

# EUROPEAN PARLIAMENT

## COMMITTEE ON FOREIGN AFFAIRS, HUMAN RIGHTS, COMMON SECURITY AND DEFENCE POLICY

### DELEGATION FOR RELATIONS WITH THE MAGHREB COUNTRIES AND THE ARAB MAGHREB UNION

#### NOTICE TO MEMBERS No .../2002

**Subject: Visit of ad hoc delegation to Tunisia (25 -27 May 2002)**

**Please find attached a summary record of the visit of the ad hoc delegation to Tunisia which took place from 25 to 27 May 2002, addressed to the chairman of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy.**

DIRECTORATE-GENERAL FOR  
COMMITTEES AND DELEGATIONS

16 June 2002

# EUROPEAN PARLIAMENT

## AD HOC DELEGATION TO TUNISIA

25-27 May 2002

### SUMMARY RECORD

**Summary record by the head of the ad hoc delegation which visited Tunisia on the occasion of the constitutional referendum,  
Mr Gerardo GALEOTE QUECEDO**

**for the chairman of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy, Mr Elmar BROK**

On 16 May 2002, the Conference of Political Group Chairmen of the European Parliament decided to send an ad hoc delegation to Tunisia to observe the constitutional referendum of 26 May 2002.

The delegation consisted of five MEPs and was chaired by Mr Gerardo Galeote Quecedo (PPE-DE, ES). The other members were Mr Harlem Désir (PSE, F), Mrs Hélène Flautre (Verts/ALE, F), Mr Francesco Fiori (PPE-DE, IT) and Mrs Pasqualina Napolitano (PSE, IT).

The representatives of the Commission's delegation in Tunisia accompanied the delegation of Parliament at all its meetings and were responsible for the transport arrangements.

### INTRODUCTION

On 2 April 2002, the Tunisian Chamber of Deputies adopted the draft reform of the 1959 Constitution proposed by the President of the Republic, Mr Ben Ali.

The Tunisian President is elected by universal suffrage for a five-year term. A President may be re-elected for two further consecutive terms. President Ben Ali was elected for a third term on 24 October 1999, receiving 99.4% of the vote.

The Chamber of Deputies, whose membership was last renewed on 24 October 1999, consists of 182 Members, who are directly elected for a five-year term using a majority list system. 34 seats are reserved for the opposition parties. The remaining 148 are at present held by the Constitutional and Democratic Union (Rassemblement Constitutionnel et Démocratique - RCD), which is the party of the President and the Prime Minister.

President Ben Ali signed a decree calling on the electorate to participate in a referendum on this draft constitutional reform, which amends almost half the articles of the Constitution (38 out of 78). More than 3.5 m Tunisians were thus enjoined to vote on 26 May.

One of the five parties of the parliamentary opposition (Ettajdid) did not take part in the referendum campaign, having abstained in the vote in parliament. Another opposition party, the Progressive Democratic Party (Parti Démocrate Progressiste), which is officially recognised but has no seats in parliament, called for a boycott of the referendum, as did a number of other opposition movements. In addition, a suit was brought before the courts contesting the presidential decree on grounds of abuse of power.

The results of the referendum were as follows:

- 99.52% voted in favour;
- 4.41% of the 3 644 845 registered voters did not vote;
- 16 642 voted against;
- there were 5172 invalid votes;
- 208 383 Tunisians abroad (98.14%) voted in favour.

### **CONCLUSIONS OF THE AD HOC DELEGATION**

1. As far as the technical aspects are concerned, the electoral process as observed on the spot by the delegation took place under normal conditions: no irregularities were noted by the delegation in the organisation of the referendum.
2. The delegation was able to travel and arrange visits in conditions of complete freedom. It was received by the governmental authorities at the highest level, and held talks with a number of opposition organisations, in particular human rights groups. At these meetings, the government representatives, especially the Interior Minister, Mr Hédi M'Henni, expressed their positions with all due clarity, and a climate of perfect openness characterised the discussions. The delegation also heard the views of a number of opposition organisations and human rights bodies, and received the testimonies of various individuals in a context of absolute confidentiality.
3. The delegation noted the visible imbalance in media access, in terms of both publicity and communication, between the 'yes' and 'no' camps which characterised the entire referendum campaign.
4. The delegation noted with concern the substantial complaints lodged in general by the opposition forces and the human rights groups whose members it was able to meet. It nonetheless welcomes the fact that these meetings were authorised by the Tunisian government: the authorities placed no obstacles in the way of any such meetings.

