

TUNISIA

Follow-up - State Reporting

i) Action by Treaty Bodies

CCPR, A/64/40, vol. I (2009)

VII. FOLLOW UP TO CONCLUDING OBSERVATIONS

237. In chapter VII of its annual report for 2003,²⁰ the Committee described the framework that it has set out for providing for more effective follow up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/63/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2009.

238. Over the period covered by the present annual report, Sir Nigel Rodley acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-fourth, ninety-fifth and ninety-sixth sessions, he presented progress reports to the Committee on inter-sessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

239. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.²¹ Over the reporting period, since 1 August 2008, 16 States parties (Austria, Barbados, Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, France, Georgia, Honduras, Hong Kong Special Administrative Region (China), Ireland, Libyan Arab Jamahiriya, Madagascar, Tunisia, Ukraine and United States of America), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow up procedure. Since the follow up procedure was instituted in March 2001, 11 States parties (Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Panama, Sudan, the former Yugoslav Republic of Macedonia, Yemen and Zambia) have failed to supply follow up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.²²

240. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow up responses provided to it, decided before 1 August 2008 to take no further action prior to the period covered by this report.

241. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Gambia, Equatorial Guinea).

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Ninety-second session (March 2008)

State party: Tunisia

Report considered: Fifth periodic (due since 4 February 1998), submitted on 14 December 2006.

Information requested:

Para. 11: Investigation of all allegations of torture and cruel, inhuman or degrading treatment or punishment by an independent authority; prosecution and punishment of perpetrators and their hierarchical superiors; compensation for victims; improvement of training of public officials; statistical data on complaints about torture (arts. 2 and 7).

Para. 14: Commutation of all death sentences; consider abolishing the death penalty and ratifying the second Optional Protocol to the Covenant (arts. 2, 6 and 7).

Para. 20: Measures to put an end to acts of intimidation and harassment of human rights organizations and defenders; investigation of reports about such acts; ensure compatibility with articles 19, 21 and 22 of the Covenant of any restrictions imposed on the right to peaceful assembly and demonstration (arts. 9, 19, 21 and 22).

Para. 21: Ensure that independent human rights associations are registered and that they are provided with effective and prompt recourse against any rejection of the applications for registration (arts. 21 and 22).

Date information due: 1 April 2009

Date information received:

16 March 2009 Partial reply (para. 11: cooperative but information incomplete; para. 14: recommendations not implemented; paras. 20-21: receipt acknowledged but non-specific information).

Recommended action: A letter should be sent to request additional information and to state that the follow-up procedure with respect to certain issues is considered completed due to non-implementation and to ask the State party to report on these issues in its next periodic report.

Next report due: 31 March 2012

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20/ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40 (A/58/40), vol. I.*

21/ The table format was altered at the ninetieth session.

22/ As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Mali, Sri Lanka, Suriname, Namibia, Paraguay, and the Democratic Republic of the Congo.

CCPR, CCPR/C/SR.2709/Add.1 (2010)

Human Rights Committee
Ninety-Eighth session

Summary record (partial) of the 2709th meeting
Held at Headquarters, New York,
on Wednesday, 24 March 2010, at 10 a.m

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**Progress report of the Special Rapporteur for follow-up on concluding observations
(CCPR/C/98/2/CRP.1)**

1. **Mr. Amor**, speaking as Special Rapporteur for follow-up on concluding observations, introduced his report, which related to concluding observations the Committee had adopted from the eighty-fifth through the ninety-fourth sessions. He reviewed, country by country, the status of the response to the concluding observations and the action he had recommended to be taken in each case.

2. Again, the Committee was being handicapped by the lack of translation services. In a number of instances, information received from States parties still required translation, and he had recommended that it should be reviewed at the next session. Tunisia, having just submitted overdue information, now fell into that category and the report would have to be amended accordingly. On the other hand, the response of the United Nations Interim Administration Mission in Kosovo (UNMIK) had just been translated, and the report would be amended to recommend simply review at the next session. Furthermore, Sweden had just sent in its replies, well ahead of schedule, and would have to be included in the report as well, with a recommendation for review at the next session.

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11. *The recommendations contained in the report of the Special Rapporteur for follow-up on concluding observations, as orally amended, were approved.*

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CCPR, CCPR/C/SR.2738/Add.1 (2010)

Human Rights Committee
Ninety-ninth session

Summary record of the second part (public) of the 2738th meeting
Held at Palais Wilson, Geneva,
on Wednesday 28 July 2010, at 11:25 am

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Follow-up to concluding observations on State reports and to Views under the Optional Protocol

Report of the Special Rapporteur for Follow-up on Concluding Observations (CCPR/C/99/2/CRP.1)

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2. **Mr. Amor**, Special Rapporteur for Follow-up on Concluding Observations, said that, while he commended the excellent work of the secretariat, it was regrettable that the relevant staff did not have more time to devote to follow-up on concluding observations. At the Committee's request, he had undertaken to supply details of the contents of the letters sent to States parties concerning follow-up in which the Committee asked for further information, urged the State to implement a recommendation or, alternatively, noted that a reply was satisfactory.

