



The Implementation of the Tunisian Constitution

Period: 01 October 2015 - 31 March 2016

Degree of implementation

Implementation realised or satisfying

Implementation under way and not yet realised

Absence of implementation

1 Oct.
2015

31 Mar.
2016

Comments

HUMAN RIGHTS

Civil and Political Rights

Freedom of association



Freedom of assembly and peaceful demonstration



The current law is vague and leaves great leeway for the executive power.

The right to vote, to be elected and to have access to public service



A draft law amending the electoral law with provisions for municipal and regional elections has been sent to Parliament. The legal framework for the participatory process of developing normative texts should be improved.

The right to fair trial



The Code of Criminal Procedure was amended and improved the legal framework for police custody, but the effectiveness of constitutional guarantees must be further improved.

Freedom of conscience and belief



Legal texts, some of which are not applied in practice, contain provisions limiting the freedom of conscience and belief.

The freedoms of expression, information and publication



An overhaul of the legal framework is necessary to ensure more legal certainty.

Equality

Equality of rights



Some legal texts contain unequal treatment. The law on passports and travel documents was amended to remove unequal treatment of the two parents with regard to the travel of their minor children.

Equal opportunities



The assessment of this issue is limited to the legal framework of civil and political rights.

DECENTRALISATION



A draft code on local authorities was developed by the government, the latest version was released in March 2016 and has not yet been forwarded to Parliament.

THE SEPARATION AND BALANCE OF POWERS

The democratic legitimacy of the legislative and executive branches



Civil and democratic control of the security sector



The legal framework for military justice has not been revised.

Parliamentary control of the executive power



Achieving the status of parliamentary opposition



The Rules of Procedure have been adapted to the current situation (weak parliamentary opposition).

Autonomy of the legislative power



Alaw should implement the constitutional guarantee of the independence of the legislature.

THE INDEPENDENCE OF JUSTICE



Although some reforms have been introduced, the laws and regulations contain provisions which are not compliant with the Constitution.

The draft law on the High Judicial Council was adopted by Parliament in March 2016. Until March 31, 2016, the law has not yet been promulgated by the President of the Republic.

THE RULE OF LAW

Constitutional justice



The Law on the Constitutional Court has been passed, but the Court is not yet established.

Legal framework of exceptional circumstances



Decree No.78-50 of 1978 regulating the state of emergency does not conform to the Constitution.

THE OBLIGATION OF ACCOUNTABILITY AND TRANSPARENCY

The obligation of accountability



Improvement of the legal framework is still needed, in particular the prerogatives of parliamentary committees of inquiry.

Transparency



The law on the right of access to information was passed in March 2016 and will come into force in March 2017. The implementation of transparency should be provided at all levels of the legal system.

INDEPENDENT CONSTITUTIONAL BODIES



With the exception of the electoral body and the draft law on the Human Rights Body prepared by the government, no constitutional body has been created.