5. In particular, the delegation was able to inform the Interior Minister in person of the concern expressed by the European Parliament in its resolution of 14 March 2002 regarding the trial of Mr Hamma Hammami, the spokesman of the Tunisian Communist Workers' Party (Parti Communiste des Ouvriers de Tunisie - PCOT). The Minister promised he would transmit the delegation's request to the Minister of Justice.
6. In the light of the various opinions which the delegation heard, it is clear that there are two, radically opposed positions on the referendum: a) it is seen as a major step forward in the development of the constitutional state in Tunisia; b) it is viewed as a window-dressing exercise aimed at concealing the non-existence of any such constitutional state.
7. At all events, the delegation feels that this visit was not long enough to put it in possession of all the evaluation criteria which are needed to reach any broader political conclusions concerning the constitutional reform process set in motion by the Tunisian authorities. The EP's ad hoc delegation therefore proposes that we should adopt an open-minded attitude to the authorities' proclamation of a 'new era', but should continue to take a critical and attentive stand as regards the real impact of the new constitutional provisions.
8. The ad hoc delegation asks Parliament's DG IV to prepare a report on the legal consequences of the changes introduced by the constitutional reform approved in the referendum, and calls on the Delegation for relations with the Maghreb countries and the Arab Maghreb Union to take due account of that report and of any other available data in its monitoring of the effects of the constitutional reform.

## **REPORT OF THE DELEGATION'S ACTIVITIES**

### **1. Meeting with the EU ambassadors and the Commission representative at the residence of the Spanish Ambassador**

Information on the **economic situation** in Tunisia was provided by Mr Robert Houliston, the representative of the Commission's local delegation, and by other participants. The growth rate (5%) has been high for the last ten years; the population is falling (by 1%); domestic consumption<sup>1</sup> and private investment<sup>2</sup> are both rising; the middle class is now of significant size; and progress is being made in both women's emancipation and in educational standards. 2002 has proved a difficult year for a number of reasons: a drought of more than three years' standing, the fall in tourism in the wake of the 11 September, high unemployment levels (especially among young people), etc. The economic difficulties have generated considerable discontent, which cannot be ignored: an effort must be made to preserve economic stability.

On behalf of the Spanish presidency, the Spanish Ambassador explained the significance of the **referendum** for a number of aspects of the Constitution: the reform, which entailed changes to nearly half of the articles, had been adopted by majority vote in the Chamber of Deputies.

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<sup>1</sup> 80% of Tunisians own their own homes.

<sup>2</sup> The EU Member States account for approximately 70% of Tunisia's external trade, foreign investment and tourist revenue.

A number of participants explained that, on the formal side, significant progress has been made as regards the voting apparatus (individual voting booths, envelopes, curtains, urns), but that the situation remains unsatisfactory as far as multi-party democracy is concerned. Some took the view that the **civil liberties** situation is improving, albeit slowly, and that the authorities' pledges need to be built on if the process is to be speeded up. At all events, the referendum was felt to have opened up a new political horizon and new prospects for further work: the authorities should be given the benefit of the doubt, and further developments monitored.

In reply to a question by Mr Harlem Désir on the extent of the **fundamentalist threat**, our informants said that any such threat is at present minimal, although further information is required concerning the recent violence on the island of Djerba<sup>1</sup>. The latter events could suggest that Tunisia is seen as the West's 'Trojan horse' in the fight against terrorism; they had evoked general surprise, since, apparently, no-one had expected Tunisia to feature on the al-Qaeda hit-list. The last eighteen months have seen greater numbers of women wearing headscarves or veils. Certain estimates suggest that 20% of the population could be tempted to vote for pro-Islamist candidates, but this, it was said, is not the same as voting for fundamentalism.

There is a consensus that the situation could change overnight in the wake of future events, above all in the Middle East. TV satellite channels will play an important role here. Among the other key factors are future developments in Algeria and Libya, which could particularly influence young people and university milieux. Strengthening the AMU is one of the few options open for promoting stability in the region.

