012 on the monitoring of the status of detainees to urge members of the military prosecution and military investigation judges to submit, for a medical examination when necessary, any accused person who claims he was subjected to torture during an investigation to ascertain the accuracy of his allegations and to adopt the necessary measures when necessary.

Article 11

199. Tunisia seeks to strengthen rules governing custody and preventive detention and mechanisms that ensure the systematic, effective review of the application of rules pertaining to investigation, interrogation methods and practices and the treatment of persons denied their freedom to thereby prevent the occurrence of torture. The 2014 Constitution treats custody, preventive detention, presumption of innocence, and the right to a defence and fair trial.

200. Both the judiciary and administration conduct review.

I. Review of the application of rules of investigation and interrogation methods and practices

1. Review conducted by the judiciary

201. The Criminal Procedure Code, article 10, defines the entities concerned with the functions of the judicial police. It covers the judiciary's review of personnel who may perform judicial police functions, including the review of judicial police interrogations by the Office of the Public Prosecutor and investigating judge. The Indictment Division reviews the actions of investigating judges, including interrogation.

(a) The judiciary's review of interrogations conducted by judicial police officers

202. Each police commander, officer, station chief, National Guard officer, non-commissioned officer and centre commander is answerable to the public prosecutor in their capacity as his adjutants under the Criminal Procedure Code, article 11. All the aforesaid law enforcement officers are required by law to immediately report, to the public prosecutor, any action which they take, including any interrogation. As such, their activities come under the constant review of the public prosecutor. They may not undertake any investigative action without being so authorized in a written judicial order.

203. The aforesaid law enforcement officers also come under the review of the investigating judges when they execute the warrants issued to them. All actions undertaken by law enforcement officers, excluding the issue of warrants, which is exclusively within the remit of an investigating judge, come under the full supervision and review of the aforesaid judges.

(b) Review by the indictment division of the actions of investigating judges, including questioning

204. Tunisian legislation establishes a number of rules governing the actions of investigating judges. Under the Criminal Procedure Code, an investigating judge hears witnesses, questions suspects and conducts examinations, searches and seizures with the assistance of his clerk (article 53), and a suspect may have an interpreter and his attorney present when he is questioned by the investigating judge (articles 66 and 72 respectively).

205. The Indictment Division, in its capacity as a chamber to which the actions of investigating judges may be appealed, has broad authorities to review the actions of investigating judges, including interrogations. Under the Criminal Procedure Code, article 199, the Indictment Division may decide to invalidate any action that contradicts basic provisions, rules and procedures or the legal interest of the accused.

2. Review by the administration**(a) Administrative review in the Ministry of Justice, Human Rights and Transitional Justice**

206. Order No. 1330/1992 (20 July 1992) on the Regulation of the Ministry of Justice, article 13, regulates the General Inspectorate in the Ministry. The General Inspectorate is under the direct authority of the minister. It is responsible for the ongoing inspection of all courts, excluding the Court of Cassation, and of other offices and institutions under the Ministry's supervision.

207. The General Inspectorate is responsible for collecting and analysing inspection reports prepared by the presidents and prosecutors in the courts of appeal, each within his or her area of competence, to ensure the proper functioning and regular rendering of decisions of the courts under their supervision. The Inspectorate also examines means of improving the functioning of the courts.

208. In December 2008, a special statistical data system was installed in the offices of the Inspectorate General to ensure that pre-trial detention periods are not exceeded. The system relies on the information communicated by the Directorate

General of Prisons and Rehabilitation to the Inspectorate regarding detainees held in preventive detention. The Directorate General of Inspection uses the results of the system to conduct field inspections at investigation offices or indictment divisions with a view toward submitting reports on the identification and correction of deficiencies.

209. Circular 9 of January 2009 was issued to support the system by requiring the implementation of certain measures to update the information on the lists of detainees kept by the Directorate General of Prisons and Rehabilitation and to coordinate those lists with the lists kept by the courts.

210. A representative of the Inspectorate attended an international meeting held in Tunis during 13-15 April 2013 on the implementation of the Istanbul Protocol for attorneys and medical specialists from Libya and Tunisia and members of Tunisia's Office of the Public Prosecutor. The representative attended a "work day" held on 13 November 2013 at the main office of the Ministry of Justice, Human Rights and Transitional Justice, which the Ministry organized in cooperation with the Rehabilitation and Research Centre for Torture Victims (renamed Danish Institute against Torture).

211. The General Inspectorate participated in the proceedings of an international conference held in Tunisia during 14-15 November 2013 entitled "Africa and the International Criminal Court: engaging Francophone states and the North African states". The Inspectorate's representative in charge of opposing torture made a presentation on "torture and the Tunisian judiciary".

(b) Administrative review by the Ministry of Interior

Administrative review, follow up of complaints and deterrence of degrading behaviour that infringes on citizens' dignity

Administrative supervision

212. Administrative review resulted in the Honour Council (charged with internal review in the security services) reviewing 31 cases of security personnel and staff, who were referred because they overstepped their authority and mistreated citizens. The cases are distributed as follows:

Year	Number of cases
2011	3
2012	11
2013	17

The sanctions imposed in these cases ranged from a warning and temporary dismissal to dismissal.

Processing of complaints

213. During 2010-2013, the human rights cell in the Ministry handled 128 complaints alleging excesses on the part of security personnel, distributed as follows:

Year	Number of cases
2010	40

2011	42
2012	21
2013	25

The internal review machinery, after investigating complaints, adopted disciplinary measures in more than 17 per cent of the cases. The remaining cases were proven to be allegations made to evade judicial prosecution.

Monitoring of deaths within detention centres

214. Administrative and judicial investigations were initiated in four cases of death that occurred in detention centres. Administrative and judicial measures were taken in two cases that occurred in Sidi Bouzid during the incidents of 2010. Investigations are still ongoing in two cases, one in the Sijoumi centre in 2012 and the other at the Sidi El Béchir centre in 2013. The National Constituent Assembly and human rights and public opinion organizations are carefully monitoring the cases to ascertain the investigation results and causes of death, which they continue to view as suspicious.

Year	Number of cases
2010	2
2012	1
2013	1

II. Review of the application of rules on custody, preventive detention and treatment of persons denied their freedom

215. Judicial and non-judicial review are conducted.

1. Judicial review mechanisms

216. Judicial review consists of review by the Office of the Public Prosecutor and review by the sentence enforcement judge.

