In the name of the People

The National Constituent Assembly (NCA) having adopted

The President of the Republic promulgates the Organic Law, which reads as follows:

TITLE I - General Provisions

Article 1 There shall be established an independent public body called the "National Authority for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" with shall enjoy legal personality and administrative and financial autonomy. The Authority shall be headquartered in Tunis and shall hereinafter be referred to as "the Authority".

Art. 2 For the purposes of this organic law, the following terms shall mean:

- Deprivation of liberty: Any form of detention, arrest, imprisonment or placement of a person, on orders or at the instigation of, or with the consent or acquiescence of a judicial or administrative authority or any other authority.
- Places of detention: This term shall refer to any premises placed or which may be placed under the jurisdiction of the Tunisian State or under its control or which are established following its approval and in which persons deprived of their liberty are placed at the behest of a public authority or its instigation, or with consent or acquiescence.

The following shall be considered places of detention:

1. Civilian prisons,
2. Rehabilitation centers for juvenile delinquents,
3. Juvenile accommodation and monitoring centers
4. Custody centers
5. Psychotherapy institutions
6. Accommodation centers for refugees and asylum seekers
7. Immigrant centers
8. Guardianship centers
9. Transit zones in airports and ports
10. Discipline centers
11. The means used for the transport of persons deprived of their liberty

TITLE 2 - The Authority

Chapter 1 - Missions and powers of the Authority

Art. 3 The main tasks of the Authority shall be:

1. Conduct periodic, regular and unannounced visits without prior notice and at any time chosen at places of detention where there are or may be persons deprived of liberty
2. Ensure that there is specific protection for persons with disabilities in the reception centers referred to in Article 2 of this organic law,
3. Ensure that there exist no torture and other cruel, inhuman or degrading treatment or punishment

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in places of detention and monitor the compatibility of conditions of detention and enforcement with international human rights standards as well with the national legislation.

4. Receive complaints and notifications concerning possible cases of torture and other cruel, inhuman or degrading treatment or punishment in places of detention, investigate such cases and refer them, as appropriate, to the competent administrative or judicial authorities.

5. Give its opinion on texts of draft laws and regulations relating to the prevention of torture and degrading treatment received from the competent authorities.

6. Provide recommendations to prevent torture and contribute to the monitoring of their implementation.

7. Adopt, in coordination with the parties concerned, the general guidelines for the prevention of torture and other cruel, inhuman or degrading treatment or punishment in places of detention and the mechanisms by which they may be detected.

8. Create a database while ensuring the collection of data and statistics in order to use it in the accomplishment of the tasks assigned to the Authority.

9. Contribute to raising the awareness of the society against the risks of torture and other cruel, inhuman or degrading treatment or punishment, through awareness campaigns, conferences and seminars, publications and guides, the organization of training sessions as well the supervision of training programs in its field of competence.

10. Carry out and publish research, studies and reports relating to the prevention of torture and degrading treatment as well as support other bodies in doing so.

11. Submit its annual report to the President of the Republic, the Head of Government and the President of the Assembly in charge of legislative power, as well as its publication on the website and in the Official Gazette of the Republic of Tunisia.

**Art. 4** - In the exercise of its functions, the authority shall have the power to:

1. Obtain all possible administrative facilitation,
2. Access all information about places of detention, their numbers and sites, as well as the number of persons deprived of their liberty,
3. Access all information relating to the treatment of persons deprived of their liberty as well as the conditions of their detention,
4. Access all places of detention, their facilities and equipment,
5. Conduct interviews in private with persons deprived of liberty or any other person who can provide information, without the presence of witnesses either personally or, as the case may be, through a sworn interpreter.

**Chapter 2 - Composition of the Authority**

**Art. 5** - The Authority shall consist of sixteen (16) members as follows:

- Six (6) members representing the relevant civil society organizations and associations for the defense of human rights,
- Two (2) university professors specializing in the social field,
- One (01) member specializing in the protection of children,
- Two (2) members representing lawyers,
- Three (3) members representing physicians, one of whom must be a psychiatrist
- Two (2) retired judges.

**Art. 6** - The requirements for applying to the membership of the Authority are as follows:

1. Be a Tunisian national
2. Be at least 25 years of age
3. Be honest, independent and impartial
4. Not be convicted for bankruptcy by a final judgment or revoked or removed
   a. from office for any reason contrary to honor,
5. Not be a member in the legislature during the term in which the application was submitted,

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6. Not to have assumed any responsibility within the dissolved Democratic Constitutional Party, or to have called upon the deposed president of the Republic to stand as a candidate for a new presidential term, to have assumed a responsibility in the government, or to have held the position of Governor, general secretary of a governorate or delegate under the government of the deposed president.