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26. Mr. Rivas Posada said he understood Mr. Amor's reluctance to comment on Tunisia. On 14 December 2006, after a long delay, the State party had submitted its fifth periodic report, which had originally been due on 4 February 1998. Its next report would be due on 31 March 2012. In its concluding observations on the fifth report the Committee had requested further information, to be submitted by 1 April 2009, on paragraphs 11, 14, 20 and 21. The information received in reply, on 16 March 2009, was incomplete and unsatisfactory, and the State party had therefore been asked to clarify and supplement it. In its letter to the State party, the Committee had said that the follow-up on one of the paragraphs in question would be suspended although its recommendations had not been implemented. Some additional information had been received on 10 March 2010 but had not met the Committee's requirements. The recommended action was to send another letter, thanking the State party for its cooperation so far and explaining what further information was requested on paragraphs 11, 20 and 21. Particular importance was attached to paragraphs 11 and 20, which related to torture and the intimidation of human rights defenders. The letter to be sent to the State party should also highlight its compliance with some of the Committee's recommendations, and it should perhaps be a regular practice of the Committee, when communicating with States parties, to focus on positive outcomes of that kind.

27. **The Chairperson** proposed that the Committee should adopt the recommendation.

28. *It was so decided.*

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Chapter VII: Follow-up to Concluding Observations

203. In chapter VII of its annual report for 2003,¹⁶ the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report,¹⁷ an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2010.

204. Over the period covered by the present annual report, Mr. Abdelfattah Amor acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-seventh, ninety-eighth and ninety-ninth sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

205. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.¹⁸ Over the reporting period, since 1 August 2009, 17 States parties (Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, Denmark, France, Georgia, Japan, Monaco, Spain, the former Yugoslav Republic of Macedonia, Sudan, Sweden, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland and Zambia), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, 12 States parties (Australia, Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Nicaragua, Panama, Rwanda, San Marino and Yemen) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the preparation of the next periodic report by the State party.¹⁹

206. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, the report does not cover those States parties with respect to which the Committee has completed its follow-up activities, including all States parties which were considered from the seventy-first session (March 2001) to the eighty-fifth session (October 2005).

207. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Equatorial Guinea, Gambia).

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Ninety-second session (March 2008)

State party: Tunisia

Report considered: Fifth periodic (due since 4 February 1998), submitted on 14 December 2006.

Information requested:

Para. 11: Investigation of all allegations of torture and cruel, inhuman or degrading treatment or punishment by an independent authority; prosecution and punishment of perpetrators and their hierarchical superiors; compensation for victims; improvement of training of public officials; statistical data on complaints about torture (arts. 2 and 7).

Para. 14: Commutation of all death sentences; consider abolishing the death penalty and ratifying the second Optional Protocol to the Covenant (arts. 2, 6 and 7).

Para. 20: Measures to put an end to acts of intimidation and harassment of human rights organizations and defenders; investigation of reports about such acts; ensure compatibility with articles 19, 21 and 22 of the Covenant of any restrictions imposed on the right to peaceful assembly and demonstration (arts. 9, 19, 21 and 22).

Para. 21: Ensure that independent human rights associations are registered and that they are provided with effective and prompt recourse against any rejection of the applications for registration (arts. 21 and 22).

Date information due: 1 April 2009

Date information received:

16 March 2009 Partial reply (para. 11: cooperative but information incomplete; para. 14: recommendations not implemented; paras. 20-21: receipt acknowledged but non-specific information).

2 March 2010 Supplementary follow-up report received.

Action taken:

30 July 2009 (sent late) A letter was sent to request additional information and to state that the follow-up procedure with respect to certain issues is considered completed due to

non-implementation and to ask the State party to report on these issues in its next periodic report.

Recommended action: While taking note of the cooperativeness of the State party, the Committee should send a letter requesting additional information on certain questions: complaints of torture submitted to, and registered by, the authorities; number of compensation awards (para. 11); steps taken to protect the peaceful activities of human rights organizations and defenders, and information on investigations into allegations of intimidation (para. 20); and information on the registration of human rights associations (para. 21). The letter should also highlight the points on which the Committee considers that its recommendations have been implemented: training of law enforcement officials (para. 11).

Next report due: 31 March 2012

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¹⁶ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40*, vol. I (A/58/40 (vol. I)).

¹⁷ *Ibid.*, *Sixty-Fourth Session, Supplement No. 40*, vol. I (A/64/40 (vol. I)).

¹⁸ The table format was altered at the ninetieth session.

¹⁹ As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Austria, Brazil, Central African Republic, Democratic Republic of the Congo, Hong Kong (China), Mali, Namibia, Paraguay, Republic of Korea, Sri Lanka, Suriname and Yemen.

Follow-up - State Reporting
ii) Action by State Party

CCPR, CCPR/C/TUN/CO/5/Add.1 (2009)

Information received from Tunisia on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/TUN/CO/5)

[16 March 2009]

In keeping with Tunisia's commitment to cooperation with the Human Rights Committee ("the Committee"), and taking into account article 71, paragraph 5, of the Committee's rules of procedure and the recommendation in paragraph 23, in which the Committee requests the State party to provide within a year information on follow-up to the Committee's recommendations contained in paragraphs 11, 14, 20 and 21, Tunisia has the honour to transmit the following information, within the prescribed deadline, to the members of the Human Rights Committee.

I. RECOMMENDATIONS IN PARAGRAPH 11

The State party should:

(a) Ensure that all allegations of torture and cruel, inhuman or degrading treatment or punishment are investigated by an independent authority, and that the perpetrators of such acts, including their hierarchical superiors, are prosecuted and punished and that the victims receive reparation, including appropriate compensation.