(a) Role of the Office of the Public Prosecutor in reviewing the application of rules on custody and preventive detention

217. In addition to what is stated above in the comment on article 2 of the Convention on custody, preventive detention and the rules pertaining thereto, the following paragraphs deal with a number of other rules.

218. Law No. 90/1999 (2 August 1999) reduces the detention period from four days to three days and limits the extension of detention to one additional three-day period. A suspect's parents, children, siblings or wife may petition for the conduct of a medical examination of the suspect during or upon the end of the detention period. This must be stated in the procès-verbal, which must include the starting and end dates and times of each detention and questioning.

219. Law No. 4/2008 (March 2008) – which amends the Criminal Procedure Code, articles 13 bis, 57 and 85 – supports the role of the Office of the Public Prosecutor in reviewing the application of rules on detention and preventive custody. The law explicitly requires a written statement of the factual and legal grounds for a decision to extend custody or preventive detention. It therefore enables the public prosecutor to review the grounds for an extension. Such grounds include that an offense has

indeed been committed, or that detention is necessary to prevent further offences. The public prosecutor also assesses factors bearing on the extension, e.g. the hearing of witnesses, the apprehension of a suspect who has absconded and the evidence used to justify holding the person in custody.

220. The fact that an investigating judge must justify a preventive detention decision allows the Indictment Division – in the event that investigating judge’s decision is appealed – to assess the validity of the grounds given for the decision and to verify compliance with mandatory release orders. In this way, the Indictment Division is able to make an appropriate decision according to the principle that freedom must be the rule and detention the exception to the rule.

(b) Introduction of the post of sentence enforcement judge to ensure judicial review of the treatment of persons deprived of their freedom

221. The sentence enforcement judge is discussed above in the comment on article 2 of the Convention. The following paragraphs provide additional information in this regard.

222. The 2014 Constitution, article 30 states, “Every prisoner shall have the right to humane treatment that preserves his dignity. In executing a freedom-depriving punishment, the State shall take into account the interests of the family and shall act to rehabilitate the prisoner and reintegrate him into society”.

223. The post of sentence enforcement judge was first established under Law No. 77/2000 (31 July 2000). The sentence enforcement judge’s authorities were expanded and strengthened under Law No. 92/2002 of 29 October 2002 Amending and Supplementing the Criminal Procedure Code.

224. According to the aforesaid laws, the key authorities of the sentence enforcement judge are:

1. Monitoring the conditions in which liberty-depriving sentences are served in prison institutions under the jurisdiction of the sentencing court.
2. Visiting prisons once every two months at least to inspect the conditions of inmates.
3. Informing the family judge of the conditions of children accompanying women inmates to enable the judge to adopt one of the measures provided in article 52 of the Child Protection Code, which include putting a child under the kafala (sponsorship) system or with a foster family, referral of the child to a special social or educational institution, or placement of the child in a training or education centre.
4. Meeting inmates who wish to be interviewed or whom he decides to interview in a private office. The sentence enforcement judge may decide to present the prison administration with a list of inmates whom he wishes to interview in a private office based on complaints or information which he receives.
5. Inspecting the disciplinary record, which is regulated by articles 22 to 26 of the Prisons Law. A disciplinary committee inside the prison, whose composition is regulated by article 26, interviews the inmate and collects evidence. The committee may then impose a disciplinary punishment if the

inmate is proven to have breached his duties, compromised the proper operation of the prison or violated prison security. Punishment may include a warning or a reprimand by the prison warden, suspension of family visits for up to 15 days or placement of the inmate in solitary confinement with toilet facilities for up to 10 days.

6. Requesting the prison administration to provide inmates with social welfare services such as the resolution of family disputes or difficulties facing children at school. The prison administration submits an annual social services report to the judge to enable the church to intervene in resolving such problems.

7. Authorizing the release of an inmate to visit a spouse, parent or child in cases of serious illness or to attend the funeral of a relative.

8. Receiving written notification from the prison physician of any serious health conditions, alerting the physician to a specific health condition of one or a number of inmates and the causes of the condition, notifying the public prosecutor of any offense involving the use of violence against an inmate, and informing the prison warden of the deterioration of the condition of a sick inmate.

9. Preparing an annual report containing his remarks and recommendations for submission to the Minister for Justice to enable the Minister to understand, address, and avoid deficiencies.

10. Recommending granting certain inmates conditional release.

2. Non-judicial review mechanisms

225. Non-judicial review mechanisms include administrative supervision structures and agencies and national institutions for human rights.

(a) Administrative supervision bodies and agencies

226. In addition to what is stated above in the comments on article 2 of the Convention concerning review by the administration, the human rights cells in the ministries and the Office of the Administrative Ombudsman perform certain review functions by referring the petitions which they receive to the entities responsible for examining the petitions.

227. The human rights offices in the Ministry of Justice, Human Rights and Transitional Justice also visit prisons and detention facilities. Under the Prime Minister's Decision of 27 November 2012, the Minister for Human Rights and Transitional Justice at the time was tasked with submitting a report on the situation of prisons and custody and detention centres. The decision authorized the Minister to undertake field visits to prisons and custody and detention centres and to interview prisoners and detainees to become apprised of their conditions and to follow up on their concerns. The decision permitted the Minister or whomever he appointed to enter any prison facility or custody and detention centre unannounced and to interview, as he saw fit, any official or detainee in the place of detention or any other place. The decision also required the Minister to submit to the Prime Minister a detailed report with his remarks on the situation of the prisons and custody and detention centres and his recommendations for improving conditions

therein. The human rights offices have conducted a number of visits to the detention centres and prisons and have begun to train a team to conduct such visits.

Inspectorate of Prison Offices

228. The Ministry of Justice, Human Rights and Transitional Justice seeks, in cooperation with the competent bodies in prisons and other facilities, to revise orders, arrangements and laws regulating the operation of prisons and locations where sentences are served consistent with the 2014 Constitution. In doing so, the Ministry aims to consolidate the justice system in the framework of sentence enforcement policy and establish a code of conduct and rules of behaviour for prison staff. Accordingly, the Inspectorate of Prison Offices is working to adopt the mechanisms explained below.

