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## The situation in Tunisia

Report<sup>1</sup>

Political Affairs Committee

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### *Summary*

In January 2011, two weeks after the “Jasmine Revolution” in Tunisia launched the wave of democratic transformations in the Arab world, the Parliamentary Assembly adopted Resolution 1791 (2011) on the situation in Tunisia. It resolved, *inter alia*, to follow closely the political developments in the country and to find appropriate ways for assisting it in its progression towards democracy.

The present report takes stock of developments in Tunisia since January 2011 and welcomes positive changes and reforms initiated by the transitional authorities in order to meet the democratic expectations of Tunisians. At the same time, the report points to the challenges faced by Tunisia.

Finally, the Political Affairs Committee calls on the Council of Europe (Parliamentary Assembly, Committee of Ministers and Secretary General) to further support and assist Tunisia on its path towards democracy and suggests a series of concrete measures to this effect.

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<sup>1</sup> Reference to Committee: Reference No. 3750 of 11 March 2011.

**A. Draft resolution<sup>2</sup>**

1. The Parliamentary Assembly refers to its Resolution 1791 (2011) on the situation in Tunisia, adopted in January 2011 at the end of a debate held under the urgent procedure only two weeks after the Jasmine Revolution that put an end to the Ben Ali regime. It again pays tribute to the courage and determination of the Tunisian people who, despite violent repression, have clearly shown the will to put an end to authoritarian rule and to transform Tunisia into a free, open and democratic country.
2. Five months after the revolution, the Assembly notes with satisfaction that the process of democratic transition in Tunisia is well under way and steps have already been taken to dismantle the structures of the former regime and put in place elements of a democratic political system.
3. The Assembly pays tribute to the courage, competence and determination of the members of the interim government, the newly established authorities and the representatives of civil society.
4. The Assembly reaffirms its readiness to put its experience of accompanying democratic transitions and establishing new institutions in young democracies in Europe at the disposal of Tunisia's transition institutions, future permanent institutions and civil society. It has no intention of giving lessons or imposing models, however, and respects the sovereign choices of the Tunisians. Any support and assistance must be governed by respect for the Tunisian people and their dignity.
5. The Assembly supports the intention of the transition authorities to organise elections to a National Constituent Assembly as soon as possible in order to ensure the democratic legitimacy of the transformations under way. It congratulates the authorities on drafting a legal framework for the elections and entrusting their organisation to an independent authority. It is aware, however, that the material organisation of the elections originally scheduled for 24 July 2011 presents a great many practical problems. It notes that the Independent High Authority for the Elections, during its meeting of 22 May 2011, adopted the proposal to postpone the polling day to 16 October 2011.
6. At the same time, the Assembly is concerned about the considerable deterioration of the economic and social situation of the country, including a substantial increase in the unemployment rate. It takes note of the efforts of the provisional government to stimulate the economy and create jobs, but considers international solidarity is needed to support Tunisia in transition.
7. The revolution created much enthusiasm and high expectations in the Tunisian population. If there is no concrete economic improvement, support for the revolution may quickly wane and give way to feelings of disillusion and disappointment.
8. The sudden rise in political tension in early May 2011 showed that the apparent stability of the political situation in Tunisia is still very fragile and that the discontent of a considerable part of the population can easily be exploited to destabilise the country on the eve of the elections. The Assembly urges all Tunisian political and civil forces to act responsibly and not endanger the transformation process under way.
9. The authorities must make it a priority to strengthen internal security, which is very fragile.
10. The Assembly welcomes the fact that the setting of priorities and the development of the reform programme are essentially taking place in an inclusive political climate with the broad participation of civil society players.
11. It notes with satisfaction that contacts have been established between the European Commission for Democracy through Law (Venice Commission) and the Higher Authority for Realisation of the Objectives of the Revolution, Political Reform and Democratic Transition, and encourages the Higher Authority to avail itself fully of the experience and expertise of the Venice Commission in the preparation of the new constitution.
12. The Assembly is ready to contribute to the organisation and observation of the elections to the National Constituent Assembly and welcomes the intention of the authorities to invite it to observe those elections.

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<sup>2</sup> Draft resolution adopted unanimously by the committee on 30 May 2011.

13. The Assembly reiterates the importance of taking steps to curb corruption and nepotism and to investigate abuses of power committed by the former ruling elites of Tunisia. It encourages the Commission of Inquiry into misappropriation of funds and corruption to shed all possible light on the abuses committed by the former rulers of Tunisia and those close to them. It calls upon the transition authorities and the future Tunisian authorities to put in place an effective anti-corruption mechanism.

14. The Assembly calls on the Tunisian transition authorities to:

14.1. guarantee, in the framework of the election campaign for the National Constituent Assembly, respect for fundamental political freedoms such as freedom of assembly, freedom of association, freedom of expression and media freedom, as well as individual rights;

14.2. ensure that the essential democratic principle of separation of the temporal and spiritual powers is respected;

14.3. ensure that all state security forces observe strict neutrality and do not interfere in the electoral process;

14.4. create fair and transparent conditions for the election campaign, and in particular guarantee equal access to the media for the different political forces and the citizens' right to access to information in order to be able to make informed political choices;

14.5. ensure that the funding of political parties and the election campaign is transparent;

14.6. create the conditions for national and foreign observers to follow the electoral process in complete transparency;

14.7. ensure speedy and objective examination of any possible challenge.

