

## Tunisian Republic

(الجمهورية التونسية)



**Capital:** Tunis

**Inhabitants:** 10.102.000 (2005)

**Area:** 163.610 km<sup>2</sup>



Tunisia became a Republic on 25 July 1957. It is situated at the tip of North Africa and covers an area of 163,610 km<sup>2</sup>. It has a population of 10,100,000 inhabitants, 64% of whom live in urban areas, according to the last census, in 2004. In 2005, the working population rate was 3,338,600 and the unemployment rate was estimated at 14.2%. Tunisia is a Republic with a presidential regime.

Municipal institutions in Tunisia are relatively long-standing. The first modern municipality dates back to 1858. This was the municipality of Tunis, which was established by decree on 30 August 1858. Later, when the French colonised the country, they found an archaic and centralised administrative system. The existing social links at this time were mainly traditional links rather than territorial links. In order to establish its control over the country, the colonial

administration worked to displace these links by strengthening the administrative model that had already been established by the monarchy, which itself was in decline. As a result, decentralisation was "introduced only in a limited and discriminatory manner". The municipalisation movement was first developed in 1884 with the creation of 6 additional municipalities. They grew in number throughout the first half of the 20<sup>th</sup> century.

Local authorities are mentioned in Article 71 on the Constitution, which sets out that "*municipal councils, regional councils and the structures to which the law grants the status of local authorities manage local affairs according to conditions provided by law*". The Constitution defines local authorities as "*governorates and wilayas at the regional level, and municipalities at the lowest level*". In legal terms, this notion presumes the existence of a human authority which has local interests deserving of protection by being granted legal status, and an administrative structure which allows it to act in an autonomous manner and is regularly renewed by the vote of the local population. In fact, recognition of the legal status of municipalities allows them to be seen as entities which are legally independent from the State, with their own



capital, land and budget, financed by specific revenue.

## II. Territorial structure

Since the end of the protectorate, the movement to increase the number of municipalities has progressed considerably – the total number went from 69 in 1956 to 134 in 1966, ten years later. Today there are 264 municipalities. In terms of administrative division, the country is now split into 24 governorates (a legal hybrid structure which is both a deconcentrated administrative structure and a local authority). Each governorate (*wilaya*) is subdivided into various districts (decentralised structures). Regional-level authorities are decentralised (Organic Law No. 89-11 of 4 February 1989, relating to regional councils).

As part of their role as decentralised authorities, governorates can only intervene in certain areas and zones which are not part of municipalities, and which are governed by 165 rural councils that exercise their rights through regional councils (representation, budget).

Governorates have two legal entities: the governor, who is the main regional administration contact and holds the governorate's decentralised powers, and the regional council, which is the local decentralised authority. The municipality, which is the oldest of the decentralised authorities, is managed by a municipal council, which is elected. The capital does

not follow a distinctive system, but its municipal council leader is appointed by decree from the municipal council members, which derogates from the general regulation applicable to all other municipalities. The largest municipalities can be divided into urban subdivisions.

## III. Local democracy

Organic Law No. 90-48 of 4 May 1990 introduced the mixed poll method for the first time in Tunisia: "a vote by list ballot based on proportional representation with preference given to the list obtaining the most votes". This type of ballot is in fact a majority method with proportional weighting: voters cannot split their vote and can only choose from one list. Where there is one list only, this list is declared as the elected one, irrespective of the number of votes it receives. Where there are several lists, seats are allocated as follows: firstly 50% of the seats are allocated to the list with the highest number of votes. Then the remaining seats are allocated to all lists with proportional representation, according to the electoral ratio, based on the highest remaining number. However, since the electoral code was amended under Organic Law No. 98-93 of 6 November 1998, no list can obtain more than 80% of seats, apart from where the number of seats is split according to application of the aforementioned proportion.

Finally, lists obtaining less than 3% of the vote (which was 5% before the electoral code amendment in 1998) are not allocated any seats.

Table 1: Territorial organisation

| Type           | Number | Local authority | Deliberative body | Executive body | Trusteeship body         |
|----------------|--------|-----------------|-------------------|----------------|--------------------------|
| Municipalities | 264    | Yes             | Municipal Council | Mayor          | Ministry of the Interior |
| Governorates   | 24     | Yes             | Regional Council  | Governor       | Ministry of the Interior |