Consolidation of the law enforcement system

229. The law enforcement system is being consolidated based on a strategy that is being developed to integrate inspection mechanisms and supervision and monitoring programs. The strategy is being developed by penal specialists based on a working paper prepared by current inspection staff. It is designed to provide a roadmap for inspection and guidelines for the conduct of inspectors. These guidelines are for the most part already in general practice in a temporary code of conduct. The code covers all aspects of the serving of a sentence from start to finish, including accommodation conditions in cells, healthcare, medical services, food quality, hygiene, narrow confinement conditions, procedures for transfer to narrow confinement and the hearings conducted for this purpose, and conformance with internal regulations and laws in effect based on the minimum model rules for inmate treatment.

230. This process consists of establishing practices and procedures that conform to domestic laws in order to detect excesses and violations that may arise in special circumstances in isolated cases and occasional incidents.

Role of the Inspectorate as an administrative review body

231. Inspections are usually conducted unannounced. They seek to identify problems and deficiencies in the operation of the prison system that impede the model operation of the prison according to regulations, laws and official orders. The inspectors determine whether prison officials and staff who supervise the implementation of programs and sentence enforcement rules comply with the aforesaid and with operating regulations, particularly those concerning the application of general standards of humane treatment during the serving of a sentence.

232. Within the inspectorate, a subsidiary inspections and investigations body focuses on various aspects and sectors of penal facilities in general and takes action to curb operating practices, procedures or policies that are outside the legal system and standards of humane treatment. It monitors and prosecutes any violations, which it collates and transmits to the central leadership which, in turn, transmits them for investigation to the Investigation Department. It then follows up and provides oversight.

As a subsidiary body of the Inspectorate of Prison and Correction Departments, the Investigation Department's duties in respect of the monitoring and

oversight of custodial sentence enforcement conditions are in accordance with international standards.

233. The Investigations Department observes international standards concerning an inmate's right to lodge a complaint, to have his or her physical inviolability respected, to not be subject to torture and ill-treatment, to have an administrative or judicial investigation opened into a complaint that has been filed, to [have access to] investigation evidence and to effective documentation of offenses of torture and ill treatment.

Actual application of the standards

234. The Investigations Department in the Inspectorate of Prison and Correction Departments is the central, competent body responsible for investigating complaints concerning excesses, the violation of the physical or psychological inviolability of an inmate and ill-treatment.

Forms of engagement with the Investigation Department

235. The forms of engagement with the Investigation Department include:

- The department receives an inmate's complaint after it has been submitted to the prison administration. The inmate's complaint must be prepared by the inmate for the prison administration, which refers the complaint to the central administration, where authorization is given to open an investigation into the complaint.
- A third party, usually the inmate's family, submits a complaint directly to the central administration or Ministry of Justice.
- Receipt of information.

Administrative investigation procedure

1. Receipt of the complainant inmate's statements

236. The department goes to the prison where the complainant inmate is lodged to take his statements in an administrative investigation procès-verbal. The latter includes all the facts, the types and description of acts committed against the inmate, the time and location of the incidents, evidence and information provided by the complainant, witnesses who can substantiate the complainant's statements, examination of physical harm if any is evident, the identities, descriptions or rank insignia on the shoulders of the accused persons, and the verification of the time to determine their location.

2. Taking of statements of inmate witnesses

3. Collection of material information

237. Material information is collected by examining: the disciplinary file of the complainant inmate; the general circumstances of the inmate's serving of his sentence, the extent to which the inmate enjoys his basic rights (visits, welfare services, access to a point of sale) as measured against his allegations; and

coordination with the prison physician to determine the services which the inmate receives, the examinations conducted by the physician if the complaint concerns a physical violation, and whether the physician observed the ethical and confidentiality requirements of the medical profession (which is determined by corresponding with the department that supervises the health sector and requesting a detailed report).

4. Summoning of the accused staff

238. The accused staff are summoned and confronted with the available evidence and information, and their defence arguments are heard.

5. Comparison of facts and actions

239. The Investigation Department determines compliance with Law No. 52/2001 Regulating Prisons, the inmate's compliance with the duties imposed on him and his adherence to the internal order regulations (restraint requirement).

Conclusion of investigations and presentation of results

240. The conclusion of an investigation results in the presentation of:

- Recommendations concerning the incident, e.g.: disciplinary sanctions if a member of the prison staff is found guilty. Each step member is sanctioned in proportion to his role as the principal, accessory, or facilitator. Or the case is closed due to the lack of evidence and corroboration, or the matter is referred to the judiciary if the concerned act meets the threshold of criminality.
- Regulatory recommendations if it is concluded that there is a regulatory or procedural deficiency in the present management methods.
- The integration of the administrative investigation with a criminal investigation if the judiciary is handling the same complaint concurrent with the handling of the administrative complaint. The examination of disciplinary punishment is deferred until the judiciary renders a decision on the complaint and studies the outcomes to determine administrative liability.

Deficiencies in the application of international investigative standards

241. Deficiencies in the application of international investigative standards:

- Difficulty in adapting acts:
 - o There are no clear standards in Tunisian legislation for distinguishing between the grounds of torture and ill-treatment, which creates ambiguity in adapting acts.
 - o Each physical assault or violent assault against an inmate is determined to be a case of ill-treatment, because torture is linked, under the law, to an intent to obtain confessions.
 - o The denial or repeated denial of the inmate's fundamental rights without cause is adapted in actuality as an overstepping of authority, which entails a correction and the provision of the inmate's rights.

- Deficient procedures: There are no adequate guarantees for protecting a complainant inmate or inmates who are witnesses, and there are no procedures that regulate the response to a complaint and the reporting of outcomes to the complainant.
- Deficiencies in theoretical training and skills training:
 - o Legal specialization and personal familiarity with investigative and research techniques do not alone suffice to guarantee the application of international standards.
 - o There is no specialized, directed training (as required by the international standards) in administrative investigations concerning torture or ill-treatment.
 - o There is a lack of participation in training courses to develop capacities and skills in this field as required by international standards.