15. The Assembly calls on the Tunisian political and civil forces to:

15.1. conduct the election campaign in an atmosphere of calm and mutual respect;

15.2. refrain from any attempt to provoke or exacerbate political, economic or social tensions, or to disturb public order;

15.3. comply with the electoral legislation and with the decisions of the institutions responsible for organising the elections;

15.4. accept and respect the results of the vote.

16. The Assembly encourages civil society players to remain actively involved in the organisation and follow-up of the electoral process and, after the elections, in the promotion of democratic principles and values in the framework of the reforms.

17. After the election of the National Constituent Assembly, the Assembly invites the future Tunisian authorities to:

17.1. ensure that the positive achievements of Tunisian society, in particular the high level of education and the status of women, are safeguarded;

17.2. put in place conditions enabling Tunisian youth to be actively involved in public life and political action and in this way give effect to its wish to be an active force for change;

17.3. continue the political reform process, taking inspiration from universal principles and values and the experience of democratic transition accumulated in the Council of Europe;

17.4. deepen for this purpose the dialogue with the appropriate bodies, mechanisms and structures of the Council of Europe. To this end, the Assembly reiterates the elements contained in paragraph 13 of Resolution 1791 (2011), and again invites the future Tunisian authorities to:

17.4.1. accede to those Council of Europe legal instruments which are open to non-member states, in particular to those in the fields of democracy, human rights and the rule of law;

- 17.4.2. avail themselves fully of Tunisia's membership of the Venice Commission in the future constitutional reform process;
  - 17.4.3. accede to the Council of Europe's enlarged partial agreements, such as the North-South Centre and the European and Mediterranean Major Hazards Agreement;
  - 17.4.4. establish contacts between the Council of Europe and the authorities in Tunisia responsible for questions of justice, sustainable development, culture, education and higher education, youth and sport, gender equality and the rights of the child;
  - 17.4.5. study and use, in their respective activities, the experience of the Council of Europe human rights institutions and monitoring mechanisms, including the European Court of Human Rights and the Commissioner for Human Rights;
  - 17.4.6. foster contacts between Tunisian and European parliamentary and civil society representatives;
  - 17.4.7. consider the prospects for parliamentary dialogue offered by the Partner for Democracy status recently established by the Assembly.
18. The Assembly invites the Secretary General of the Council of Europe to:
    - 18.1. strengthen contacts and consider support measures for Tunisian civil society;
    - 18.2. examine the extent to which Tunisia could benefit from the experience of the Council of Europe Schools of Political Studies;
    - 18.3. examine ways of involving representatives of Tunisian youth in the activities of the Council of Europe in the youth field;
    - 18.4. examine the possibility of inviting Tunisian representatives to the Summer University for Democracy;
    - 18.5. raise, in his contacts with the Council of Europe's international partners, above all the European Union and the Organization for Security and Co-operation in Europe (OSCE), the need for effective co-ordination of efforts to assist the democratic transition in Tunisia.
  19. The Assembly invites the European Commission to reconsider its decision to withdraw its financial support for the existing network of Council of Europe Schools of Political Studies.
  20. The Assembly calls on the main international partners of Tunisia, in particular the European Union, to demonstrate genuine solidarity towards this country in transition, and speedily provide real support to stimulate the economy and tourism and improve the social situation.
  21. It considers it entirely inappropriate to tarnish the image of Tunisia, a country that has just freed itself from an authoritarian regime and chosen democracy, to that of a country that is a source of irregular migrants.
  22. The Assembly confirms its determination, already expressed in Resolution 1791 (2011), to follow political developments in Tunisia closely and strengthen its dialogue with the country's political forces and civil society players. It is ready to establish contacts with the future National Constituent Assembly, and to invite its representatives to be present in Strasbourg during its plenary sessions, on the basis on its Resolution 1598 (2008) "Strengthening co-operation with the Maghreb countries".
  23. The Assembly decides to invite representatives of the future National Constituent Assembly and of the future Tunisian Parliament to participate in the Forum for the Future of Democracy.
  24. The Assembly asks national parliaments of Council of Europe member and observer states and parliamentary supported foundations to foster contacts with Tunisian parliamentary bodies.

**B. Draft recommendation**

1. The Parliamentary Assembly refers to its Resolution ... (2011) on the situation in Tunisia. It also refers to the efforts of the Turkish Chairmanship of the Committee of Ministers and the Secretary General of the Council of Europe to contribute to the changes taking place in Tunisia.
2. The success of the reforms embarked upon in Tunisia, where the people have been at the forefront of the “Arab Spring”, is of particular importance for the future of the transition to democracy and progress towards the universal values of the whole Mediterranean and Middle East region. Europe, built on those same values, should do all it can to contribute to the success of the transition in Tunisia.
3. The Council of Europe is able to put at the disposal of Tunisia its unique experience and expertise in accompanying democratic transitions and establishing new institutions in young democracies in Europe. It should deploy its resources to offer practical and effective assistance in the implementation of democratic reforms in Tunisia.
4. Accordingly, the Assembly recommends that the Committee of Ministers:
  - 4.1. step up co-operation with the Tunisian Higher Authority for Realisation of the Objectives of the Revolution, Political Reform and Democratic Transition and provide it with relevant information on practical experiences of constitutional processes in Europe;
  - 4.2. draw up, in liaison with the transitional Tunisian authorities and in co-operation with other institutional partners, especially the European Union, a programme to assist with the institutional and political reforms in Tunisia, and call on member states and other partners to ensure the funding of such a programme;
  - 4.3. give priority to assistance in electoral matters, including the training of staff to administer the elections and local observers from Tunisian civil society;
  - 4.4. involve Tunisian representatives, including those of civil society, in the activities of the Council of Europe in the field of democracy, and in particular in the Forum for the Future of Democracy, the Summer University for Democracy and the future Strasbourg International Forum for Democracy
  - 4.5. examine the conditions of a possible accession by Tunisia to a certain number of European conventions, notably in the fields of democracy, the rule of law and human rights.
5. In addition, the Assembly recalls its Resolution 1805 (2011) and Recommendation 1967 (2011) on the large-scale arrival of irregular migrants, asylum seekers and refugees on Europe’s southern shores. It invites the Committee of Ministers to examine the measures to take in order that the Council of Europe can fully play its role as the main European organisation for the protection of human rights in this matter.
6. The Assembly refers to the conclusions of the report of the Group of eminent persons of the Council of Europe “Living Together – combining diversity and freedom in the 21st Century Europe” to move the Organisation closer to its neighbours and recommends that the Committee of Ministers examine the possibility of creating, in consultation with the Assembly, a special status with the Council of Europe for the countries of the southern and eastern Mediterranean which would ensure a closer relationship than the one provided by the observer status.