The State's proactive policy of prosecution and punishment for any act of torture or ill treatment has recently been strengthened by a series of measures that take due account of the Committee's recommendations. These include:

- The promulgation of Act No. 2008-21 of 4 March 2008 amending Act No. 87-70 of 26 November 1987, which requires public prosecutors and investigating judges to provide written reasons in fact and in law for any decision to extend the length of police custody or pretrial detention
- The promulgation of Act No. 2008-75 of 11 December 2008, whose aim is to strengthen the guarantees afforded to accused persons, improve the situation of inmates and ease conditions relating to rehabilitation
- The adoption of a circular issued by the Ministry of Justice and Human Rights, addressed to State and public prosecutors, which directs the attention of the prosecuting authorities to the need for systematically investigating all allegations of torture or ill treatment

All acts of torture and cruel, inhuman or degrading treatment are investigated, prosecuted and punished.

In this connection, and based on action by the prosecuting authorities, judicial

proceedings were brought against four law enforcement officials suspected of having mistreated a prisoner while in police custody and of causing the prisoner's death. After having been found guilty of the charges against them, two of these officials were sentenced, each to 20 years' imprisonment, for aggravated assault and battery causing unintentional death, and the other two were sentenced as accomplices of the offence to 15 and 10 years' imprisonment, respectively. (Sentence delivered by the Tunis Court of Appeal on 6 March 2009.)

In another judicial decision delivered by the First Instance Court of Gafsa on 6 February 2008, five police officers were sentenced to six months' non-suspended imprisonment for the unlawful use of violence against prisoners in the discharge of their duties.

Furthermore, it should be noted that, in response to the recommendation of the Committee, a database of judicial decisions relating to abuse of power, violence, ill-treatment and torture was set up in the offices of the Human Rights Coordinator. This database will make it possible to produce disaggregated data on the various forms of abuse, as well as to keep track of the number of complaints filed against law enforcement officials. Tunisia's upcoming periodic reports to the United Nations treaty bodies will reflect this effort.

(b) Improve the training of public officials in this area.

Tunisia accepts the Committee's recommendation and, in this respect, has stepped up its efforts to improve training for public officials in the humane treatment of persons deprived of their liberty. Joint meetings have been organized with all actors concerned with a view to increasing the number of hours of instruction in both human rights and international humanitarian law and to overseeing the content of the relevant training courses, which primarily concern respect for international norms in this area, obligations arising under international and regional conventions ratified by Tunisia and the recommendations issued by the various treaty bodies.

In this context, several judges and lawyers working in human rights organizations have been entrusted with teaching courses at the Higher Institute of the Judiciary, the Higher Institute for Lawyers, the Advanced Prison Administration Training College, the Advanced Training College for National Security Officers and the National Training College for Prison Staff.

In addition, and as a result of cooperation between Tunisia and the International Committee of the Red Cross (ICRC), training sessions were organized in 2008 with the assistance of ICRC experts, in particular, at the Advanced Prison Administration Training College.

Tunisia undertakes to provide precise statistical data on this subject in its next report to the Committee, noting developments and significant progress made in this area.

II. RECOMMENDATION IN PARAGRAPH 14

The State party should take the necessary measures to commute all death sentences as

soon as possible. The State party should consider abolishing the death penalty and ratifying the second Optional Protocol to the Covenant.

As it indicated previously when presenting both its fifth report to the Human Rights Committee (CCPR/C/TUN/5) and its country report to the Human Rights Council under the Universal Periodic Review (A/HRC/WG.6/1/TUN/1), Tunisia will continue to uphold its moratorium on the death penalty, which has been in effect since 1991.

The question of the commutation of death sentences to prison terms is under consideration. Moreover, the Centre for Legal and Judicial Studies of the Ministry of Justice and Human Rights has been entrusted with preparing a specific study on this subject. Meanwhile, steps continue to be taken on a case-by-case basis in order to commute the death sentences of death row inmates to prison sentences.

III. RECOMMENDATION IN PARAGRAPH 20

The State party should take steps to put an end to acts of intimidation and harassment and to respect and protect the peaceful activities of human rights organizations and defenders. Reports of acts of intimidation and harassment should be investigated without delay. The State party should ensure that any restrictions imposed on the right to peaceful assembly and demonstration are compatible with the provisions of articles 19, 21 and 22 of the Covenant.

Tunisia reiterates the position previously expressed in both its fifth periodic report and its replies to the list of issues (CCPR/C/TUN/Q/5 and Add.1) received in connection with the report. It bears repeating that the Tunisian authorities have always promoted and protected all activities relating to the defence of human rights and that they take steps to ensure that human rights defenders and NGOs are afforded the proper legal framework in which to advance their goals.

Tunisia continues to pay close attention to this question; it safeguards all citizens from acts of intimidation or harassment and protects the peaceful activities of human rights organizations and defenders. Tunisia is committed to addressing any discrepancies that might arise in this area and will systematically bring legal proceedings against anyone who violates the right of all citizens to live in security or who hinders the full enjoyment of their rights.

IV. RECOMMENDATION IN PARAGRAPH 21

The State party should ensure that such organizations are registered, and they should be provided with effective and prompt recourse against any rejection of their applications.

It is appropriate, first of all, to state that the promotion of civil society is a permanent and irreversible component of Tunisian public policy. As explained in Tunisia's previous report, the right to establish an association is guaranteed by the Constitution and is regulated by law. Tunisia intends to expand the scope of this protection to the fullest extent by ensuring that any rejection of an application for registration by an association is subject to the full range of guarantees of fact and of law. It is important to recall that the rejection of an application may be referred to the competent courts without requiring any particular formality.