## 2. Meeting at the Tunisian Parliament with its President, Mr Fouad Mebazâa, and its two Vice-Presidents

The Chamber of Deputies consists of 182 Members, who are directly elected for a five-year term using a majority list system. 34 seats are 'reserved' for the opposition parties. The Chamber's membership was last renewed on 24 October 1999.

The Chamber of Deputies:		%	182
Rassemblement Constitutionnel et Démocratique:	RCD	91.6	148
Mouvement des Démocrates Socialistes:	MDS	.	13
Union Démocratique Unioniste:	UDU	.	7
Parti de l'Unité Populaire:	PUP	.	7
Mouvement de la Rénovation-Ettajdid:	MR	.	5
Parti Social Libéral:	PSL	.	2

It should be noted that:

1. the Ettajdid party, which abstained at the time of the vote on the referendum in the Chamber, did not take part in the referendum campaign. Abstention is considered to be not a form of opposition but a form of boycott, which excludes the abstaining party from the campaign;
2. there is one, and only one, officially recognised party which is not represented in parliament, namely the Progressive Democratic Party (PDP - Nejjib Chabbi), which has begun to organise a 'unity' movement on the basis of a broad front of democratic opposition parties

<sup>1</sup> On 11 April 2002 twenty people, the majority of them German tourists, were killed in an attack at a synagogue in Djerba.

for the 2004 elections. This platform would include the Democratic Freedom and Workers' Forum (Forum démocratique pour les libertés et le travail - FDTL) of Dr Moustafa Ben Jaafar, and the Congrès pour la République (Republican Congress - CPR) of Dr Moncef Marzouki.

The delegation had asked to meet representatives of all the parties at the Parliament, but this did not prove possible. It was received by the President of the Chamber, who supplied a detailed explanation of the procedure for revision of the Constitution<sup>1</sup> and the new principles introduced. The proposed reform had been examined in detail by the Chamber, in 14 working sessions and 700 speeches; 30 requests for revision had been submitted, of which 25 had been adopted. The reform had been adopted unanimously with 5 abstentions (all from Ettadjid). The **new principles** introduced were the following:

1. incorporation of civil liberties and human rights clauses into the Constitution (judicial controls over police custody and preventive detention; inviolability of correspondence);
2. creation of a second chamber;
3. changes to the conditions required for standing for the presidency: in future the only limitation will be an age limit of 75<sup>2</sup>;
4. a more important role for the Constitutional Council, which will in future be responsible for the organisation of elections.

In reply to a question from Mrs Pasqualina Napoletano on the possible impact of the referendum on the balance between the various branches of government, the President of the Tunisian Parliament said that the legislative branch will be strengthened, for the following reasons: there will be a weekly government 'question time' in parliament; the government may in future be dismissed following a motion of censure signed by at least one-third<sup>3</sup> of the Chamber's component members and adopted by an absolute majority; and certain of the government's existing prerogatives will be transferred to the Chamber (he did not say which).

Mr Harlem Désir expressed his astonishment concerning the term-limit: had not Mr Ben Ali differentiated himself in the past from his predecessor precisely over the issues of the presidency and lifelong immunity? Would these constitutional changes allow those parties which are currently not recognised - e.g. the CPR, the MDS and the PCOT - to campaign and obtain seats in Parliament? The President of the Chamber said that there is no question of reverting to the presidency-for-life arrangement that had existed under Mr Bourguiba, who had had a personal mandate; presidential immunity is not a blank cheque, but relates to the duties of the President<sup>4</sup>;

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<sup>1</sup> The Constitution may be amended: following two readings in Parliament; by one reading in Parliament followed by a referendum; or by an ad hoc commission consisting of a majority of parliamentarians (the third course was followed in this instance, with 100 parliamentarians - out of 180 - participating). The proposed reform had been examined in detail, in 14 working sessions and 700 speeches; 30 requests for revision had been submitted, of which 25 had been adopted. The reform had been adopted unanimously with 5 abstentions (all from Ettadjid).

<sup>2</sup> Comparison is invited with the French system, under which the presidential mandate is renewable with no term limit.

<sup>3</sup> Under the old Constitution, a motion of censure had to be signed by one-half of the Parliament's component members and adopted by a two-thirds majority.

<sup>4</sup> The Constitution states: *'The President of the Republic shall enjoy legal immunity for the period of his term of office. He shall also enjoy such legal immunity after he has left office, in relation to his actions in performance of the duties of his office'* (Article 41).

any legal party will have the right to contest elections; and, while the legalisation of parties is a matter for the executive, there is nothing in the new Constitution to prevent it.