Table 1
Complaints submitted against prison and correction personnel and the outcomes thereof during 2011-2014

Year	Number of complaints	Measures taken			Referral to the judiciary	Remarks
		Closed	Disciplinary sanctions	Administrative measure		
2011	69	43	5	18	3	
2012	67	30	9	24	4	
2013	84	59	4	19	2	
2014	25	6	0	0	5	14 being processed

Role of the Subsidiary Department of Analysis and Studies

242. The Analysis and Studies Office is subordinate to the Subsidiary Department of Analysis, Studies and Archives. It gathers statistics on violations committed in the course of work in penal institutions, including cases involving law enforcement and custodial sentence enforcement. The statistics are analysed to determine trends, patterns and indicators and identify deficiencies that require dismantling, reform, greater attention or correction. Overall conclusions are derived regarding the present performance. Recommendations are then formulated for partial, on-the-spot corrections or broad corrections, depending on the type and extent of the deficiency and whether it is human, technical or infrastructural.

243. The identification of trends and practices entailing violations requires the comprehensive monitoring of individual or collective violations that are similar or occur in multiple prisons. The violations are compared to determine and address their causes, whether human, technical, or environmental (the prison's geographical environment is a key factor affecting prison operations and type of violation).

244. The subsidiary department is assigned to formulate guidelines and administrative orders to enhance regulatory measures. It may also issue warnings and prohibitions that are linked to an inspection and monitoring program for

supervising the implementation of the measures adopted. The inspection teams seek to be impactful in entrenching the rule of law and preventing the recurrence of excesses or violations in the future.

245. Regarding the protection of the physical and psychological inviolability of inmates and the maintenance of their dignity, the Inspectorate makes efforts to safeguard and guarantee specific rights under the penal policy including the rights of an inmate who is a mother during the serving of her sentence, the rights of inmates with special needs and the humanitarian observance of national religious holidays and occasions.

246. The oversight mechanisms at work in the Inspectorate's sentence enforcement monitoring and review seek to maintain and entrench operational parameters. This involves the delicate balancing of the safeguarding of inmates' rights and dignity with the need to maintain the security of the prison, other inmates and prison staff.

247. These parameters include maintenance of penal institution operating methods throughout incarceration and the review of health care, social welfare and other services provided to inmates.

Review of care provided to inmates

248. The Inspectorate monitors and supervises the enforcement of article 1 of the Law Regulating Prisons, which concerns prison accommodations, so as to ensure the physical and psychological inviolability of inmates, preparation of inmates for life outside prison and the facilitation of their integration in society. Accordingly, inmates enjoy health care, mental health care, training, education and social welfare. Efforts are also made to help them maintain their family ties.

Health care

249. Health care and medical services for inmates in penal and correctional institutions are monitored regularly. Inmates are examined by a physician automatically within 48 hours of being incarcerated. All of the inmate's medical complaints – including injuries, symptoms, previous conditions and traces of violence or injuries– are recorded in the inmate's medical file. An inmate who is a mother or pregnant receives special prenatal and postnatal care to ensure her health and that of her new-born. Births occur in public hospitals under constant monitoring and examination.

Social welfare

250. Under Law No. 14/2001, article 1, an inmate is entitled to social welfare. Efforts are made to preserve family ties. The Law Regulating Prisons, article 14, requires the prison administration to notify the inmate's parent, child, sibling or spouse, as the inmate chooses, of the inmate's place of incarceration and when the inmate is transferred to another prison. The prison administration maintains a social work office that conducts intake of new inmates and familiarizes them with the internal regulations of the prison, their rights and duties and important prison regulations. The social work office communicates with the inmate's family and urges it to visit the inmate.

251. Notwithstanding the oversight of care provided to inmates (e.g. health care, social welfare and other measures taken to protect the inmate's physical and

psychological inviolability and to maintain his dignity), there is a significant shortfall in financial, human, transportation and aid resources and a clear decline in the space allocated for each inmate, as illustrated in the following table:

Table 2
Human resource shortage in penal institutions

<i>Human resources</i>	<i>Employees compared to the total inmate population (24 000)</i>	<i>Ratio</i>	<i>International standards and other countries</i>
Employees who work directly with inmates	2 000	One employee/12 inmates Mornaguia Prison: one physician/1 000 inmates	France: one employee/3 inmates Germany: one employee/for inmates
Psychologists	20	1 psychologist/860 inmates	International standard: 1 psychologist/7 inmates Germany: 1 psychologist/15 inmates
General resident Physicians	36	Mornaguia Prison: 1 physician/1 000 inmates	
Psychiatrists	There are no resident psychiatrists	Psychiatrists are being contracted to fill vacancies	
Dentist	14	Dentists are being contracted to fill vacancies	
Advanced technicians	23 in all specialties		

Table 3
Effect of infrastructure damage on space allocated for each inmate

Infrastructure	Space allocated for each inmate
Before 2011	2.7 m ² per inmate
Following damage incurred in 2011	1.2 m ² per inmate
Repairs and new buildings	2.1 m ² per inmate
All new buildings replace buildings damaged in 2011.	

Table 4
Buildings planned for 2014 and 2015

Year	Month	location	New capacity	Total new capacity	Total new capacity for the year
2014	July 2014	New wing at Mornaguia Prison (MT [expansion unknown])	+ 400	+1 280	+2 750
		New wing at Borj el-Roumi Prison (MT)	+ 450		
		Rehabilitation space at Sfax Prison (MT)	+ 150		
		Rehabilitation space at Mahdia prison (MT)	+ 200		
	December 2014	Two female inmates cells at Sawef Prison (MT)	+ 80	+1 470	
		Aqsa Centre at Sawef (MT)	+ 200		
		Four cells for female inmates at Gafes Prison (MT)	+ 70		
		Gabès Prison (UNOPS)	+600		
		Borj El Amri Prison (MT)	+ 100		
		Borj El Amri Prison (ICRC)	+ 500		
2015		New wing at Monastir Prison (MT)	+ 500	+1 600	+1 600
		Oudna Centre (MT)	+ 500		
		New wing at Messaadine in Sousse (UNOPS)	+ 600		
Grand total					+4 350

Security Inspectorate and National Guard Inspectorate

252. Since being created in 1997, these inspectorates have been engaged in oversight, including of the conduct and relations of security officers with one another, with their superiors and with citizens that interact with various police units. They verify that logbooks at police units are properly kept (that entries therein are made in accordance with the law and formal procedures) and inspect premises (detention cells, reception offices, judicial investigation premises).

253. In order to make sure that security work is conducted with the requisite efficiency and skill, the inspectorates oversee the tasks delegated to those responsible for investigation and ensure that the human resources available are properly employed in the security tasks assigned to them.