## C. Explanatory memorandum by Ms Brasseur, rapporteur

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### 1. Introduction

1. On 27 January 2011, two weeks after the “Jasmine Revolution” which put an end to the Ben Ali regime in Tunisia and probably opened a new chapter in history now known as “the Arab Spring”, the Parliamentary Assembly held an emergency debate on the situation in Tunisia.

2. In Resolution 1791 (2011), adopted on that occasion, it paid tribute to the courage and determination of the Tunisian people who had clearly shown the will to put an end to authoritarian rule and to transform Tunisia into a free, open and democratic country.

3. The Assembly welcomed the first steps taken by the provisional authorities with a view to liberalising the political life of the country, and called on them to embark on far-reaching political reforms in order to respond to the aspirations of the Tunisian people.

4. It resolved to follow political developments in Tunisia closely, strengthen its dialogue with the new institutions following the forthcoming elections and find appropriate ways to assist it in its progression towards democracy.

5. The aim of this report is therefore to take stock of the political developments in Tunisia in the months that followed the Jasmine Revolution and examine how the emerging Tunisian democracy can benefit from the Council of Europe's experience of democratic transition.

6. I wish to emphasise that there is no question of giving the Tunisians “lessons in democracy” or of imposing “Council of Europe solutions”. It is entirely understandable that the Tunisians, for too long deprived of their political sovereignty, should be determined to build a Tunisian democracy, based on universal values certainly, but tailor-made to respond to the country's specific needs and conditions.

7. Nevertheless, during the democratic transition, Tunisia will certainly have to confront challenges and solve problems that other countries in democratic transition have experienced. The Council of Europe's experience in this field, which contributed to the establishment of democracy in the countries of Europe, may be of great practical use to them.

8. While a revolution may take place in one day, a great deal more time is needed in order for it to bring the expected results. Democratic transition is a process that may take several years. The Assembly should therefore continue to follow political developments in Tunisia and strengthen dialogue with the main political forces and the civil society of this emerging democracy.

9. In the framework of the preparation of this report, the Political Affairs Committee organised a hearing with representatives of Tunisian civil society and the President of the Venice Commission. The hearing, which took place in Paris on 9 March 2011, was very useful and enabled the committee to hear the points of view of players directly involved in developing the reform agenda in Tunisia, and gave the members of the committee the opportunity to have a better understanding of the nature of the political processes at work in the country. The hearing also allowed a degree of mutual trust to be established, which helped to create a constructive atmosphere and facilitated subsequent contacts at the level both of the Assembly and of the Venice Commission.

10. From 20 to 22 April 2011, as Chairperson of the Alliance of Liberals and Democrats for Europe, I participated in a visit to Tunisia by the Presidential Committee of the Assembly. In my capacity as rapporteur, I had a series of additional contacts the day before. Nonetheless, the programme of my visit focused on the city of Tunis and gave me no opportunity to observe the situation in the interior of the country. According to

some reports, the situation there differs considerably, both socio-economically and politically, from that in the capital. I therefore consider it necessary for the Assembly's rapporteur to find out about the situation in the provinces. Contacts should also be established with representatives of the judicial authorities, the economic sector and the media.

11. I should also like to refer to my participation on 5 and 6 May 2011 in a conference entitled "Sofia Platform: Central and Eastern Europe's Experience and Change in North Africa and the Middle East". This meeting, which was jointly organised by the Bulgarian Ministry of Foreign Affairs and the European Council on Foreign Relations, a research foundation, brought together a large number of politicians, researchers and representatives of civil society from Europe and the countries of North Africa and the Middle East. The Secretary General of the Council of Europe presented our Organisation's vision of the transformations currently taking place in that part of the world. The Conference was an important opportunity to think together about what Europe could offer our partners in the countries in transition in order to contribute to the success of the reforms under way.

## **2. Main political developments**

12. For several weeks after the revolution of 14 January 2011, the political situation in Tunisia remained very unstable. The first provisional government, formed by the former Prime Minister Ghannouchi on 17 January with the participation of representatives of the "legal" opposition parties (the few political formations that existed under the former regime) and independents, succeeded in making a number of decisions tending towards democratisation. But that government soon found itself under pressure from the demonstrators, who demanded the resignation of ministers who had served under Ben Ali.

13. At the same time, the political forces close to the former regime, from Ben Ali's RCD party (Constitutional Democratic Rally) and the security services, tried to stir up trouble in the country in order to shift the transition process towards a new authoritarianism under the guise of "controlled" political liberalisation.