Mrs Hélène Flautre asked two questions concerning, respectively the conditions applying to the public debate in the run-up to the referendum, and the campaign ban on the legal party Ettadjud. The President of the Chamber said in reply that all parties had had the opportunity to campaign, and had received campaign subsidies and been allowed media access: if Ettadjud had not taken up its publicity allocation, it was by its own choice.

Mr Galeote Quecedo asked whether the Tunisian Parliament had a 'non-attached group' on the European model, and was told in reply that the constitutional revision would introduce such a possibility.

### 3. Visit to two polling stations

The delegation had the opportunity to visit two polling stations. Voting took place in a perfectly normal fashion: the delegation observed no irregularities in the conduct of the referendum.

### 4. Meeting with the President and members of the Constitutional Council

The President of the Constitutional Council replied to questions by Mr Galeote Quecedo on the **term-limit** and on **immunity**. He said that as far as immunity is concerned the Tunisian constitution follows the model of the French constitution: the aim of the proposed modification is to specify the scope of the immunity provision (cf. Tunisian Parliament, above). On mandates, his position here too was that Tunisia's constitution is modelled in this respect on its French equivalent (cf. Tunisian Parliament, above); the proposed change is, he said, a response to circumstances, in view of the people's attachment to the present President and to the continuation of his work.

In reply to a question by Mrs Napoletano on the change in the procedure for **appointing members of the Constitutional Council**<sup>1</sup>, which would imply a reinforcement of the presidential character of the regime, the President of the Constitutional Council said that these constitutional changes were inspired by the equivalent provisions of the French constitution but also contained certain innovatory elements:

- all draft laws will have to be submitted to the Constitutional Council before they are put before the Chamber;
- a collected edition of all decisions of the Constitutional Council is currently being prepared (the Council rules some 100 legal provisions unconstitutional every year).

The President of the Constitutional Council added that what matters is, in his view, less the appointment procedure than the existence of guarantees of independence, on the French model. These are: 1) the duration of the mandate, i.e. three years, renewable twice; 2) the provision that membership of the Council cannot be combined with membership of the government or

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<sup>1</sup> The Constitutional Council consists of nine members: four, including its President, are appointed by the President of the Republic and two by the President of the Chamber of Deputies. The remaining three sit ex officio in their respective capacities as First President of the Court of Cassation, First President of the Administrative Tribunal and First President of the Court of Auditors (Article 75; all three officials are appointed by the President of the Republic).

parliament, 'political party or trade union responsibilities', or the exercise of 'activities liable to jeopardise the members' neutrality or independence'; and 3) the provision concerning 'the necessary guarantees for the performance of their duties'<sup>12</sup>.

Mr Galeote Quecedo raised the issue of the reinforcement of presidential powers. The President of the Constitutional Council pointed out in reply that since 1959 the regime in Tunisia has in fact been presidential rather than parliamentary, although subsequent reforms have strengthened the role of the parliament (e.g. the provision for a motion of censure and the introduction of a 'question time' arrangement - for both, see above).

#### **5. Meeting with the Minister of the Interior, Mr Hédi M'henni, and the Secretary of State at the Interior Ministry responsible for the regional and local authorities, Mr Mongi Chouchane**

Mr Hédi M'henni was particularly enthusiastic about that day's referendum. He believed the new Constitution would prove to be 'in the constitutional vanguard'.

All possible technical measures had been put in place: the 15 000 polling stations would stay open late (closing at 8 p.m.); voters could collect their voting cards right up to the referendum day itself (although 99% of cards had already been distributed); the practical organisation had been perfected by long years of experience; and the vote had been preceded by a two-week information campaign.

Mr Galeote Quecedo asked what opportunities Ettadjid's members of parliament had been given to express their point of view in public, especially in the media. The Minister of the Interior replied in similar terms to the President of the Tunisian Parliament, while adding that even unauthorised parties had been able to speak: Ettadjid alone had, effectively, ruled itself out of the campaign.

Mrs Flautre raised the issue of the lack of opportunities for expression for the associative movements. The Minister of the Interior said this was not the case; in his view, the members of such movements are 'subversive elements' who have put themselves well beyond the tolerance threshold of any democracy, still less of a country in process of emerging from dire poverty which is only now learning to hold its head high. Tunisia, he said, is a young country which has just embarked on a learning curve in human rights matters.