Attention should be drawn to the need to make all interlocutors, including the Committee, aware of the real threats posed by the increase in all forms of terrorism, extremism, fanaticism, intolerance, racism, xenophobia and religious defamation. Many countries are currently being subjected to these types of situations. The various aspects of this issue are not always easy to reconcile, and in this connection, Tunisia is trying to strike the correct balance, free from all subjectivity and arbitrariness. It should also be noted that these issues are currently the subject of debate both at government level and in the society at large. Tunisia will endeavour to include in its next report any further information that might be helpful to the Committee.

CCPR, CCPR/C/TUN/CO/5/Add.2 (2010)

Information received from Tunisia on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/TUN/CO/5)

[17 March 2010]

1. At the outset, Tunisia wishes to underline the importance that it attaches to increasing its operation with the Human Rights Committee, as was explicitly affirmed, at the highest level, when Tunisia presented its fifth periodic report to the Committee on 17 and 18 March 2008. In responding, in this document, to the Committee's request for further information on certain paragraphs of the concluding observations issued by the Committee following its consideration of the report, Tunisia affirms that it stands ready to provide the Committee with further information in its next report. The request for additional information pertains to the following paragraphs.

Recommendation, paragraph 11

The State party should:

- (a) Ensure that all allegations of torture and cruel, inhuman or degrading treatment or punishment, not just allegations about violence, are investigated by an independent authority, provide detailed information on the prosecution and punishment of the perpetrators of such acts, including their hierarchical superiors, and ensure that the victims receive reparation, including appropriate compensation;
- (b) Improve the training of public officials in this area.

Reply

2. In addition to the information which Tunisia has already provided about this paragraph, stressing that all State institutions give paramount importance to protecting the physical and mental integrity of individuals and deal very firmly with law enforcement officers guilty of misconduct, abuse of authority or acts of torture or other cruel, inhuman or degrading treatment, Tunisia wishes to point out that the pursuit of this resolute State policy is driven by a desire on the part of the public authorities to strengthen the effectiveness of national and international mechanisms to monitor detention facilities and prisons, to prosecute officials guilty of torture or other cruel, inhuman or degrading treatment, to ensure that victims receive redress, including appropriate compensation, and, lastly, to continue efforts to improve the training of law enforcement officers.

- (a) Continued efforts to strengthen the effectiveness of national and international mechanisms to monitor detention facilities and prisons.

3. With a view to preventing all forms of ill-treatment, national and international mechanisms

to monitor detention facilities and prisons continue to be strengthened, in particular by the following means:

- The Chairman of the Higher Committee for Human Rights and Fundamental Freedoms has continued to carry out surprise visits to prisons and detention facilities to assess prisoners' conditions and treatment. Moreover, working groups including the Chairman of the Higher Committee and legal experts who are known for their competence and integrity have been established to monitor prison conditions and report back to the Head of State.
- The International Committee of the Red Cross (ICRC) has continued to visit prisons under the terms of the agreement it concluded with the Tunisian Government in 2005.
- Cooperation has been instituted between the Tunisian Association for the Rehabilitation of Former Prisoners and prison social services to help rehabilitate prisoners and reintegrate them into society.
- The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism visited Tunisia from 22 to 26 January 2010. The Special Rapporteur made several visits to the country's largest prison, where he was able to learn about the conditions of a number of inmates at first hand. He also visited a detention facility and the headquarters of an association for victims of terrorism. He spoke to a number of victims of terrorist crimes and to many officials and representatives of civil society.

(b) Prosecuting officials who perpetrate offences.

4. The Tunisian courts continue to punish illegal acts and practices and have no hesitation in prosecuting, trying and convicting individuals proven to have inflicted ill-treatment or to have abused their authority and impose stiff penalties on the perpetrators of such offences, commensurate with the gravity and nature of the offence. Court judgements issued in this regard include the following:

- Tunis Court of Appeal judgement No. 10372 of 2 February 2007, by sentencing a police station chief, in accordance with article 101 of the Criminal Code, to pay a fine of 500 Tunisian dinars for the offence of violence committed by a public official while on duty

5. The acts in this case occurred on 23 March 2006, when B.L., who had been arrested together with several young people, suffered a broken hand after being violently assaulted by the chief of the El-Ouardia police station:

- Tunis Court of Appeal judgement decision No. 12494 of 3 March 2009, convicting four police officers of ill-treatment leading to the death of a person in custody. Two of the officers were each sentenced to prison terms of 20 years for assault and battery causing unintentional death. The other two officers were sentenced as accomplices to terms of 15 and 10 years' imprisonment respectively.

6. The acts in this case occurred when an altercation broke out between M.S. and police officers in the town of Soliman after the former refused to pay for drinks he had consumed at the Medi Sea Hotel. The officers sprayed him with gas and assaulted him, before tying him up and placing him in a car. These actions led to the victim's death:

- Monastir Court of Appeal judgement No. 1579 of 11 June 2009, convicting two police officers of committing acts of violence while on duty. The officers in question were each sentenced to two years' imprisonment.

7. The acts in this case occurred when F.B. was assaulted by a police officer in a nightclub at the Cap Serail Hotel: the officer had led the victim's female companion away in order to talk to her and when F.B. attempted to pull her away, the officer had attacked him before handcuffing him and his friend. The officer then beat both F.B. and his friend all over their bodies with a truncheon and bundled them into an official car.

8. The following table shows the number of police officers, during the period from 1999 to September 2009, who were prosecuted for ill-treatment to whom final judgements were handed down.