14. Faced with these attempts, the elements in favour of democratic change, particularly the unions and the active members of civil society, continued to exert pressure on the provisional government through demonstrations. They also began to form a National Council to Defend the Revolution, which demanded the calling of a constituent assembly and the dissolution of all institutions inherited from the Ben Ali era, namely Parliament, the RCD and the political police.

15. At the beginning of February, the two Chambers of Parliament passed a law allowing the Interim President, Fouad Mebazaa, to govern by legislative decree. Parliament was then suspended and dissolved. Moreover, on 19 February the Interim President issued a legislative decree declaring an amnesty for all political prisoners.

16. Among the main decisions of the Ghannouchi government should be noted the banning of the old ruling party, the RCD, as well as the establishment of a commission to reform texts and institutions which was supposed to prepare the democratic transformation of the country.

17. Mention should also be made of the dissolution of the Ministry of Communication (which it would be more accurate to call the ministry of propaganda and censorship) and a degree of liberalisation of the media. Reform of the press still remains to be carried out, however. Indeed, we have been informed that non-governmental organisations (NGOs) encounter problems if they want to obtain radio frequencies.

18. On 27 February, the second government presided over by former Prime Minister Ghannouchi was forced to resign as a result of pressure from the protesters. The new transition government, headed by Mr Beji Caïd Essebsi, had no members who had been close to the Ben Ali regime and positioned itself as a cabinet of technocrats whose objective was to guarantee calm and stability during the transition period.

19. On 3 March, the Interim President set 24 July 2011<sup>3</sup> as the date for elections to a Constituent Assembly by direct universal suffrage according to a new electoral code. A specific body called the Higher Authority for Realisation of the Objectives of the Revolution, Political Reform and Democratic Transition was set up to prepare the elections to the Constituent Assembly. Mr Yadh Ben Achour, former Dean of the Tunis

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<sup>3</sup> The Independent High Authority for the elections, during its meeting on 22 May 2011, adopted the proposal to postpone polling day to 16 October 2011, but the transitional government decided, at the Council of Ministers held on 24 May, to maintain the originally announced date of 24 July 2011 in order to respect the commitment undertaken in March.

Faculty of Legal, Political and Social Sciences, who had resigned from the Constitutional Council in 1992 and was an opponent of the Ben Ali regime, was appointed president of the new body.

20. The Higher Authority, which is composed of 161 members, many of whom are representatives of the political world and civil society, as well as professional lawyers, prepared and submitted to the government in mid-April draft laws on the organisation of the elections and on the electoral commission.

21. In addition, two other independent commissions of inquiry were set up in order to shed light on corruption, the misappropriation of funds by the former regime and abuses committed by the security forces during the events of December 2010-January 2011.

22. On 7 March 2011, the Minister for the Interior announced the dissolution of the State Security Service and the political police.

23. There now seems to be relative, if fragile, political and institutional stability in Tunisia, enabling the provisional authorities to be fairly optimistic about the possibility of preparing the elections. The authorities have, however, let it be known that they may be postponed if all the conditions for a ballot that complies with democratic standards are not met.

24. The fragile nature of the stability was demonstrated by the events of 5 May, which were provoked by statements by the former Tunisian Minister of the Interior, Farhat Rajhi, who announced a "military coup d'Etat" was being prepared in the event of the Islamists' winning the elections. The government condemned these statements, calling them "an attack on public order". The demonstrations that followed this incident turned into a riot, with young Tunisians demanding the resignation of the transitional government and "a new revolution". The police had to use teargas and then weapons in order to quell the riot. Several shops and houses were looted. On 7 May, the authorities introduced a curfew in Tunis. Some 600 people were arrested. The curfew was lifted on 18 May 2011.

### **3. Challenges of political transition**

25. In the four months since the revolution Tunisian, society has undergone a remarkable transformation. Tunisians are proud of the democratic advances and political freedoms that they have obtained.

26. Nevertheless, the victory of the revolution does not mean the advent of democracy – far from it. There are huge challenges to be met, if one takes into account the lack of democratic institutions, structures and traditions in a country ruled for decades by an authoritarian regime.

27. At present, the transition authorities are not at all representative and are not based on any form of legitimacy except that resulting from the revolution. Their first objective is therefore to organise democratic, open, fair and transparent elections which enshrine the democratic choices of the Tunisian people and give legitimacy to the government that results from those elections. The government of Mr Beji Caïd Essebsi declared that it would not be involved in organising the elections and that none of its members would stand as a candidate for the Assembly.

28. The Higher Authority chaired by Mr Ben Achour has done a remarkable job in preparing the legal framework for the elections to the Constituent Assembly. It has drafted, adopted by vote on 11 April 2011 and transmitted to the government two draft legislative decrees on the election of the National Constituent Assembly and the election of the Independent High Authority for the Elections.

29. The draft electoral legislative decree seeks to guarantee pluralistic, transparent, credible, democratic elections. The system proposed is the single-round proportional ballot with closed lists, by constituency, with distribution of the largest remainder.

30. The draft guarantees the right of every Tunisian, including those living abroad, to participate in the elections with their national identity card. The establishment of electoral registers is to take place under the supervision of the Independent High Authority for Elections; the Ministry of the Interior, which was in charge of election administration under the former regime, is excluded from electoral operations.

31. As regards the election campaign, the draft contains fundamental principles guaranteeing the impartiality of the administration, not using places of worship, and transparency of election campaign funding.