254. The National Security Inspectorate and National Guard Inspectorate adopt a series of measures when they encounter breaches of conduct (abuse of authority, bribery, violence or torture) and procedural breaches (improperly kept records and

detention and cable logbooks) in security units. Depending on the type of violation encountered, the inspectorates draw the attention of the unit supervisor to the situation and invite him to rectify it, or open an administrative investigation and propose that administrative sanctions be imposed on those who committed the violations, or that the matter be referred to court if it is established that the acts committed constitute offences.

255. In addition, the two inspectorates make the necessary inquiries into the validity of the information received in connection with security officers, including human rights violations (pursuant to petitions from injured parties or various sources), and take the necessary administrative measures if the information is verified.

(b) National human rights bodies and mechanisms and international and nongovernmental human rights organizations

256. In addition to the torture prevention mechanisms and bodies mentioned above (paragraphs 34-42 above), the United Nations Office of the High Commissioner for Human Rights conducted visits to places of detention in Tunisia under the headquarters agreement signed with the Tunisian Government. In March 2014, the office issued a report on “Tunisian prisons – between international standards and the reality”. The Special Rapporteur on torture visited Tunisia during 15-22 May 2011 and issued a report following his mission. Following Tunisia’s ratification of the Optional Protocol to the Convention against Torture, the Subcommittee on Prevention of Torture may visit places of detention.

257. The memorandum of understanding signed on 10 December 2012 between the Ministry of Justice and a number of national human rights organizations on visiting prisons permits representatives of those organizations to conduct fact-finding visits to prisons without prior authorization in teams of up to three people, who may be accompanied by a physician provided the prison is so informed one day before the visit.

Visits by organizations and associations to prison units during January 2013-May 2014

	<i>Organization or association</i>	<i>number of visits</i>
1	International Association for the Support of Political Prisoners	16
2	Freedom and Justice Organization	55
3	Association for the Rehabilitation of Prisoners and Monitoring of Prison Conditions	3
4	Association for Dignity for Political Prisoners	6
5	Association of Justice and Rehabilitation	22
6	Bariq Association	3
7	Association for the Defence of Human Rights	14
8	Higher Committee for Human Rights and Fundamental Freedoms in Tunisia	2
9	International Committee of the Red Cross	94
10	Office of the High Commissioner for Human Rights	11
	Total	226

Several associations that have not concluded memoranda of understanding with the Ministry of Justice, Human Rights and Transitional Justice have also been permitted to visit prisons.

Article 12

258. Legal mechanisms in Tunisia permit the competent authorities to conduct an investigation whenever there is reasonable ground to believe that an act of torture has been committed in Tunisian territory, including judicial investigations, administrative investigations and investigations conducted by existing authorities and mechanisms.

I. Judicial investigations

259. The Office of the Public Prosecutor, represented in the person of the public prosecutor and his aides, have jurisdiction in such cases, as do investigating judges and Indictment Division judges.

1. Investigations conducted by public prosecutors and assistant public prosecutors

260. Under the Criminal Procedure Code, article 26, the public prosecutor is responsible for examining all offenses and for receiving information from public officials and individuals about complaints and offenses committed against them. Except for flagrante delicto felonies and misdemeanours, the public prosecutor may not conduct any investigations but may conduct preliminary inquiries to provide direction for gathering evidence related to an offense. He may also generally interrogate suspects, take statements and prepare procès-verbals in regard thereto. None of the preceding precludes an investigation of an alleged offense of torture, which permits the public prosecutor to collect evidence for submission to an investigating judge.

2. Investigations conducted by an investigating judge

261. The Criminal Procedure Code, article 69, fifth paragraph et seq., stipulates the following: “The preceding paragraphs of this article notwithstanding, an investigating judge may undertake an immediate interrogation or confrontation if a witness’s life is in danger, or if evidence is in danger of disappearing, or in the case of flagrante delicto. The questioning of a suspect must allow the suspect an opportunity to refute or confess to the accusation made against him. If the suspect produces evidence that contradicts the accusation, the investigating judge shall examine the veracity of the evidence promptly. A suspect’s confession does not dispense with the need for the investigating judge to examine other evidence.

262. Once An investigation is completed, the investigating judge refers the case file to the public prosecutor, who must submit a written motion within eight days to refer the case to a competent court, to close the case, to order further investigation or to cede the investigation due to lack of jurisdiction.

263. Once the public prosecutor’s motions have been filed, the investigating judge issues a decision on the charges against the accused and on all motions filed by the prosecutor.

3. Investigations conducted by the indictment division

264. The Indictment Division is a court of inquiry of second instance. Under the Criminal Procedure Code, article 116, it is authorized to order one of own justices or the investigating judge to conduct additional inquiries, bring a new action; it may also conduct an investigation itself or through an intermediary into a matter that has yet to be examined after hearing the representative of the Office of the Public Prosecutor. The offense of torture falls within the jurisdiction of the Indictment Division.

II. Administrative investigations

265. Administrative investigations include investigations conducted by the inspection agencies in the Ministry of Justice, Human Rights and Transitional Justice and investigations conducted by the inspection agencies of the Ministry of Interior.

1. Administrative investigations conducted by the inspection agencies of the Ministry of Justice

266. In addition to what is stated above in the comment on article 11 of the Convention regarding administrative review in the Ministry of Justice, Human Rights and Transitional Justice, the aforesaid ministry, which was created on 19 January 2012 and assumed its current name in 2014, is responsible for examining petitions, complaints and allegations regarding torture that come to its attention (see the comment on article 13 of the Convention).

2. Administrative investigations conducted by the inspection agencies of the Ministry of Interior

267. The Security Inspectorate and National Guard Inspectorate conduct administrative investigations, as described above in paragraphs 252-255.

III. Investigations conducted by national and international bodies and mechanisms

268. Reference is made above to existing national bodies and mechanisms, including: the Human Rights Commission (paragraph 36 above), which has been assigned to conduct several investigations by the President of the State; the National Authority for the Prevention of Torture (paragraphs 38-40 above); the Truth and Dignity Forum (paragraphs 41 and 42 above); international organizations resident in Tunisia, e.g. the office of the High Commissioner for Human Rights in Tunisia and the Office of the High Commissioner for Human Rights (with respect to refugees); and representatives of the International Committee of the Red Cross.