Year	<i>Number of Officers</i>
1999	4
2000	5
2001	2
2002	3
2003	9
2004	27
2005	33
2006	29
2007	43
2008	32
2009 (until 25 September)	41
Total	228

9. The term "ill-treatment" does not refer only to offences involving violence, but includes the following:

- Abuse of authority, accompanied by violence
- Use of violence by public officials during the performance of their duties
- Use of violence against suspects to extract confessions
- Arbitrary arrest and detention
- Miscellaneous forms of abuse of authority and ill-treatment

10. It should be noted that prosecutions and convictions in such cases are without prejudice to any other disciplinary action which the authorities may deem necessary to take against their officers in accordance with the principle that a criminal and disciplinary offence attracts dual penalties. The perpetrators of such offences generally face disciplinary proceedings for dismissal.

11. The table below shows the number of officers removed from their posts between 1999 and September 2009, in accordance with article 53 of the statute of the internal security forces, after being prosecuted for ill-treatment

Year	<i>Number of Officers</i>
1999	1
2000	1
2001	-
2002	7
2003	2
2004	4
2005	2
2006	-
2007	-
2008	1
2009 (until 25 September)	-
Total	18

(c) Ensuring that the victims receive redress, including appropriate compensation.

12. Under Tunisian law, the victim of an offence has the right to bring an action for appropriate compensation against the perpetrator of that offence. The victim can either sue for damages in the criminal proceedings or file a separate civil suit.

13. Examples of cases brought before the Tunisian courts include one heard by the Tunis Court of Appeal in 2002, where four prison officers had shackled the legs of a recalcitrant prisoner and the victim's feet had become gangrenous and had had to be amputated. The court sentenced each of the four officers to 4 years in prison for abuse of authority, complicity in committing abuse of authority and the offence of carrying out a violent assault on an inmate while on duty leading to amputation of a limb.

14. In accordance with article 49 of the statute of the internal security forces (Act No. 70 of 6 August 1982), which stipulates that the authorities must afford victims the right to claim damages if an officer of the internal security forces is prosecuted for committing a wrongful act in or during the course of duty, the court ordered the Ministry of Justice, as represented by a State attorney, to pay the plaintiff M.A.M. the sum of D200,000 in compensation for physical injury, D100,000 for psychological injury and D6,000 in costs for artificial limbs to be fitted.

(d) Improving the training of law enforcement officers.

15. Tunisia attaches great importance to improving the training of law enforcement officers and places particular emphasis on the promotion of a human rights culture. Tunisia believes that education constitutes the principal means by which such a culture may be disseminated and behaviour may be changed for the better, since the effectiveness of laws and regulations (important as these may be) depends on the degree to which a human rights culture has been developed and promoted.

16. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and other international instruments pertaining to victims of abuse of power are taught in training schools for the security forces (the National Guard and the police), as well as in the Prisons and Rehabilitation Training School, the Higher Institute of the Judiciary and the Higher Institute for Lawyers.

17. As integration of information on the prohibition of torture into training courses for law enforcement officers is a key to disseminating a human rights culture, for some time now, efforts have been made to deepen and widen the integration process so as to reach all law enforcement officers, in particular officers from the Ministry of the Interior and Local Development and the Ministry of Justice and Human Rights.

18. In training schools for the security forces, in addition to awareness-raising and training courses, instruction on human rights and ethical conduct is integrated into basic, specialist and ongoing training for the different ranks, including cadres and police deputies. Similarly, the centre for training and retraining of staff from the Ministry of the Interior and Local Development plays an active role in disseminating a culture and awareness of human rights among staff of the Ministry. Trainees at the Higher Institute of Internal Security Forces are required, inter alia, to carry out research and studies on human rights. Subjects studied during the 2009 academic year included torture and degrading treatment as addressed in Tunisian law, legal

instruments on countering terrorism, a new and more progressive approach to the penalty of imprisonment, and the offences of trafficking women and children.

19. In recent years, the Ministry of the Interior and Local Development has organized numerous meetings and seminars on the subject of human rights, including:

- Scheduled talks and seminars as part of training courses and workshops run at training schools for the security forces at different levels
- Discussions on the theme of protecting human rights and public freedoms held during periodic seminars for district and regiment chiefs as well as meetings of brigade and police station chiefs
- Regional study days, held in conjunction with the judiciary, to raise awareness of procedures and new amendments to existing legislation
- Weeks exclusively devoted to human rights and awareness-raising sessions of national mechanisms for human rights protection, organized at the National School for Auxiliary Police Officers in Bizerte

20. Moreover, a guide to United Nations and national documents on human rights has been published, along with updates. The guide has been distributed as a work and reference tool to all law enforcement officers. The main international instruments in the guide include:

- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment
- Extracts from the Code of Criminal Procedure relating to the custody and treatment of detainees
- The Act on the organization of prisons
- The Code of Conduct for Law Enforcement Officials
- The Standard Minimum Rules for the Treatment of Prisoners
- The principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- The declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief
- The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
- The Basic Principles on the Role of Lawyers

21. The Ministry of Justice and Human Rights makes considerable efforts not only to administer justice, but also to provide human rights training and promote a culture of human rights, notably through the National School for Prisons and Rehabilitation. To this end, the Prisons and Rehabilitation Department has made human rights a core subject for all trainees taking basic training programmes for recruits, and for officers taking practical training courses. Moreover, numerous refresher courses have been held to improve the skills of prison officers, deepen their knowledge of, and familiarize them with, the latest developments in human rights. These courses have focused on the following themes:

- Rights and duties of prisoners and related regulations
- Treatment of prisoners
- Dialogue and communication skills

22. The Prisons and Rehabilitation Department has organized human rights awareness-raising days for public officials for its staff in all prisons and rehabilitation centres overseen by public administration cadres.