32. Two provisions of the draft legislative decree are particularly sensitive and have provoked much discussion in Tunisia: male-female parity in electoral lists and the disqualification of former officials of the former ruling party, the RCD.

33. With regard to parity, the draft requires electoral lists to contain an equal number of male and female candidates listed alternately (a “zebra list”). Any list that does not comply with this requirement will be declared invalid.

34. This provision has given rise to much controversy. Some fear that it will penalise new parties, which are not yet well organised and do not have enough candidates, and favour parties which are well-established throughout the country and which would try to improve their results by getting female candidates with no experience elected.

35. The question of barring former RCD officials from standing as candidates has caused even more debate, both on the principle of depriving a category of persons of their right to be elected without any form of legal procedure, and the extent of such a measure.

36. Nonetheless, the political argument, according to which the officials of the former regime who bear responsibility for its misdeeds should not be involved in drafting the new constitution, seems to have prevailed. At the same time, this prohibition should name the persons concerned, concern only elections to the Constituent Assembly (and not subsequent elections) and be challengeable in court.

37. According to the estimates of our Tunisian interlocutors, this prohibition would affect 2 000 to 2 500 people who occupied posts of responsibility in the central organs of the RCD party (Political Bureau and Central Committee), as well as in the territorial organisations at governorate level.

38. The type of ballot proposed in the draft legislative decree has also been criticised: according to some, it penalises small parties and cannot therefore guarantee that the Constituent Assembly – a chamber from which consensus should arise – is as representative as possible.

39. The second draft legislative decree concerns the Independent High Authority for Elections, which is elected by the Higher Authority and composed of 15 members: three judges, three lawyers, an accountant, a journalist, two representatives of non-governmental organisations (all pre-selected by the associations), as well as three academics, a computer scientist and a representative of Tunisians abroad. On 9 May, 13 members were appointed, as the judges had not put up any candidates. Of the 161 members of the Higher Authority, 126 took part in the vote.

40. Its mission is to prepare, manage and supervise the election operations as a whole and to declare the preliminary results of the elections, before challenges are heard by another authority, the “higher electoral disputes authority”, which will be set up by legislative decree for that purpose.

41. The elections were originally set for 24 July 2011. The Tunisian authorities have emphasised the importance of keeping to that date, first and foremost for reasons of credibility of the democratic process, but also in order to avoid their being postponed to the period after the month of Ramadan.

42. Nonetheless, with regard to the material organisation of the elections, everything remains to be done: compiling the lists of voters (electoral registers), defining the constituencies, training the staff of local electoral commissions, etc. The plan is not to use voter registration cards but instead to use identity cards in order to be able to vote. At this stage, many voters do not have such a document. After having noted that it was not possible to ensure the best preparation of the elections, the Independent High Authority for the elections, during its meeting of 22 May 2011, adopted the proposal to postpone polling day to the 16 October 2011, but the transitional government decided, at the Council of Ministers held on 24 May 2011, to maintain the originally announced date of 24 July 2011 in order to keep the commitment taken in March.

43. The Tunisian political scene is now seething. Following the liberalisation of procedures for forming parties, there are now more than 60, and new ones are formed every week. Some of them existed under the Ben Ali regime (the so-called “legal opposition”<sup>4</sup>) and are fairly well organised and have quite clearly defined political positions.

44. Most of the new parties are little known to the general public. Some of them can be termed “single-issue parties” on the basis of the subjects they propose to develop and defend. Some of the parties of this

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<sup>4</sup> According to my information, nine parties were recognised under the former regime, six of which supported Ben Ali.

type will certainly find it difficult to become established throughout the country and will have to try to forge alliances or risk disappearing.

45. There have also been attempts by members of the former regime to form political parties. There is a danger that these elements, which are referred to as “shadowy forces”, will try to exploit the deteriorating social and economic conditions to return to power.

46. Among the best organised parties, mention should be made of the Islamist party Ennahda, which was legalised in early February after years of prohibition and persecution. Although its emergence worries some people, who see it as a threat to the principles of a secular society, Ennahda has been trying to reassure them by opening up dialogue with other political forces and taking part in the current political and institutional process. The party is taking part in the work of the Higher Authority along with a dozen other political formations. Ennahda will without any doubt occupy a considerable place on the emerging Tunisian political scene.

47. In the absence of established political players easily recognisable by all, civil society and voluntary sector organisations, unions and professional organisations now have a considerable role, benefiting from being fairly well known and well reputed. As an example, at least 15 such organisations now sit on the Higher Authority chaired by Mr Ben Achour.

48. In view of the present state of political life in Tunisia, which is characterised by a high degree of diversity and fluidity, there is a risk that voters, faced with a multitude of parties or alliances with vague political objectives and represented by little-known candidates, will be confused and find it difficult to make informed choices.

49. This problem is compounded by Tunisian political players’ lack of practical experience of electoral campaigns. There can thus be no certainty as to the success of the election operations, despite the optimism and good will of the transition authorities.

50. While the election of the Constituent Assembly is the Tunisians’ absolute priority, there are questions as to what will happen after that election.

51. On the one hand, the Interim President and the transitional government in place have let it be known that they will hand over power to the Constituent Assembly, which will embody the sovereign choice of the people and have legitimacy. It is clear, however, that it will not be easy for a newly formed elective body to take on all the responsibilities of government immediately after the election. There will probably have to be some continuity of the executive power under the authority of the elected Assembly.

52. On the other hand, while the main task of the Constituent Assembly will by definition be to prepare and adopt the new constitution, its prerogatives will probably not be limited to the fundamental law and will include some elements of legislative work.