Mention was made of the cases of Dr Marzouki and the journalist Tawfik Ben Brik. The pre-1988 rule requiring prior authorisation for the creation of an association no longer exists. All associations for which a request has been submitted in regular form have been accepted and registered in the 'Journal Officiel', except where their objectives were deemed 'incompatible with Tunisian society'. Where this was the case, the organisers had been asked to amend their statutes; many had refused to do this. This was the case with Mr Ben Jaafar's party. In reply to a question by Mr Harlem Désir concerning new possibilities for the future, Mr M'henni said he believed the future legal situation would certainly be quite different and that 'reasonable hopes could be entertained'.

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<sup>1</sup> These are laid down by law.

<sup>2</sup> In France, the nine members of the Constitutional Council are appointed for a nine-year, non-renewable term. One-third of the Council's membership is renewed every three years. Three members are appointed by the President of the Republic, three by the President of the National Assembly and three by the President of the Senate.



Mrs Napoletano raised the question of the new guarantees concerning police custody, and asked if they would prove sufficient to prevent future abuses by the police<sup>1</sup>. The Minister admitted that abuses had occurred in the past, stressing that they had been condemned by President Ben Ali himself. He added, however, that it was not desirable to create a 'victim mentality', and that the opposition forces were free to express themselves as they wished.

In conclusion, Mr M'henni declared that 'the main result of this reform will be to improve the state of human rights'. At the same time, however, he stressed his belief that Tunisia should be left free to move forward 'step by step'. In the name of human rights, Mr Galeote Quecedo called on the Minister of the Interior to take account of the EP's resolution on Mr Hamma Hammami (14 March 2002), and to make a symbolic gesture to coincide with that day's historic vote. The other members of the delegation recalled several other clear cases of human rights violations, and stressed in their turn the need for the government to show proof of further progress in ushering in this new era.

**6. Meeting with associations from civil society: Tunisian Democratic Women's Association, National Council for Liberties in Tunisia, Council for an Independent Judiciary, Tunisian League of Human Rights, World Organisation Against Torture, Union of Free Writers**

Mrs Napoletano expressed her pleasure at this meeting, the first with Tunisian civil society. This positive development has, she said, been made possible thanks to the evolution of EU-Tunisia relations. The partnership should be further reinforced through a critical dialogue: in the most serious cases, recourse should be had to political pressure and dialogue rather than sanctions or breaking off the partnership, since such measures would harm the democratic process. Mrs Napoletano said that the importance of this dialogue with civil society is further underlined by the issue of civil liberties and the consolidation of the rule of law. Mr Galeote Quecedo added that he hoped that the new constitutional framework introduced by the referendum will mark the beginning of a new era.

**The Tunisian Democratic Women's Association (Association tunisienne des femmes démocrates - ATFD) - Mrs Hela Abdeljaouad, chairwoman; Mrs Khéridja Chérif, external affairs spokeswoman**

The ATFD was officially recognised in 1989, at the time of a political 'thaw' on the part of the government. Since then, it has had to face numerous problems, merely to ensure its continued existence and be able to meet and carry out its work in defence of the fundamental rights of Tunisian women. It cannot hold its meetings on public premises, and, lacking freedom of expression, it has no means of informing the public that it exists.

The ATFD's representatives expressed the belief that the referendum was essentially intended to reinforce the power of the President and do away with the separation of powers. In their view, the laws only exist on paper: they are not applied. They had harsh words for a referendum campaign in which media access had been tightly controlled throughout.

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<sup>1</sup> *'Police custody shall be subject to judicial control. No-one shall be placed in preventive detention without a judicial order. No-one shall be subjected to arbitrary custody or detention.'* (Article 12)

## **The Tunisian League of Human Rights (Ligue tunisienne des Droits de l'homme - LTDH) - Mrs Souhayr Belhassem and Mr Mokhtar Trifi**

The LTDH is also a recognised organisation, and has had that status for 25 years. However, since its 2000 congress it has been faced with numerous problems: it has been locked out of its premises and the members of its executive have been deprived of their civil rights. The PPE-DE Group, with the MEP José Ignacio Salafranca Sánchez-Neyra playing the leading role, was the first to take up the cause of the LTDH<sup>1</sup>. The European Commission has granted it a subsidy, but it is unable to make any use of the money or even to rent new premises.