Recommendation, paragraph 20

Steps taken to ensure respect for and protect the peaceful activities of human rights organizations and defenders, and information on investigations of allegations of intimidation and harassment

Reply

23. At the outset, it should be emphasized that the Tunisian authorities encourage and protect human rights activists, and have established an appropriate legal framework within which they may conduct their human rights activities, whether they relate to individuals or organizations.

24. It should also be stressed that there are no special provisions of law on this matter, since the Criminal Code and the Code of Criminal Procedure contain general provisions affording equal protection to all citizens. Any measure designed to grant special legal protection to a given category of persons would, moreover, be contrary to the principle of equality enshrined in the Constitution.

25. It should likewise be underlined that no special practical measures have been taken in this regard; to do so would violate the principle of equality, by which all individuals should be treated alike.

26. The Tunisian authorities guarantee the rights of human rights activists and defenders and wish to draw the attention of the Human Rights Committee to the following.

First

27. Human rights activists and defenders must not use their position for personal gain or to engage in activities incompatible with the peaceful purposes and noble aims associated with human rights values and principles. If such a position is exploited, it loses its *raison d'être*, and the activist or human rights defender will be in a worse moral position than a lawbreaker who does not take on or is not attributed such a role.

28. The politicization of human rights by certain human rights defenders does not at all serve the cause of such rights. The State makes every effort to assist human rights activists and defenders to carry out their work and seeks to resolve problems or misunderstandings which arise, primarily through dialogue, eschewing all actions which may exacerbate matters.

Second

29. There is no doubt that human rights activists or defenders are capable of breaking the law by, *inter alia*, abusing their positions; they are not infallible. Hence, in keeping with the principle of equality of citizens, the status of human rights activists or defenders cannot be used as a pretext to shield such individuals from prosecution for any illegal actions they may perpetrate. In a State governed by the rule of law and respect for institutions, human rights activists or defenders, however important and noble their status, cannot be granted more rights than other citizens.

30. As the authorities in Tunisia are convinced that human rights defenders have a noble mission, however, they have pledged to promote their activities and to drive the human rights education process forward as it is key to ensuring that such activities flourish and achieve their worthy aims. It will, however, require patience and forbearance before everyone understands that defending human rights is not a matter of conflict between human rights activists and the authorities but rather is a constructive and ongoing development process in which human rights evolve continuously on the ground, in an atmosphere characterized by moderation and restraint.

Third

31. The Tunisian authorities attach as much importance to the communications concerning allegations of intimidation and harassment which are sometimes submitted by human rights workers as it does to complaints from individuals against human rights workers. Regardless of their provenance, all complaints and allegations are carefully considered by the various organs of the judiciary, including the Office of the Public Prosecutor, which investigates all cases referred to it, and the courts which rule on cases of both kinds.

Fourth

32. From the investigation conducted into allegations referred to the Office of the Public Prosecutor by persons claiming to work in human rights, it was concluded that the allegations were unfounded, or were based on misinformation or that persons found guilty in cases that were investigated had not been convicted because they were human rights advocates or on account of their activities in defence of human rights. This may be illustrated by the following two examples from Tunisian case law.

Example 1

33. In the first half of 2008, following the emergence of a protest movement in the town of Redeyef in the governorate of Gafsa, allegations were made to the Tunisian authorities that a number of trade union advocates and activists had been prosecuted and imprisoned for their human rights and union activities. However, when the matter was investigated, it was found that the individuals involved had come to an agreement to stir up civil disobedience. As a result, the civil trade union protest movement was transformed into a rebellion, and leaflets calling for violence were distributed. Violence did indeed occur. Petrol bombs and knives were used and public roads and railway lines were blocked. Many people sustained injuries and damage was done to public and private property. Those guilty of participating in these actions were convicted and granted conditional release.

34. This case demonstrates that a distinction must be drawn between activities conducted with a view to defending human rights, including trade union rights, and criminal activities resulting in attacks on persons and property.

Example 2

35. In October 2008, allegations were made that Mr. Mokhtar Jalali, a human rights activist and member of an opposition party, had been arrested because of his human rights activities. Investigators ascertained that Mr. Jalali had been involved in a traffic accident in Tunis on 13 October 2008 in which a pedestrian had died.

36. Mr. Jalali was tried and found guilty of committing manslaughter in a road accident; he was found to bear responsibility for the road accident, since he had been driving at excessive speed and without due care in a built-up area.

37. The above clearly shows that this human rights activist was not prosecuted because of his human rights activities but because of a traffic accident for which, as the investigation proved, he was responsible.

Recommendation, paragraph 21

Information regarding the registration of associations for the protection of human rights, review of all appeals brought in cases where registration is refused and examples of such rejections and appeals

Reply

38. Promoting civil society is a policy choice made by Tunisia. In this regard, the Organization Act No. 92-25 of 2 April 1992 has strengthened the appeal process in cases where a registration application from an independent human rights association is rejected.

39. Examples of cases considered by the Tunisian administrative justice include case No. 3643

in which the Tunisian League for the Defence of Human Rights lodged an appeal against a decision of the Interior Minister of 14 May 1992 classifying the League as a general purpose association.

40. The plaintiff argued that the administration had not provided legal guarantees when preparing the contested decision, including in particular the right of defence.