53. Democratic transition in Tunisia will place the need for reform in many areas on the agenda, including the organisation of the judicial system and the police, taxation, etc. Questions concerning the constitutional or legislative safeguarding of positive Tunisian achievements, including the status of women and secularism, will also have to be settled.

54. Tunisia, which will have more time to put these various reforms in place, could avoid many mistakes by taking inspiration from, without necessarily copying, the experiences of the young (and not so young) European democracies. The Council of Europe is a forum particularly suited to such sharing and pooling of experiences of democratic transition.

#### **4. Economic and social challenges**

55. The precarious economic and social situation, including massive unemployment among young people with qualifications, was one of the main causes of the popular movement that finally resulted in the fall of the Ben Ali regime. The people, particularly the young people who massively took part in the demonstrations against the former regime, therefore have high expectations of seeing a speedy and substantial improvement in their situation.

56. Unfortunately, the revolution has so far had disastrous consequences for the country’s economy. The television pictures of a mass movement facing violent repression have been seen worldwide and been a serious blow to Tunisia’s image as a safe destination.

57. The first sector to suffer from this has been tourism, one of the pillars of the Tunisian economy which employs over 11% of the working population. At the climax of the revolution several European countries evacuated their nationals from Tunisia and advised people not to go there. Several months after the events of January 2011, the confidence of European holidaymakers has still not returned. This is illustrated by the figures for non-resident entries, of which there were 1 098 200 during the first quarter of 2010, compared with 614 000 in the first three months of 2011, namely a 44% drop.

58. Similarly, the political instability and institutional uncertainty that followed the revolution made foreign investors cautious, and this has slowed down a number of investment projects.

59. The political freedom that has become a new reality in Tunisia has enabled and even stimulated a considerable mobilisation of social movements and action in pursuit of demands. There have been numerous strikes, occupations of industrial premises and much blocking of businesses and roads, resulting in significant economic losses.

60. The civil war and international military intervention in Tunisia's neighbour, Libya, is also having harmful effects on the Tunisian economy and social situation. The authorities have to deal with the mass influx of tens – or even hundreds – of thousands of Libyan refugees, and the return of thousands of Tunisians who had been working in Libya and had to abandon everything in order to flee the hostilities. The conflict in Libya has also seriously affected the regions of the centre and south of Tunisia where the local economy is very dependent on trade with Libya.

61. According to Tunisian Central Bank estimates, in the first quarter of 2011 industrial production fell by 13% and industrial investment intentions by 36%. Unemployment, which was one of the triggers of the social movement in December 2010, was estimated at 500 000 in January, but may be over 700 000 by July.

62. The deterioration in the economic situation and the significant increase in the unemployment rate are leading to fears of renewed unrest which might disturb the fragile political stability the authorities have achieved with such difficulty, distort the results of the elections to the Constituent Assembly and weigh heavily on its work. In the medium term, the poor economic and social situation may cause feelings of frustration and disillusionment, weaken popular support for the reforms, strengthen the position of populist and radical parties and even the partisans of the former regime.

63. The transition authorities are aware of these dangers and are working to relieve the crisis and reassure the population. They also understand that political and social stability is essential for restoring investor confidence and stimulating the economy. The government has therefore put in place programmes to stimulate the economy, create civil service jobs and assist young people with qualifications who are unemployed, as well as programmes for regional readjustment. It is planned to inject income into the economy in order to stimulate consumption and foster investment in infrastructure. The means at their disposal are very limited, however.

64. The Tunisian revolution therefore urgently requires real solidarity and support from the international community. The main international players (such as the European Union, the United States and more recently France) have announced their intentions to provide support but, according to our contacts in the transitional government, that aid is taking time to materialise.

65. At the same time, the Tunisian authorities have made it very clear that they do not want Tunisia to become an assisted economy. Their priority is to restart the income- and job-generating sectors of the Tunisian economy, revive tourism, restore foreign investor confidence in order to activate the country's significant investment potential, and bring back to the country the money embezzled by the former regime.

## **5. Problem of irregular migration and Tunisia's international image**

66. It has to be observed that the Jasmine Revolution and the image of a new Tunisia resolutely turned towards the future, which won the admiration of international public opinion, was very soon eclipsed by the events in Egypt and other Arab countries, including more recently in Libya.

67. At the same time, Tunisia's image is now associated in the European media and the perception of political leaders with the arrival of irregular Tunisian migrants in Europe via the Italian island of Lampedusa.

68. It is estimated that some 25 000 young Tunisians have left their country since January 2011 in the hope of joining their friends and relatives in France and other European countries. Whatever the reasons that

lead these young people to seek their fortune in Europe at a time when their country needs them in order to advance, this is illegal immigration.

69. The phenomenon is probably caused not only by a relaxation of control by the Tunisian authorities and a steep rise in the activities of people smugglers, but also by the feeling of sudden freedom after the fall of the former regime and the lack of immediate prospects within the country.

70. In Europe, where questions connected with immigration are at the heart of the political debate in many countries, the arrival of thousands of Tunisians has caused tension between Italy and a number of its partners, particularly France, which even stopped trains running between Italy and France for a time. The European Union is now considering reviewing the operation of the Schengen system. Tunisian immigrants are systematically arrested in France and deported to Italy or Tunisia.

71. As a consequence, the problem of irregular immigration from Tunisia has completely obscured the democratic transformations taking place in the country and now dominates European political discourse about Tunisians. This is causing uneasiness among representatives of the Tunisian transition authorities, who do not appreciate European support for reforms being conditional upon effective control of emigration.