**Art. 7** The plenary meeting of the Assembly in charge of legislative power shall select the members of the Authority from among the candidatures submitted to the specialized committee within the aforementioned Authority in accordance with the following modalities and procedures:

- Six (6) of the eighteen (18) candidates chosen by the commission from among the candidates who have assumed responsibility for at least two years in organizations and associations that defend human rights,
- Two (2) members from among six (6) candidates chosen by the commission from among the academics specializing in the social field,
- One (1) member from among three (3) candidates chosen by the commission from among child protection specialists,
- Two (2) retired judges from among six (6) candidate judges chosen by the commission,
- Two (2) lawyers from among six (6) lawyers chosen from among the candidates who are not members of the Bar Association,
- Three (3) doctors, one of whom must be a psychiatrist from among nine (9) doctors chosen by the commission, three of whom must necessarily be psychiatrists.

Candidature for the membership of the Authority shall be opened by decision of the chairman of the specialized committee within the assembly in charge of legislative power, published in the Official Gazette of the Republic of Tunisia. The decision shall specify the deadline and procedure for submitting applications and the conditions to meet.

The Commission shall select the candidates by a majority of three fifths of its members.

The chairman of the committee shall transmit to the plenary meeting of the legislative assembly a list comprising the names of the candidates arranged in alphabetical order on the basis of parity in selection in accordance with the provisions of this article in order to select the members by a majority of the members by secret uninominal ballot.

Candidates with the highest number of votes shall be retained according to their ranking. In case of equality of votes, the eldest candidate shall be retained.

Multiple office holding and the performance of a function in a political party or the legislative assembly shall not be allowed.

Any member who has presented false data shall be removed from office.

**Art. 8** - The elected members shall meet in a first meeting which shall be chaired by the oldest member to choose the chairperson of the Authority by consensus and, failing that, by election, by an absolute majority of the members. In case of equality, the eldest member shall be chosen.

**Art. 9** - The Chairperson and the members of the Authority shall be appointed by decree for a non-renewable term of six (06) years.

Before taking office, the chairperson and members shall take the following oath before the Head of Government: "I swear by God the Almighty that I will perform my duties with loyalty, honor and independence and preserve professional secrecy."

**Art. 10** – Half the members of the Authority shall be made renewed every three (03) years.

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The chairperson of the Authority shall notify the legislative assembly of the list of members to be renewed and the date of the end of their term of office, three months before the expiry of their term of office.

The members whose term of office has expired shall continue to perform their functions until the new members take office.

**Chapter 3 – Safeguards for the proper operation of the Authority**

**Art. 11** – The members of the Authority shall be considered an administrative authority. However, any assault against one of them shall be punishable in accordance with the provisions of Article 82 of the Criminal Code.

**Art. 12** – The members of the Authority shall enjoy immunity.

Neither the Chairperson nor any member of the Authority may be prosecuted or arrested on account of opinions or acts relating to the exercise of their functions even after the expiry of their terms of office.

Neither the Chairperson nor any member of the Authority may be prosecuted or arrested for any crime as long as the Court has not lifted the immunity which covers them by a majority of its members.

However, in the case of flagrante delicto, he may be arrested. The Authority shall be informed of this arrest in a timely manner.

The detention shall be suspended if the Authority so requires.

Immunity shall be lifted following a special deliberation of the Authority after the person is summoned to attend his hearing on the basis of a request from the judicial authority submitted with the case file.

**Art. 13** – The authorities concerned may object to a periodic or unannounced visit to a specific location only for pressing and compelling reasons related to national defense, public security, natural disasters or serious disturbances at the site of the visit which would temporarily prevent the visit from being carried out. The objection shall be notified by means of a reasoned written decision which must be transmitted immediately to the chairperson and which shall mention compulsorily the duration of the provisional ban.

Any person who transgresses the provisions of the preceding paragraph of this Article shall be liable to disciplinary proceedings.

**Art. 14** – While respecting the legislation on the protection of personal data, no person may be prosecuted for providing information or disclosing secrets relating to torture or the perpetrator.

**TITRE 3 – Operation of the Authority**

**Chapter 1 – Resources**

**Art. 15** – The Authority's financial resources shall be made up of annual funds allocated from the State budget.

The rules for orders to pay and bookkeeping of the Authority shall not be subject to the Code of public accounting.

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The Authority shall appoint a statutory auditor for a four (4) year non-renewable term, chosen from among the statutory auditors chartered with the Association of Chartered Accountants of Tunisia.

The financial accounts of the Authority shall be subject to ex post audit by the Court of Auditors.