Over the year 2001 the human rights situation deteriorated considerably: eleven prisoners died after being tortured and denied medical attention; the press and the legal system are both in a deplorable state; and all political forces except for the ruling party are calling for an amnesty for the prisoners of conscience, who now number more than one thousand.

The LDTH representatives believe that the aim of the referendum is to pave the way for a dictatorship, by doing away with the separation of powers and increasing the powers of the President. They pointed out that not a single law has been passed on the initiative of parliament in all the years since 1959! Until 1994, the entire membership of parliament was supplied by the ruling party; since then, the number of seats allocated to the 'opposition' has been permanently pre-set at 34 (out of 182). In 1999, a 'pluralist presidential election' was held in which two 'other' candidates received 0.14% of the vote between them! Under the new constitution, parliament cannot vote on any bill that has financial implications<sup>2</sup>; the President will be empowered to ratify treaties (Article 32); the creation of a second chamber will reduce the powers of the Chamber of Deputies; where the two Chambers fail to agree, the final decision will rest with the government; and the President is not accountable to either parliament or government.

The concept of human rights has been incorporated into the constitution, but the relevant laws are not applied: all complaints come to nothing. Personal data protection and the inviolability of correspondence and the home are all guaranteed 'except in the exceptional cases defined in law'. Under the law of 1998, all cases appear to be 'exceptional'. More often than not letters fail to arrive and phone and fax connections are cut off. The telecommunications law allows the Minister of the Interior to intercept telecommunications and letters and to monitor mobile phone use. Internet access is strictly controlled. Access to the websites of numerous foreign media<sup>3</sup> and of all human rights NGOs<sup>4</sup> (not to mention the US Department of State site), as well as to independent Tunisian sites<sup>5</sup>, is blocked either intermittently or permanently.

It appeared that tomorrow a meeting of this nature could lead to its participants being imprisoned for 'disloyalty to the nation'<sup>6</sup>.

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<sup>1</sup> Resolution of 14 December 2000 (B5-0905/2000). This resolution calls on the Tunisian authorities 'immediately to cease all forms of harassment and repression of associations campaigning for the rule of law in Tunisia, and in particular the LTDH, the CNLT and their representatives'.

<sup>2</sup> 'A draft law submitted by members of the Chamber of Deputies shall not be admissible where its adoption would lead to a reduction in public resources, increased expenditure or new expenditure. This provision shall also apply to amendments to draft legislation' (Article 28).

<sup>3</sup> e.g. 'Le Monde', 'Le Monde diplomatique', 'Libération', 'Le Canard enchaîné', etc.

<sup>4</sup> e.g. Amnesty International, Human Rights Watch, the World Organisation Against Torture, etc.

<sup>5</sup> e.g. CNLT, RSP, Zeitouna, Takriz, Kalimatunisie, Kaws el Karama, Alternatives citoyennes, etc.

<sup>6</sup> Article 15 of the old text stated that 'the defence of the nation is a sacred duty for all citizens'. The new text adds: 'It is the duty of every citizen to protect the nation and to safeguard its independence, sovereignty and territorial integrity'.

**The National Council for Liberties in Tunisia (Conseil national pour les libertés en Tunisie - CNLT) - Mrs Sihem Bensédrine, spokeswoman; Mr Tawfik Ben Brik**

The CNLT is an association set up in 1998. It is not officially recognised: its original application was rejected with no reasons given, and a decision is still pending on the CNLT's appeal.

In its second report on the state of civil liberties in Tunisia, which covers the period 2000-2001 and examines the legal system, prison conditions and the use of torture, the CNLT states that the abuses identified cannot be seen as isolated incidents or as the excesses of over-zealous officials: their systematic character makes it clear that the existing apparatus has been deliberately created to intimidate the people and reduce citizenship to a dead letter. This 'rule of non-law' is, paradoxically, manifested in a plethora of legislative and regulatory texts. The legal system is not doing its job: indeed, it has become the main instrument of repression.

The Tunisian state, which has ratified the majority of international conventions, as well as the EU/Tunisia association agreement, is refusing pointblank to honour the multiple commitments which such ratification entails. The authorities are still refusing to accept the repeated requests to authorise visits by UN special rapporteurs, whether they concern human rights activists, press freedom, the independence of the judiciary or torture.