41. The administrative court held that, since the Tunisian League for the Defence of Human Rights had not been informed of the preparation of the decision against it and had been unable to present its views prior to the decision being issued, the decision on classification of the League, which faced possible dissolution, was illegal, as it had been taken without the League taking part in the proceedings, as required under article 3 of the relevant Act. The decision could thus have serious repercussions on the association's activities. In the light of the above, the court upheld the appeal on the form and the merits and annulled the contested decision on 21 May 1996.

42. It should, however, be noted that registration applications submitted by associations are not rejected because these associations are actively involved in human rights but rather because they have been established illegally or undermine public order. The right to freedom of assembly and freedom of expression is thus guaranteed, subject, however, to the limits imposed by law. Membership of an association actively involved in human rights does not confer immunity from prosecution.

43. The registration process is monitored to ensure that associations do not pursue aims which are incompatible with the republican order and do not promote religious extremism, discrimination, racism, intolerance, hatred for religion or terrorism.

44. The Tunisian authorities strive to build consensus between the parties which monitor the association registration process and to set deadlines which help to safeguard and support the right to freedom of assembly in compliance with international standards.

45. Lastly, it should be noted that in its dialogue with the Human Rights Committee, and given the importance the Committee attaches to promoting rights and freedoms and, in particular, to strengthening guarantees for persons deprived of their liberty, Tunisia has recently developed its legislation in many fields, promulgating the following laws.

Act No. 21 of 4 March 2008, on extending the duration of police custody and pretrial detention

46. By this Act, articles 13 bis, 57 and 85 of the Code of Criminal Procedure were amended to include explicit provisions stating that any decision to extend police custody or pretrial detention must be supported by a written statement setting out the factual and legal grounds for the decision. Under this Act, public prosecutors who monitor police custody are required to evaluate the grounds for an extension, such as the need to establish whether or not an offence has been committed and to prevent further offences being committed. They must weigh up factors of the extension pertaining to the investigation such as hearing of witnesses and the apprehension of an accused person who has absconded, and must assess the overall evidence used to justify holding

the person in custody.

47. The fact that an investigating judge must justify a pretrial detention order allows the indictment division, on appeal, to assess the validity of grounds given and to take an appropriate decision, verifying, *inter alia*, compliance with mandatory release orders, in accordance with the principle that freedom must be the rule and deprivation of liberty the exception to the rule.

48. The requirement to justify such decisions also safeguards the legitimate interests of the accused, without prejudice to the purposes which police custody and pretrial detention serve in terms of controlling crime, gathering evidence and apprehending and bringing offenders to justice, while maintaining public order and security.

49. This amendment to the law is likely to improve the criminal justice system by providing additional safeguards for all individuals deprived of their liberty and establishing legal rules which prevent those safeguards being violated. Moreover, it ensures that police custody is subject to judicial oversight and highlights the exceptional nature of pretrial detention, in keeping with the Constitution.

Act No. 58 of 4 August 2008 on the treatment of pregnant and breastfeeding women in detention

50. Under this Act, an area is to be set aside in prison for prisoners who are pregnant or who are breastfeeding and the maximum age up to which children may remain with their imprisoned mothers is revised.

A. Setting aside an area for prisoners who are pregnant or breastfeeding

51. Unlike other female prisoners, pregnant or breastfeeding prisoners fall into a special category; both they and their children in detention with them require specialized medical, psychological and even social care. Hence, an area resembling a normal environment must be set aside for them, in which prisoners' children receive the medical and psychological care they require, enjoy a sound upbringing and are protected from harm.

52. As such, this Act represents a renewed focus on family welfare and recognizes the universality, complementarity and interrelatedness of human rights in keeping with the Tunisian Constitution. It also affirms the principle of protecting the best interests of the child; this principle is now an established element in Tunisian legislation, both in the Personal Status Code and the Child Protection Code.

B. Revising the maximum age up to which children may remain with their mothers in prison

53. Prisoners who are pregnant or breastfeeding are housed in a special area for the duration of their pregnancies or until they stop breastfeeding. They serve out the remainder of their sentences in a women's prison or in a prison wing set aside for them.

54. Under previous legislation, a child was allowed to remain in prison with the mother until

the age of 3 before being handed over to the father or to a person designated by the mother. If this was not possible, the prison administration would notify the judge for the enforcement of sentences, who would refer the matter to the competent family judge responsible for authorizing measures to safeguard the child's best interests, such as entrusting the child to the care of a child welfare agency.

55. The three-year period established under the Act on the organization of prisons in Tunisia was considered rather long, given that when children turn 3 they start to become conscious of their surroundings. It was feared that this could have a negative influence on children's psychological well-being, upbringing and development.

56. In the light of the above, the new Act sets the breastfeeding period at one year. This period may be extended by up to one additional year, further to a decision of the competent family court, at the request of the mother, and after consideration is given to the child's best interests. This corresponds to the established maximum breastfeeding period of two years. In taking this decision, the court will take into account the social circumstances and mental and physical health of the mother and child.

Act No. 75 of 11 December 2008 on strengthening the guarantees afforded to accused persons, improving the situation of inmates and easing conditions relating to rehabilitation

57. This Act focuses on improving the situation of inmates by ensuring that the statutory period of pretrial detention is not exceeded and by reviewing the conditions under which rights are restored in order to facilitate the reintegration of offenders.

A. Improving the situation of persons in pretrial detention

58. The new Act contains several provisions introducing tighter regulation on pretrial detention regime and broadening the scope of mandatory release.