Article 13

269. The comment on this article necessitates an examination of the mechanisms for guaranteeing the right of an individual who claims to have been subjected to torture to file a complaint with the competent authority, the method by which that

authority examines his complaint and the legal rules protecting a complainant and any witnesses from all types of ill treatment or intimidation as a consequence of a complaint. Access to the judiciary in cases of torture became possible after the 2011 Revolution. This can be seen in the torture cases published by the courts (see the comment above on article 4 of the Convention) and in the cases of the late Rachid Chamakhi and Faisal Barakat, who died due to torture according to experts' reports. The publication of these cases would have been prohibited before 2011.

I. Mechanisms for guaranteeing the right of an individual who claims to have been subjected to torture to file a complaint with the competent authority, and the method by which the competent authority examines the complaint

270. There are three types of mechanisms for lodging a complaint concerning an allegation of torture and other human rights violations in general: judicial grievance mechanisms, administrative mechanisms, and grievance mechanisms provided by human rights organizations.

1. Judicial grievance mechanisms

271. Judicial grievance mechanisms involve the filing of a petition or complaint with the public prosecutor or his aide, an investigating judge, a sentence enforcement judge or the courts.

(a) Public prosecutors and assistant public prosecutors

272. Under the Criminal Procedure Code, articles 30 and 31, the public prosecutor undertakes to determine the outcomes of complaints and information that he receives or is brought to his attention. The public prosecutor may request that the investigating judge conduct a temporary investigation against an unnamed person regarding any complaint that does not reach the threshold that would justify an investigation until a charge is made or, when necessary, a warrant is issued against a specific person.

(b) Possibility of bringing a personal action

273. The Criminal Procedure Code, article 36, stipulates that the public prosecutor's closing of a complaint does not prevent an injured party from bringing a public action on his own liability. The injured party may also petition the court directly to open an investigation or bring an action.

(c) Submission of complaints of allegations of torture and ill-treatment to a sentence enforcement judge

274. A sentence enforcement judge may meet with an inmate based on the inmate's wish during the judge's periodic visits to prison units. Or a judge may wish to meet with an inmate after receiving information or complaints concerning allegations of ill-treatment or torture in a prison. In this case, the judge may hear the inmate in a private office (Criminal Procedure Code, article 342, third paragraph).

275. Law No. 52/2001 on the prison system, article 17, paragraph 7, entitles every inmate to meet with a sentence enforcement judge to present his complaints and petitions.

(d) Submission of complaints concerning allegations of torture and ill-treatment to the courts

276. Persons being prosecuted for a misdemeanour or felony punishable by imprisonment must personally attend court hearings (Criminal Procedure Code, article 141). The president of the court is responsible for questioning the accused and confronting him as necessary (Criminal Procedure Code, article 143). Such personal appearances enable the accused to: submit his pleas; bring up the circumstances of his questioning by the initial investigator or an investigator acting pursuant to a warrant, including subjection to torture or ill-treatment; provide evidence; or request a medical examination.

277. The court may, at its own discretion, order the accused to undergo a medical examination if it suspects that the accused was subjected to torture or ill-treatment.

2. Administrative grievance mechanisms

(a) Key administrative grievance mechanisms

278. Administrative grievance mechanisms play an effective role in receiving citizens' complaints. They include the following:

- The human rights cells in the ministries.
- The inspection agencies in the ministries and security and penal institutions.
- The Subsidiary Department of Human Rights in the Directorate General of Prisons and Rehabilitation.

279. The Ministry of Human Rights and Transitional Justice was established under Order No. 22/2012 (19 January 2012) on the Establishment and Regulation of the Functions of the Ministry of Human Rights and Transitional Justice. Order No. 23/2012 (19 January 2012) Regulating the Ministry was also issued. In 2014, the Ministry was attached to the Ministry of Justice, which became the Ministry of Justice, Human Rights and Transitional Justice.

280. Article 8 of Order No. 23/2012, which regulated the Ministry of Human Rights and Transitional Justice at the time, assigns the Citizen Relations Office in particular to:

- Receive citizens, receive citizens' complaints and study complaints with the concerned offices to find appropriate solutions for them.
- Respond to citizens concerning administrative procedures and matters relating to the direct provision of services to citizens.
- Collect files received by the Administrative Ombudsman, study them and coordinate with the Ministry's offices to find appropriate solutions.
- Identify complications in administrative procedures by analysing citizens' petitions and proposing the necessary reforms.

281. Article 25 of the aforesaid order stipulates the creation of an Office of Petitions, Complaints and Guidance in the Subsidiary Department of Administration under the Department of Administration and Monitoring, which in turn is subordinate to the Directorate General of Human Rights.

Complaints and petitions concerning torture and ill-treatment received by human rights offices in the Ministry of Justice, Human Rights and Transitional Justice

Year	Number of cases
2012	2
2013	33
2014	11

(b) Types of penalties imposed on law enforcement officers

282. Under Law No. 58/2000 (13 June 2000) Amending and Supplementing Law No. 70/1982 (6 August 1982) Regulating the Basic Statute of the Internal Security Forces, new article 50, first-degree disciplinary measures may be adopted against officers of the internal security forces. Such measures include a warning, a reprimand, a minor suspension from duty, a severe suspension from duty and a mandatory transfer. Periods are specified in an order.

283. The aforesaid article 50 new, paragraph (b), provides the second-degree disciplinary measures that may be taken against officers of the internal security forces. They include a demotion by one or two ranks and the salary reductions entailed thereby, a demotion of competency, up to a six-month suspension from duty without pay, and dismissal from service without denial of pension.

(c) National grievance mechanisms

284. Existing human rights protection and promotion commissions and mechanisms are mentioned above in paragraphs 34-42.

III. Legal provisions governing the protection of a complainant or a witness from all forms of ill-treatment or intimidation

285. Tunisia's Anti-terrorism Law provides several witness protection measures, but Tunisian law lacks general provisions governing witness protection.

286. The Criminal Code, article 103, amended by Decree No. 106/2011 (22 of October 2011), provides: "Any public official or person of equivalent status who unlawfully infringes a person's freedom or who inflicts or causes another person to inflict ill-treatment on an accused person, a witness or an expert because of a statement he gave or in order to obtain a confession or statement from that person shall be liable to a penalty of 5 years' imprisonment and a fine of 5 000 dinars. The penalty shall be reduced to 6 months' imprisonment if only the threat of ill-treatment is used".