72. In this regard, European public opinion is ignoring the fact that Tunisia is itself confronting a much larger influx of refugees from Libya. Since the beginning of the Libyan crisis, the authorities estimate at more than 250 000 the number of Libyans and nationals of other countries who have fled the conflict and arrived in Tunisia. Added to that number are some 40 000 Tunisians who had been living and working in Libya and had to return to Tunisia.

73. These tens of thousands of refugees, who have to be provided with shelter, food, repatriation assistance in the case of nationals of third countries, or help with resettlement if they are returning Tunisians, are placing extremely heavy pressure on Tunisia's economy and weakened social structures.

74. In this connection, it also has to be recalled that the conflicts between the forces loyal to Ghaddafi and the Libyan insurgents do not always stop at the borders of Libya. Incursions into Tunisian territory by belligerent forces of both sides have taken place several times. The Tunisian Army has been forced to respond. There have also been incidents of shells falling on Tunisian soil.

75. In addition, rivalries between those who are pro- and anti-Ghaddafi have arisen in the Tunisian population itself in the southern regions of the country, a cause of grave concern to the authorities.

76. The humanitarian and security situation in southern Tunisia is therefore very tense and requires constant attention from the authorities, despite the limited means at their disposal.

77. In these circumstances, Tunisia's European partners should show more understanding and consistency and offer the country more real support and solidarity for the transformation it is undergoing, instead of exploiting Tunisian migration to Europe for internal political reasons.

78. A comprehensive, integrated and long-term approach should take precedence over measures dictated by security considerations. If it does not, Europe's image, already affected by the years of "fruitful co-operation" with the Ben Ali regime, may be tarnished for a long time to come.

## **6. Co-operation with the Council of Europe**

79. Tunisia was involved in certain forms of co-operation with the Council of Europe long before the events of January 2011. At Parliamentary Assembly level, Tunisian delegations have regularly been invited to Strasbourg since 2008 following the adoption of Resolution 1598 (2008) on strengthening co-operation with the Maghreb countries. The President of the Assembly visited Tunis only a few days before the revolution. Tunisia became a member of the Venice Commission in 2010.

80. However, it is since the Jasmine Revolution, when the Tunisians expressed their desire for democracy and political freedom, that this co-operation has become so important.

81. The Assembly, through Resolution 1791 (2011), adopted on 27 January 2011, was one of the first international authorities to welcome the victory of the revolution and the democratic choice of Tunisian society, and to offer Tunisia in transition the political support and assistance of the Council of Europe. We saw that the Tunisians very much appreciated this.

82. On 21 February 2011, Mr Ahmet Davutoğlu, Minister for Foreign Affairs of Turkey and President of the Committee of Ministers, and Mr Thorbjørn Jagland, Secretary General of the Council of Europe, went to Tunis and offered the assistance of the Council of Europe in connection with the preparation of the new constitution.

83. On 9 March 2011, the Political Affairs Committee organised a hearing with the participation of representatives of Tunisian civil society, as well as of the President of the Venice Commission, Mr Gianni Buquicchio. This hearing was particularly useful in enabling representatives of Tunisian NGOs to learn of the capacities and experience of the Council of Europe in accompanying transition. They were also reassured that the Council of Europe approach is to propose and not to impose solutions or models, respecting the Tunisians' wish to maintain control of their revolution.

84. A delegation from the Venice Commission went to Tunis from 16 to 18 March 2011 to discuss possible forms of co-operation. It was agreed to assign liaison persons to ensure close contact between the Venice Commission and the Higher Authority in order to achieve the objectives of the revolution, political reform and democratic transition. There was also an agreement between the Higher Authority and the Venice Commission to organise the training of some 300 trainers of electoral staff.

85. Mr Radhouane Noucier, State Secretary to the Tunisian Minister for Foreign Affairs, attended the meeting of the Venice Commission on 25 March 2011 and received a particularly warm welcome. It gave him the opportunity to note the added value of taking part in the work of that advisory body. In addition, Tunisia appointed Professor Rafaâ Ben Achour, currently Minister-Delegate attached to the Prime Minister, as an acting member of the Venice Commission.

86. We have also been informed, in a letter from the Secretary General of the Council of Europe dated 10 May 2011, that Tunisian representatives have already been invited to take part in certain programmes in the fields of democracy training, education and youth. There have also been contacts with the European Commission in order to conclude a new financial "facility" that would make it possible to extend co-operation with Tunisia and the other countries on the southern shore of the Mediterranean undergoing democratic transition.

87. On 20-21 April 2011, the Presidential Committee of the Assembly, including myself, went to Tunis. We met the key figures in the transition authorities (the President, Prime Minister and Minister for Foreign Affairs), as well as the President of the Higher Authority, Mr Yadh Ben Achour, and Mr Toufik Bouderbala, who chairs the Commission of Inquiry into abuses committed by the security forces during the events of December 2010 – January 2011.

88. During our visit, the President of the Assembly invited the Prime Minister, Mr Beji Caïd Essebsi, to the Assembly session of June 2011. We were informed that Mr Mouldi El Kefi, Minister for Foreign Affairs, would come to the June session of our Assembly, when this report will be presented.

89. We can therefore note that a network of contacts between the authorities of the Council of Europe and the Tunisian partners has been established in recent months. These contacts now need to be transformed into practical forms of co-operation and assistance concentrating on what is essential and responding to the priorities of the Tunisians.