1. Regulation of pretrial detention

59. Under article 85 of the Code of Criminal Procedure, an accused person could be remanded in custody for committing serious offences or flagrant major offences, or when serious allegations had been made which necessitate detention as a security measure to prevent further offences from being committed, to ensure that a penalty was enforced or to facilitate investigations, provided that the period of pretrial detention did not exceed six months. By means of a decision stating the grounds and following consultation with the prosecutor, that period could be extended once for up to three months for major offences and twice, for up to four months each time, for serious offences.

60. However, article 85 did not explicitly state whether the pretrial detention period included the time taken for an investigation following a decision of the indictment divisions to send a case back to the investigating judge to complete an investigation. In such cases, the investigating judge was no longer directly responsible for the case and was only responsible for executing the decision of the indictment division.

61. In order to safeguard the rights of the accused, the new Act specifically states that a decision of the indictment division to send a case back to an investigating judge to complete certain procedures necessary for the preparation of a case must not result in the accused being held beyond the maximum permitted term. Once this term has expired, the investigating judge or the indictment division must grant the detained a temporary release.

62. To ensure that a defendant who has been released appears before the court whenever required, the judge or the indictment division, as the case may be, is authorized to take the necessary measures to ensure that the defendant appears. These measures include inter alia compulsory residence in the district in which the court has jurisdiction, the obligation to report one's movements or, if necessary, a prohibition on travel.

2. Broadening the scope of release on and without bail

63. The final paragraph of article 85 of the Code of Criminal Procedure stated that if the maximum penalty prescribed by law is one year's imprisonment, an accused person had the right to be released on or without bail five days after being questioned, provided that he or she had a fixed abode in Tunisia and had not previously been sentenced to more than three months' imprisonment.

64. However, this article was rarely applied, since only very few accused persons met both conditions. To emphasize that pretrial detention is an exceptional measure, the new Act broadens the scope of release on or without bail five days after questioning to include accused persons with a fixed abode in Tunisia who have not previously been sentenced to more than six months in prison, if the maximum penalty prescribed by law is two years' imprisonment.

65. This rule is not absolute, however, exceptions are allowed for certain serious crimes which impinge on public safety.

B. Facilitating reintegration

66. The main new elements introduced by this Act include:

- Revised time frames for rehabilitation by the pardons commission: under the previous legislation, offenders had to wait between one and three years before applying to the pardons commission to recover their rights; the length of time depended on whether the offender had been convicted for a major or a serious offence. There is no doubt that the time limits were excessive, since they hindered the detainee from finding employment quickly. Under the new Act, the time limits have been reduced, from one year to six months for a major offence, and from three years to two years for a serious offence.

67. Revised time limits for the automatic restoration of rights. Under the previous legislation, for automatic restoration of rights, the offender could not be reconvicted of a major or serious offence within a given time period. This period depended on the nature of the offence committed. For financial penalties, it was 3 years from the date on which the payment was registered or from when the penalty no longer applied, as the statute of limitations had run out, 5 years for penalties

of deprivation of liberty imposed for a major offence, and 10 years for penalties of deprivation of liberty handed down for a serious offence. These time limits took effect when the prison term ended or when the penalty no longer applied under the statute of limitations.

68. Since it is preferable to reduce the time necessary for rehabilitation so as to allow offenders to reintegrate into society and find employment more quickly, the new Act has reduced the penalty for a minor offence from 3 years to 1 year, has reduced prison terms for major offences from 5 years to 2 years and prison terms for serious offences from 10 years to 5 years.

Act No. 68 of 12 August 2009 on punitive damages and alternatives to prison sentences

69. This new Act empowers a court ruling on a petty offence or a simple offence which carries a short-term prison sentence to replace a prison sentence with the payment, within a specified time period, of damages which are agreed upon by the victim and offender, subject to the proviso that the original sentence will be reinstated if the damages are not paid on time.

70. Punitive damages may be imposed as an alternative to a prison term for minor and major offences in which direct personal injury is done to the victim and which carry a prison sentence of up to 6 months. Such sentences are too short for offenders to benefit from the appropriate reform and rehabilitation programmes, which makes it less likely that they will achieve their objectives of effecting reform and more likely that the offender will reoffend.

71. When ruling on a case, a court may also safeguard the rights of the victim by requiring the offender to pay punitive damages of not less than 20 Tunisian dinars and not more than 5,000 dinars, even if there are multiple victims.

72. In order to balance the interests of the victim, the accused and society, the above-mentioned provisions do not apply to offences for which a prison term of 6 months or more is prescribed or which pose an inherent danger to society and for which the payment of compensation cannot make amends. Likewise, punitive damages may not be offered as an alternative to prison terms even of less than six months, for certain serious offences. Such offences include bribery and offences whose gravity depends on the status of the victim, for example, offences against minors. Some offences which are subject to particular legal procedures are also excluded, such as causing death or injury as a result of a traffic accident and writing a cheque with insufficient funds in the relevant account to cover it.

73. The accused, or his or her representative, or an ascendant, descendant, relative or spouse has three months to submit dated documentary evidence to the public prosecutor at the court which ordered the payment of punitive damages to show that the sentence has been executed or that the punitive damages have been paid.

74. If the offender does not pay the punitive damages or make other restitution within three months of the date on which the deadline for appealing the verdict of the court of first instance expires, or within three months of the final verdict being handed down, the public prosecutor will initiate procedures to enforce the original prison sentence.

75. If the punitive damages are paid within the legally stipulated time period, the prison sentence which was handed down will be extinguished.

76. In submitting this additional information to the Human Rights Committee, Tunisia wishes to reiterate its willingness to provide the Committee with further details in its next periodic report.