A turning-point should nonetheless now have been marked by the appeal lodged by Tunisian torture victims at international level<sup>1</sup>, which may be expected to put an end to the total impunity now enjoyed by the perpetrators of torture.

**The Council for an Independent Judiciary (Conseil pour l'indépendance de la justice) - Mr Mokhtar Yahyaoui and Mr Nejib Hosni**

The Council for an Independent Judiciary is a grouping of respected Tunisian experts, with all political views represented. Its central demand is the establishment of an independent judiciary, Its application for legal recognition was not considered to qualify even for an acknowledgment of receipt, and it cannot therefore be lodged.

Judge Yahyaoui, President of the Tenth Civil Chamber of the Court of First Instance of Tunis, was dismissed after sending an open letter in July 2001 to President Ben Ali, in his capacity as President of the Higher Conseil of the Magistracy, expressing his 'inability to accept the disastrous condition of the Tunisian legal system'<sup>2</sup>. Judge Yahyaoui has an outstanding professional record and is not a member of any political party. He was educated at the Sorbonne and has four children. He told the delegation of his painful experiences: being classified overnight as an enemy of the people with no reasons given, being dismissed without even being informed, being deprived of his sources of income and of access to his correspondence, and more.

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<sup>1</sup> Proceedings have been taken out by Switzerland against a former Minister of the Interior and in France against a vice-consul and other officials.

<sup>2</sup> Judge Yahyaoui wrote: 'Things have reached the point where the legal authorities and the magistrates have been stripped of their constitutional prerogatives and can no longer discharge their responsibilities in the service of a legal system conceived as an independent institution of the Republic. It is nevertheless precisely that independence which enables the magistrates to make their contribution to building the future of their nation'.

**The World Organisation Against Torture (Organisation Mondiale contre la Torture) – Mrs Radhia Nasraoui, representative for the Maghreb and Middle East**

In recent times repression has extended to all milieux, affecting even the RCD<sup>1</sup> and business circles. Detainees have complained of torture<sup>2</sup>, but their lawyers' requests for a medical expertise have in most cases fallen on deaf ears. Judges frequently refuse to accept accused persons' testimonies concerning torture or other mistreatment suffered during police questioning. The same applies to the public prosecutor's office. Even where torture is, quite exceptionally, admitted to have occurred, proceedings against those accused of torture generally end up being dropped.

Mrs Radhia Nasraoui, the wife of the prisoner Hamma Hammami, is a lawyer. For four years now she has been subjected to constant surveillance: her home is under police watch and her telephone lines are repeatedly cut off. Her daughters have been intimidated on several occasions, notably by a simulated kidnapping; one of them went on hunger strike in defence of the 'right to a peaceful and undisturbed childhood', and the other has left Tunisia following her traumatic experiences. They have no proper visiting rights, and the younger of the two has never met her father. Mrs Nasraoui has been on hunger strike since 26 June 2002.

**The Union of Free Writers (Union des Écrivains libres) - Mr Jalloul Azouna, President**

This association, founded one year ago, has not been granted official recognition, despite an appeal to the administrative tribunals. Mr Azouna himself has been banned for years now from appearing on TV or radio. All publications, including literary publications, are subject to the press law, even though in theory the law allows publication without prior authorisation.

Mr Azouna describes the referendum as the death-warrant of the republic, in flagrant contradiction of Tunisia's progressive tradition. Tunisia was the first Arab country to abolish slavery, in 1842; it signed a human rights agreement in 1857; its first constitution dates from 1867; and in 1956 it introduced a code governing private life which marked the official recognition of the rights of women.

In her concluding remarks, Mrs Flautre said that Europe cannot continue to cite Tunisia as a model of prosperity while turning a blind eye to its failure to comply with Article 2 of the association agreement. Mr Galeote Quecedo, also summing up, stressed the importance for the European Parliament of having been able to talk to representatives of the three branches of government, as well as to the various civil society organisations, whether or not they are officially recognised.

The representatives of civil society expressed their thanks for being heard, adding that they believed the EU should place the Arab countries' aspirations to democracy on the same footing as those of all other peoples. They felt, however, that the EU is failing to pursue a coherent policy in the Mediterranean region and is not paying enough attention to human rights or civil society.