287. Basic Law No. 43/2013 (21 October 2013) on the National Authority for the Prevention of Torture, article 14, stipulates: "Subject to legislation on the protection of personal data, no person may be prosecuted for providing information or

disclosing secrets concerning the practice of torture or information concerning the perpetrators of torture”.

288. Basic Law No. 53/2011 on the Establishment and Regulation of Transitional Justice, article 40, authorizes the Truth and Dignity Forum to discharge its functions, including taking all appropriate measures to protect witnesses, victims, experts and any person, regardless of their status, who provide testimony on violations covered by this law – including adoption of security precautions, protection from incrimination and attacks and maintenance of secrecy – in cooperation with the competent agencies and bodies.

Article 14

289. Tunisian law entitles a person harmed by the offense of torture, and the person’s dependents, to petition the judiciary for restitution.

1. The right of a person subjected to an act of torture to fair and adequate compensation

290. Under the Criminal Procedure Code, article 1, in any offense of torture that results in a public action intended to impose punishment, where the offense results in damage, any party damaged directly by the offense is entitled to bring a civil action concurrently with the public action or a separate civil action before a civil court (Criminal Procedure Code, article 7).

291. Law No. 70/1982 (6 August 1982) on the Basic Statute of the Internal Security Forces, article 49, stipulates that if a member of the internal security forces is prosecuted for an error which he committed during his discharge or performance of his duty, the administration must ensure any damaged party’s right to obtain civil compensation.

292. It is prohibited to fine or criminally punish a person who in good faith reports the offense of torture under the Criminal Code, Article 101, third paragraph (new), which was added under Decree No. 106/2011 (20 to October 2011) Amending and Supplementing the Criminal Code and Criminal Procedure Code.

2. The Transitional Justice Law and damage compensation measures taken after 14 January 2011

293. Tunisia adopted a series of measures to compensate for damages and to compensate victims of human rights violations in general, including torture. The State provided advance payments to the families of persons who were killed, to persons who were injured in the revolution, and to persons covered by the general amnesty pending the implementation of basic Law No. 53/2011 on the Establishment and Regulation of Transitional Justice. Chapter 4 of that law provides for compensation for damage and for rehabilitation of victims of violations (articles 10-13). Under article 11, compensation for damage incurred by victims is a right guaranteed by the law, and the State is responsible for providing adequate, effective compensation proportionate with the seriousness of the offense and the condition of each victim. Under article 12, the State provides immediate care and temporary compensation to any victim so requiring without waiting for the court to award damages. Compensation of damage also includes material and psychological

compensation, rehabilitation, apology, restoration of rights and re-integration (including the creation of specialized centres required for this purpose). Compensation may be individual or collective and takes into account the situation of the elderly, women, children, disabled persons, persons with special needs, the infirmed and fragile groups.

294. The aforesaid law, article 41 provides for the creation of a “Dignity and Rehabilitation Fund for the Victims of Tyranny”, which was actually established under the budget law for 2014.

Creation of a centre for the rehabilitation of torture victims

295. The human rights offices in the Ministry of Justice, Human Rights, and Transitional Justice are studying the creation of a centre for the rehabilitation of torture victims. Working meetings have been held for this purpose with representatives of official bodies and concerned organizations. One of the centre’s objectives will be to become informed about victims of violence, torture, human rights violations and political violence as well as persons injured in the revolution. The centre will also study psychological treatment and social and legal rehabilitation for such victims with a view toward integrating them in social life. The centre’s functions will include holding meetings to hear the aforesaid victims to evaluate various aspects of their condition. Psychologists, social workers, physicians, and legal experts will prepare files on each victim. The victims will be counted and their cases documented for inclusion in a database. The centre will also prepare a consolidated registry of victims and receive complaints and petitions concerning each individual who may have been a victim of a violation. The centre will make use of the expertise of foreign official entities and nongovernmental organizations under treaties and international conventions to which Tunisia is a party for this purpose to effectively care for victims. It will prepare a team of specialists to rehabilitate victims based on comprehensive knowledge of each victim’s psychological state in order to preserve their human dignity.

Article 15

296. Tunisian law ensures that any statement which is established to have been made as a result of torture may not be invoked as evidence in any proceedings.

1. Tunisian law’s prohibition on invoking as evidence any statement established to be made as result of torture

297. The Criminal Procedure Code, article 155, second paragraph, which was added under Decree No. 106/2011 (20 to October 2011), explicitly stipulates: “The statements or confessions of a suspect or the statements of a witness shall be deemed invalid if it is established that they were made as result of torture or coercion”.

2. Prohibition on the judiciary’s invoking as evidence any statement established to be made as result of torture

298. In the late 1990s, the Court of Cassation opined that “although a confession is consummate proof, it is also subject to the judge’s unrestricted judgment. The law does not prohibit a judge from relying on a confession if the confession is

unambiguous and the judge's conscience is at peace" (Criminal Cassation Decision No. 6124 of 16 April 1969).

299. In another decision, the Court of Cassation affirms: "The court of merits is bound to respond to any substantive plea bearing on its decision. Accordingly, blocking the court from examining a plea that contradicts a confession attributed to an accused person renders the contested decision groundless and open to appeal" (Criminal Cassation Decision No. 8616 of 25 February 1974).

300. Criminal Cassation Decision Number 12150 of 26 January 2005 affirms that a confession extracted through violence is absolutely void under the Criminal Procedure Code, article 152, which stipulates that a [evaluation of a] confession, like other means of proof, is left to the unrestricted discretion of the principal judges.

Article 16

301. The Criminal Code, article 103 – which replaces old article 103 under Decree No. 106/2011 (20 to October 2011) Amending and Supplementing the Criminal Code and Criminal Procedure Code – states the following: "Any public official or person of equivalent status who unlawfully infringes a person's freedom or who inflicts or causes another person to inflict ill-treatment on an accused person, a witness or an expert because of a statement he gave or in order to obtain a confession or statement from that person shall be liable to a penalty of 5 years' imprisonment and a fine of 5 000 dinars. The penalty shall be reduced to 6 months' imprisonment if only the threat of ill-treatment is used".