Chapter 2 – Powers of the Chairperson of the Authority

Art. 16 – The Chairperson of the Authority shall oversee its work, chair its meetings, represent it with third parties, safeguards its documents and shall act as the Authority's authorizing officer. Within the framework of the powers entrusted to the Chairperson, he shall exercise the following prerogatives:

1. The administrative and financial supervision of the Authority and its personnel,
2. Supervise the drafting of the annual budget,
3. Oversee the development of the annual report of the Authority,

Based on the deliberation of the council, the Chairperson of the Authority may request the competent authorities to take appropriate protective measures in the event of a serious violation of the laws and regulations in force in the field of human rights.

The Chairperson may also delegate, in writing, some of his powers to his Vice-Chair or a member of the Authority.

Chapter 3 – Powers of the Authority

Art. 17 – The Authority shall exercise the following powers:

1. Select a secretary general of the Authority from among its members to report on its deliberations, Select, by consensus, a Vice-Chairperson from among its members in order to replace the Chairperson in case of impediment or absence, or failing that, by absolute majority vote,
2. Submit opinions on draft laws and regulations relating to the activities of the Authority,
3. Establish the organizational chart of the Authority in accordance with the provisions of Article 22 of this organic law,
4. Approve the Authority's budget,
5. Approve the rules of procedure of the Authority,
6. Approve the annual report of the Authority.

Chapter 4 – Conduct of the Authority

Art. 18 – The Authority shall meet following a summons of its chairperson or one-third (1/3) of its members, at least once a month and whenever necessary.

The meetings of the Authority shall be chaired by its chairperson or by the vice-chairperson.

The Chairperson may invite any person whose attendance at the meetings of the proceedings is deemed necessary in view of his or her competence in relation to the items on the agenda, without being entitled to vote.

The Chairperson shall set the agenda of the meetings.

The proceedings of the Authority shall be held in camera in the presence of half of its members at

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minimum.

In the absence of the quorum required during the first meeting, the chairperson shall convene a second meeting within a period of one week, in which case the meeting shall be valid irrespective of the number of members present.

The Authority's decision shall be taken by consensus and, failing that, by a majority vote of the members present and in case of a tie, the decision of the chairman shall prevail.

Art. 19 – The Chairperson of the Authority and its members may not participate in its deliberations in a matter that concerns a person who has an interest or family tie or alliance to the fourth degree with one of them.

The Chairperson of the Authority and its members shall be required to declare at any time any conflict of interest or any circumstances where they no longer meet one or more of the requirements for membership in the Authority as provided for in this organic law.

Any natural or legal person with an interest may object to the chairman of the Authority or to its members in writing.

Art. 20 The Legislative Assembly shall fill vacancies on account of death, resignation, revocation or absolute incapacity following a request of the Chairperson or at least half of its members, in accordance with the procedures provided for in this organic law.

The Authority shall note the vacancy which shall not exceed three months and shall record it in a special report which shall be submitted to the President of the Legislative Assembly.

Chapitre 5 – Miscellaneous provisions

Art. 21 – The benefits and privileges of the Chairperson of the Authority and those of its members who perform their duties on a full-time basis shall be determined by decree to be published in the Official Gazette of the Republic of Tunisia.

The Chairperson and the general secretary of the Authority shall be required to perform their duties on a full-time basis.

Art. 22 – The special statute of the personnel of the Authority shall be set out by decree. This statute may derogate from certain provisions of Law No. 83-112 of 12 December 1983 laying down the general regulations governing employees of the State, local authorities and public establishments of an administrative nature which are not appropriate to the nature of the duties of the Authority's personnel.

The organizational chart of the Authority shall be approved by decree.

Art. 23 – Any member of the Authority shall have to keep professional secrecy in all matters relating to documents or data or information concerning cases within the scope of the Authority. Similarly, he or she shall not use the information for any purpose other than that required by the duties entrusted to him or her, even after the expiry of his or her duties.

Art. 24 – The new paragraph 4 added to Article 5 of the Code of Criminal Procedures shall be repealed as provided for in Article 3 of Legislative Decree No. 2011-106 of 22 October 2011 and replaced by the following provisions:

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Public prosecution of crimes of torture shall not be subject to the statute of limitations.

**Art. 25** – By virtue of this organic law, the National Constituent Assembly shall ratify decree-law no. 2011-5 of 19 February 2011 approving the accession of the Republic of Tunisia to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

**TITLE 4 – Transitional Provisions**

**Art. 26** – Contrary to the provisions of Article 10 of this organic law, half of the Authority shall be renewed during the first term and at the end of the third year of the said mandate, as determined by drawing lots according to the method and under the conditions laid down in this organic law.

The chairman of the Authority shall not be concerned by the renewal of half of the members.

**Art. 27** – The Committee on Rights, Freedoms and External Relations in the National Constituent Assembly shall be deemed to be the specialized committee within the meaning of the provisions of Article 7 of this organic law.

This organic law shall be published in the Official Gazette of the Republic of Tunisia and implemented as a law of the State.

**Tunis, 23 October 2013.**