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<sup>1</sup> An example is the case of Mr Kamel Hamzaoui, who is now seriously ill.

<sup>2</sup> Tunisia has ratified the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, without entering any reservations.

## **Meeting with the Council of the Order of Lawyers - Mr Béchir Essid, President of the Order, and the other members of the Council**

The view was expressed that the referendum did not in fact address any of the major issues; Tunisia, it was felt, needs a root-and-branch reform which would make major changes to the relations of the head of state with the other branches of government, as well as those between government and civil society, including the press; democracy, freedom and justice could not be said to exist in today's Tunisia.

It was further stressed that neither the political parties nor the people were consulted on the referendum. There is no freedom of the press or of the other media (TV and radio), nor is there freedom of association: it follows that no proper conditions exist for a referendum campaign. The official political parties have no real autonomy; the establishment of a new party or association is subject to an authorisation procedure which is never granted. A number of political forces (Marxist, 'unionist', Islamist) are banned outright. It was said that the government is trying to undermine the work of independent associations such as the LTDH, as well as that of the Council of the Order of Lawyers, following its strike of 7 February 2002 (which received widespread support), and that there is a government-led campaign to destroy the reputations of the Council's members.

Mr Harlem Désir asked the President of the Order if he thought the referendum marked an advance or a regression for the democratisation process. The President said in reply that while certain progressive legislation certainly exists, it is not being applied, adding that in his view the referendum was illegal as such and will have the effect of concentrating all power in the hands of the head of state.

The legal profession, he said, was going through a serious crisis. The Council of the Order of Lawyers called on the EU to help it realise its objectives, namely: 1) establishment of a National Higher Institute for the legal profession; 2) establishment of an independent national social security scheme; 3) cooperation with the legal profession's representatives in the EU Member States.

# EUROPEAN PARLIAMENT

## AD HOC DELEGATION TO TUNISIA

24-27 May 2002

### LIST OF PARTICIPANTS

#### Members of the European Parliament:

	<b>Group</b>	<b>Country</b>	<b>Committee</b>
Mr Gerardo GALEOTE QUECEDO	PPE-DE	Spain	Head of ad hoc delegation, chairman of the Delegation for relations with the Maghreb countries and the Arab Maghreb Union
Mrs Pasqualina NAPOLETANO	PSE	Italy	Vice-chairman of the Delegation for relations with the Maghreb countries and the Arab Maghreb Union;
Mr Francesco FIORI	PPE-DE	Italy	Vice-President of the EP
Mr Harlem DÉ SIR	PSE	France	Member of the ACP-EU Parliamentary Assembly
Mrs Hélène FLAUTRE	Verts/ALE	France	Member of the Delegation for relations with the Maghreb countries and the Arab Maghreb Union

#### Delegation Secretariat:

Mrs Andréa SUBHAN	Principal Administrator
Mrs Branca SANTOS	Assistant

#### Interpreter

##### Abbreviations:

PPE-DE	Group of the European People's Party (Christian Democratic Group) and European Democrats
PSE	Group of the Party of European Socialists
Verts/ALE	Group of the Greens/European Free Alliance

# EUROPEAN PARLIAMENT

## AD HOC DELEGATION TO TUNISIA

**Tunis, Tunisia**  
**24 -27 May 2002**

### *Programme of the European Parliament delegation to Tunisia*

#### **Friday, 24 May**

Arrival of the secretariat and finalisation of the programme together with the Commission delegation in Tunis

#### **Saturday, 25 May**

9.30 p.m. Dinner/briefing with the Commission delegation in Tunis at the Abu Nawas Gammarth hotel

#### **Sunday, 26 May**

8 a.m. - 9 a.m.: Meeting with the Ambassadors at the residence of the Spanish Ambassador

9.30 a.m. - 10.45 a.m.: Meeting with the Tunisian Parliament at the Parliament.

- Visit to polling stations

11 a.m.: Meeting with the President of the Constitutional Council at the Constitutional Council

12.45 p.m.: Working lunch with the civil society associations:

ATFD - Association tunisienne des femmes démocrates

CNLT - Conseil national des libertés

CIJ - Conseil pour l'indépendance de la justice

OMCT - Organisation mondiale contre la torture

LTDH - Ligue tunisienne des droits de l'homme

16h: Meeting with the Council of the Order of Lawyers at the home of the President of the Order, Mr Béchir Essid