90. During the visit of the Presidential Committee we heard, both from our Tunisian interlocutors and from diplomats serving in Tunis, that in recent months there had been an unprecedented proliferation of visits to Tunisia by representatives of various states and international organisations. Although each visit is motivated by the best intentions and a sincere wish to help Tunisia in transition, there is no co-ordination between the various offers of co-operation – and in many cases, as the Tunisians recognise, the offers are not followed up.

91. We must therefore avoid at all costs the Council of Europe being one of these "bearers of empty promises". This means really concentrating on what we can genuinely offer and what the Tunisians need at the moment.

92. Among these priorities, I would particularly emphasise the electoral process, the constitutional process and the functioning of political institutions.

93. The absolute priority for the Tunisians is the elections; the credibility and establishment of the democratic changes are at stake here. Although the legislative framework for the elections has been decided, we can note that the contributions of the Assembly and above all of the Venice Commission have

already had a positive influence. We must continue to offer our Tunisian partners the “soft advice” of the Council of Europe on electoral legislation and practices.

94. There is strong demand from the Tunisians for assistance in the material organisation of the elections. The Venice Commission project to train trainers for the administration of the elections is of great importance. Ways of extending this type of assistance need to be found, including through Tunisian NGOs, which are insistently asking for help in training domestic election observers.

95. With its experience of observing elections, the Assembly should send a large mission for the 24 July elections, if possible preceded by a pre-election mission. The Tunisians are very anxious for their first democratic elections to be observed by the international community. According to our information, an official invitation will shortly be forthcoming.

96. The constitutional process has not formally started yet, but the Higher Authority is already working towards it. The results of that work will then be transmitted to the Constituent Assembly. Here too we must offer our Tunisian partners, in both the Higher Authority and the Constituent Assembly, the constitutional experience and, if they request it, expertise of the Venice Commission.

97. The Parliamentary Assembly should, for its part, establish contacts with the future Constituent Assembly, which will probably, at least to some extent, have some prerogatives of a parliament. In order to do so, Resolution 1598 (2008) should be interpreted in such a way as to make it possible to invite representatives of the Constituent Assembly to the sessions of the Parliamentary Assembly. To begin with, the President of the Constituent Assembly could be invited to address the Parliamentary Assembly in the framework of a specific debate.

98. The presence in Strasbourg of Tunisian elected representatives could be useful for making contacts at the level of the Assembly's committees and political groups and for their familiarisation with European parliamentary and political practice.

99. At the same time, contacts at the level of elected representatives could make it easier to identify the Tunisians' needs for assistance in legislative reforms in the various fields, and to develop target programmes involving Council of Europe experts.

100. With regard to Partner for Democracy status, although parliaments need to request and deserve it, preliminary contacts could be made with the Constituent Assembly in order to provide full information on the conditions for granting this status and how to obtain it.

101. At the level of the Assembly and the Secretariat General, we should also develop contacts and support the activities of Tunisian civil society organisations.

102. The North-South Centre is the most appropriate platform for enabling the different components of Tunisian society to familiarise themselves with the activities, acquis and potential of the Council of Europe. Tunisia could be invited to accede to this Partial Agreement.

103. Thought also needs to be given to the extent to which Tunisia could benefit from the experience of the Council of Europe schools of political studies and be involved in the activities of the Summer University for Democracy. Tunisian society is young and the youth of the country played an active part in the events of winter 2010-2011. They will play an essential role in the democratic transition. It is important for future Tunisian leaders to be made aware of the universal principles and values defended by the Council of Europe.

104. I do not, however, think it a priority at the moment for Tunisia to accede to the conventions and other instruments of the Council of Europe. Fully fledged democratically formed institutions should be established in the country first.

## **7. Conclusions**

105. The process of democratic transition in Tunisia is well under way. The Tunisians are proud of the progress they made in terms of political freedoms during the Jasmine Revolution and are determined to pursue democratic reforms.

106. After a few weeks of uncertainty, the political situation seemed fairly calm and an interim institutional stability is now making it possible to move towards the first democratic elections to the Constituent

Assembly. That this calm is relative and fragile, however, was shown by the riots in Tunis from 5 to 10 May 2011.

107. In the space of a few weeks, the transition authorities succeeded in preparing the legislative framework for the elections to the Constituent Assembly and deciding on the establishment of a body which will be responsible for the whole electoral process. Although Tunisian political players are not unanimously in favour of the draft electoral legislative decree, it represents an important step forward in relation to the legal void that obtained after the revolution. At the same time, the material organisation of the elections is extremely complicated, and the authorities may find it difficult to keep to the date announced for the ballot. The quality of the preparation of the elections should, in my opinion, take precedence over the timetable.

108. The economic and social situation has deteriorated, however, and there is a danger that it could be exploited on the eve of the elections, given the impatience of those who fought for freedom. The conflict in neighbouring Libya and the issue of irregular Tunisian migrants to Europe are further complicating the situation in the country and its relations with Europe.

109. After the election of the Constituent Assembly, Tunisia will have to draft and implement a vast programme of reforms in a great many areas of political, legal and social life. The experience of democratic transition in Europe could serve as a source of inspiration and prove useful in setting priorities for the reforms.

110. The Parliamentary Assembly and other Council of Europe authorities should continue to follow political developments in Tunisia and remain available to the Tunisian partners in order to offer them their experience and expertise in European democratic transition, without presuming to impose solutions. The Tunisians' wish to maintain control of the construction of Tunisian democracy must be fully respected.

111. Consultation and co-ordination among international bodies are essential in order to ensure that assistance is effective.