302. The aforesaid article specifies ill-treatment explicitly.

303. The Criminal Code establishes strong penalties for any threat of violence or ill-treatment. Article 222 of the code punishes, by imprisonment of six months to five years and a fine, any person who threatens another person with a criminally punishable assault, regardless of the method used to make the threat.

304. The punishment is doubled if the threat is accompanied by an order or is conditional, even if the threat is only verbal.

305. The Criminal Code, article 223, punishes by one year's imprisonment and a fine any person who threatens another person with a weapon, even in the absence of intent to use the weapon.

Part III

Key efforts of Tunisia to respond to the concerns of the Committee and to implement the Committee's recommendations following discussion of the second periodic report

306. Pursuant to the recommendation of the Committee against Torture to allocate a portion of the periodic report to responses to the Committee's recommendations and concerns, Tunisia has responded positively to the Committee's recommendations arising from its examination of Tunisia's second periodic report (CAT/C/20/Add.7) in the Committee's 358th, 359th and 263rd session held during 18-20 November 1998 (CAT/C/SR.358, 359 and 363). The present report provides information on the implementation of the Committee's recommendations and Tunisia's responses to the Committee's concerns.

307. The Committee noted that Tunisia does not accede to requests for extradition of political refugees. The Committee expressed its concern that this should not be the only exception for refusal of extradition. In this regard, the Committee drew the attention of Tunisia to article 3 of the Convention, which prohibits the extradition of a person if there are substantial grounds for believing that he would be in danger of being subjected to torture (CAT/C/SR.358, 359 and 363, paragraph 101). In response to the Committee's concern, Tunisia added a third paragraph to article 313 of the Criminal Procedure Code, which is as follows: "If it is feared that the extradition would subject the person to torture".

308. The Committee called upon Tunisia to end torture, eliminate the gap between the law and its implementation, take measures to ensure the strict enforcement of the provisions of the law and procedures of arrest and police custody (CAT/C/SR.358, 359 and 363, paragraph 102 (b)) and to strictly enforce the procedures of registration, including notification of families of persons taken into custody (paragraph 102 (b)). In this regard, we draw attention to the present report's comment above on article 10 of the Convention concerning the Ministry of Interior's cooperation with the concerned United Nations bodies and mechanisms to combat ill treatment and practices that degrade dignity and the Ministry's efforts to improve the treatment of detainees, support training to instil respect for human rights and organize special activities relevant thereto. The Ministry also cooperates in monitoring the protection of human rights in detention centres. The Ministry has issued instructions calling upon the judicial police officers to adhere to the procedures contained in the law when detaining a suspect. In addition, the Ministry of Justice provides training for judges, staff and employees of penal and correction institutions.

309. The Committee recommended ensuring the right of victims of torture to lodge a complaint without the fear of being subjected to any kind of reprisal, harassment... and to seek and obtain redress if these allegations are proven correct (CAT/C/SR.358, 359 and 363, paragraph 102 (c)). In this regard, it should be recalled that the monitoring bodies in the Tunisian administration have received numerous complaints concerning allegations of torture and ill-treatment. The human rights cell in the Ministry of Interior examined 128 complaints during 2010-2013. The Office of Investigations in the Prison Department Inspectorate examined 245 complaints against staff and officers of penal and correctional institutions during

2011-2014 (see above the comment on article 11 of the Convention). The Petitions, Complaints and Guidance Office in the Directorate Journal of Human Rights in the Ministry of Justice, Human Rights and Transitional Justice examined 46 complaints concerning allegations of torture and ill-treatment (see above the comment on article 13 of the Convention). In addition:

- A special register for complaints of torture was established in the Office of the Public Prosecutor in the courts of first instance.
- Administrative and judicial investigations were initiated in four cases of death at detention centres. Administrative and judicial measures were taken in two of the cases, which occurred during the events of 2010. The other two cases remain open (see above the comment on article 11 of the Convention).
- The Tunisian courts have examined more than 230 cases involving allegations of torture (see above the comment on article 4 of the Convention).
- Basic Law No. 53/2013 (24 December 2013) on the Establishment and Regulation of Transitional Justice provides for the establishment of specialized judicial chambers. These chambers were created under Order No. 2887/2014 (8 August 2014) to examine gross violations of human rights from 1995 until the date of approval of the law, chapter 4 of which is dedicated to compensation for damages and rehabilitation of victims of violations.

310. The Committee recommends ensuring that medical examinations are automatically provided following allegations of abuse and that an autopsy is performed following any death in custody (CAT/C/SR.358, 359 and 363, paragraph 102 (d)). A provision for ensuring such measures is included in the draft Law Amending and Supplementing Certain Provisions of the Criminal Procedure Code, which is currently in the National Constituent Assembly for discussion and approval (Annex 5).

311. The Committee urged Tunisia to take specific measures, including reducing the police custody period to a maximum of 48 hours (CAT/C/SR.358, 359 and 363, paragraph 103 (a)). The recommended reduction is provided in the draft Law Amending and Supplementing Certain Provisions of the Criminal Procedure Code, which is currently in the National Constituent Assembly for discussion and approval.

312. The Committee recommends bringing the relevant articles of the Criminal Code into line with the definition of torture contained in article 1 of the Convention (CAT/C/SR.358, 359 and 363, paragraph 103 (b)). According to the comment in this report on article 1 of the Convention, the Tunisian legislator has repealed article 101 bis of the Criminal Code, which defines torture, and replaced it with article 101 bis (new), which provides a definition of torture that better conforms with article 1 of the Convention.

313. The Committee recommended amending the relevant legislation to ensure that no evidence obtained through torture shall be invoked as evidence in any proceedings except against a person accused of torture as evidence that the statement was made (CAT/C/SR.358, 359 and 363, paragraph 103 (c)). The Tunisian legislator has added a second paragraph to article 155 of the Criminal Procedure Code stating, “The statements or confessions of a suspect or the statements of a

witness shall be deemed invalid if it is established that they were made as result of torture or coercion” (see above the comment on article 15 of the Convention). 314.

314. The Committee urged Tunisia to submit its third periodic report by 30 November 1999 (CAT/C/SR.358, 359 and 363, paragraph 104). Tunisia lodged its third periodic report with the Committee in 2009 and requested, after the 17 December 2010-14 January 2011 Revolution, to prepare an addendum to that report, namely the present report.
