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## Forty Second Ordinary Session

14 - 28 November 2007 Brazzaville, Republic of Congo

### Consideration of Reports submitted by State Parties under the Terms of Article 62 of the African Charter on Human and Peoples' Rights

#### Concluding Observations and Recommendations on the Consolidated Periodic Report (1995-2006) of the Republic of Tunisia

##### I- Introduction

1. The Republic of Tunisia (Tunisia) is a State Party to the African Charter on Human and Peoples' Rights (the African Charter) having ratified it on 6 August 1982, under the terms of its Law n° 82-64.
2. The report submitted and examined at the 42<sup>nd</sup> Ordinary Session of the African Commission on Human and Peoples' Rights (the African Commission) held from the 14 to 28 November 2007, in Brazzaville, Congo was a follow-up to the initial and periodic reports presented by the Tunisian delegation, led by **Mr. Ridha Khemakehem**, General Coordinator of Human Rights at the Ministry of Justice and Human Rights in Tunisia.

3. The African Commission notes with satisfaction the submission of this Periodic Report by Tunisia, as well as the atmosphere in which the Report was presented and the constructive dialogue it had with the delegation.
4. These Concluding Observations, which are the outcome of the presentation and consideration of the above-mentioned report, highlights the positive aspects noted in the report, as well as the areas of concern, which from the African Commission's point of view, require corrective measures.
5. These concluding observations also contain recommendations to the areas of concern where measures need to be taken with the view to strengthen the enjoyment of human rights in Tunisia in general, and guarantee the rights prescribed by the African Charter in particular.

## **II- Positive Aspects**

The African Commission:

6. Notes with satisfaction the fact that the Constitution of Tunisia, as amended by Constitutional Law n° 2002-51 of 1 June 2002, introducing substantial reforms in the fundamental law of the State, approves the notion of inseparability, indivisibility and complementarity of all human rights.

7. Finds it encouraging that the Report alludes to the principal legislative measures taken by Tunisia during the period under review, from 1995 to 2006<sup>1</sup>, in order to strengthen the implementation of the African Charter.
8. Takes note of the fact that Tunisia has ratified specifically:
- The International Covenant on Economic, Social and Cultural Rights,
  - The International Covenant on the Elimination of All Forms of Racial Discrimination,
  - The Convention on the Prevention and Punishment of the Crime of Genocide,
  - The Convention on the Non-Applicability of Statutory Limitation to War Crimes and Crimes against Humanity,
  - The Convention on the Elimination of All Forms of Discrimination against Women,
  - The Convention on the Rights of the Child, and
  - The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
9. Lauds the efforts made by Tunisia in going beyond the promulgation of laws to consolidate human rights and for having engaged in sensitization activities to change the mentality and behaviour of its population in order to promote the emergence of a conducive environment for the development of human rights; an option which found expression in both the introduction of education on human rights and the teaching of the culture of human rights in primary and secondary schools including

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1. Since the presentation of the Second and Third Periodic Reports of Tunisia during the 18<sup>th</sup> Ordinary Session of the African Commission.

higher educational and specialized institutions. These include institutions that provide training for State officials among which are the Advanced Institute for Judicial Studies, the School of Administration, the National Security Agencies Training School and the Advanced Training Institute for Prison Administrators. Likewise, the training on the popularization of human rights appears to be developing into an essential component of the educational system in Tunisia.

10. Is encouraged, as far as the implementation of the right to development is concerned, by the efforts made by Tunisia which made it possible for the State to be classified among States recognized by the **United Nations Development Programme** (UNDP) in its Human Development Reports as being among the group of countries which guarantee harmonious human development for its citizens, taking into consideration both quantitative and qualitative criteria, namely: education, employment, social security, health care, shelter and food on the one hand, and freedom and democracy in all forms, on the other.
11. Commends the existence of political pluralism through the recognition of nine political parties, a situation that reflects the political will to consolidate the pluralist democratic process and the effectiveness of the legal mechanisms that have been put in place.

### **III- Areas of Concern**

While recognising the efforts of Tunisia to promote and protect human rights and to create awareness on the principles and provisions of the African Charter, the African Commission remains concerned that:

12. Some Non-Governmental Organizations (NGOs) do not appear to be enjoying the various legislative measures put in place by Tunisia within the context of the implementation of the provisions laid down in the African Charter.
13. Tunisian women also do not seem to benefit from the measures that could facilitate their access to higher decision-making positions.
14. There are no practical measures corresponding to the legislative measures needed to give effect to the provisions of the African Charter.
15. The Report makes no mention of the process that led to its preparation.
16. The Report makes reference to several legislative measures but is silent on practical steps taken to implement these measures.
17. The Report does not make any reference to concrete measures needed to enjoy the right to defence.
18. The Robben Island Guidelines, the death penalty, legislative measures relating to torture and arbitrary detentions were not discussed in the Report.
19. The issue of rights of the older persons is not addressed in the Report.
20. No mention is made in the Report as to the measures taken by the Government to ensure access to free medical care.

21. The number of people benefiting from adult education in Tunisia is not specified in the Report, including the absence of any statistical data on the policy on this issue.
22. The report does not give any information on human rights defenders.
23. The non-availability of information on the independence of the Judiciary.
24. No reference is made to the prevalence of HIV/AIDS and the appropriate steps taken to fight against the pandemic.
25. The report does not make any reference to the provisions outlined to ensure the ratification of the following instruments:
  - The African Charter on the Rights and Welfare of the Child;
  - The African Convention on the Conservation of Nature and Natural Resources;
  - The Convention for the Establishment of the African Centre for Fertilizers Development;
  - The African Union Convention on Preventing and Combating Corruption;
  - The Inter-African Convention Establishing an African Technical Cooperation Programme;
  - The Agreement for the Establishment of the African Rehabilitation Institute (ARI).
  - The African Charter on Democracy, Elections and Governance.

#### **IV- Recommendations**

The African Commission urges the Government of Tunisia to:

26. Create an inter-ministerial team that includes all stakeholders, especially members of civil society for the purpose of preparing and writing periodic Reports;
27. Take practical measures to implement the legislative measures mentioned in the Report;
28. Take all relevant measures to ensure compliance with the right to defence;
29. Incorporate the Robben Island Guidelines into national legislation and take measures to fight against torture, inhuman and degrading punishments as well as arbitrary detentions;
30. Institute appropriate legislative measures with the view to ensuring effective abolition of the death penalty;
31. Put in place concrete measures to ensure that women gain access to and are represented at the high-ranking positions of the Tunisian Government;
32. Incorporate into Tunisian national legislation the rights of Older persons and people with disabilities;
33. Facilitate access to free medical care for as many people as possible;

34. Pursue the adult education policy and provide disaggregated statistics;
35. Provide information in the next Periodic Reports on the situation of human rights defenders in Tunisia, and more precisely on Non-Governmental Organizations which are active in Tunisia;
36. Take all the appropriate measures with the view to ensuring that the independence of the Judiciary is effective in Tunisia;
37. Take all relevant steps to determine the level of prevalence of HIV/AIDS and provide information on the results obtained at the national level;
38. Take appropriate measures for the ratification of human rights instruments that Tunisia has not yet ratified /acceded to.
39. Requests that Tunisia, in its next Periodic Report in 2009, inform the African Commission of the steps it has taken to address the areas of concern, as well as how it has implemented the recommendations in this Concluding Observations.

**Done in Brazzaville, Republi of Congo on 28 November 2007**