Table 2: Local democracy

| MUNICIPAL COUNCIL                 |                       |                |                 | LOCAL EXECUTIVE BODY  |       |            |                |                                    | DIRECT DEMOCRACY              |
|-----------------------------------|-----------------------|----------------|-----------------|-----------------------|-------|------------|----------------|------------------------------------|-------------------------------|
| Ballot method                     | Method of appointment | Length of term | Election rounds | Method of appointment | Mayor | Collegiate | Length of term | Number of election rounds          | Vote of non-confidence/dissal |
| Mixed (majority and proportional) | Direct                | 5 years        | 1 round         | Indirect              | No    | Yes        | 5 years        | 2 for the mayor and 1 for deputies | Yes                           |
|                                   |                       |                |                 |                       |       |            |                |                                    | No                            |

This ballot method gives the dominant party a greater advantage and puts other parties at a disadvantage. When it was adopted it was presented as a concession in favour of opposition parties, but they felt the change was restrictive and boycotted the elections on 10 June 1990. The Constitutional Democratic Rally (RCD) party largely dominates the municipal elections, which allows it to easily gain the maximum 80% of seats in municipal councils. At the municipal elections on 8 May 2005, the RCD took 4,098 of a total of 4,366 seats. Only 268 seats were given to lists which weren't affiliated with the dominant party. Municipal council leaders are elected by municipal councillors by secret ballot and by absolute majority of the votes cast. The Tunisian law on local authorities does not provide for a direct democratic procedure.

Governorates have two legal entities: the governor, who is the main regional administration contact who holds the governorate's decentralised powers, and the regional council, which is the local decentralised authority. Municipalities are governed by municipal councils elected by universal direct vote for a five-year term. The mayor chairs both the deliberative assembly and the executive body, and is elected within the municipal council (with the exception of the mayor of Tunis, who is appointed by decree from council

members). Elections are structured and multi-party. Currently, apart from the RCD, there are eight legally recognised political parties (Movement of Social Democrats, Movement Ettajdid, Party of People's Unity, Unionist Democratic Union, Progressive Democratic Party, Social Liberal Party, Democratic Forum for Work and Liberty and Green Party), five of which are represented in Parliament and in some municipal councils.

However, RCD holds an overwhelming number of seats in municipal councils. The Tunisian partisan system is therefore a multi-party system, but is also characterised by the predominance of the party in power.

#### IV. Relations between central and local authorities

The governor, who is appointed by the President of the Republic, comes under the Ministry of the Interior. The governor is both a representative of the State in the governorate and the regional council leader.

As an agent of the State, the governor is "a trustee of State authority and the government representative within his/her governorate", and coordinates decentralised services. The governor has



trusteeship over local authorities and their powers over decentralised services have been extended.

The governor is the chair of the regional council and is also the executive body.

Municipalities fall under trusteeship control on two levels: administrative and financial. Administrative trusteeship held by the State has been decentralised since the end of the 1980s: most *a priori* control of municipal-level decisions has been transferred to the governors in order to strengthen the proximity of control over local decisions.

The decision to create new municipalities is taken by decree, upon proposal from the Ministry of the Interior and following consultation with the Ministries of Finance and Equipment. The autonomy of Tunisian municipalities is therefore limited by heavy trusteeship, over both their various entities and their activities.

Municipalities can become involved in the framework of intermunicipal organisations, but the only example of this is the district of Tunis, created in 1972, which became the Agence Urbaine du Grand Tunis under Law No. 95-108 of 25 December 1995.

## V. Local finance

The instability of local finances led to an attempt to reform local fiscal issues by public powers, particularly in 1975 and 1997. These reforms provided for the creation of new charges and taxes, restructuring the land tax or increasing the level of various user fees.

Nine years after the new code on local fiscal issues was put in place, the results are disappointing and the fragile nature of finances in the vast majority of Tunisian municipalities remains an issue.

The reform of local finances began with the promulgation of the Organic Law on Local Authority Budgets (Law No. 75-35 of 14 May 1975) and was followed by the adoption of Law No. 97-11 of 3 February 1997, which promulgated the code on local fiscal issues. This law has been amended on many occasions – notably by Law No. 2002-76 of 23 July 2002, relating to implementing measures to streamline the fiscal charge and improve resources for local authorities. This documentation is part a process to reduce State involvement in local finance issues; it is also a tool to bring about a desired increase in autonomous resources for local authorities, as well as to optimise management of local funds. However, despite the progress achieved, reaching these goals remains a difficult issue. In fact, there are problems with local finances due to two issues: vulnerability and inequality.

### *Vulnerability*

Tunisian local authorities have problems on two levels due to the lack of financial power of local assemblies and the low level of local resources.

### *Lack of financial power of local assemblies*

Municipal councils have experienced usurpation of their financial powers. In fact, they have been relinquished of their budgetary powers, as well as never having had any real financial power.

### *Gradual loss of budgetary control*

A reading of the clauses of Article 62 of the Organic Law on Municipalities and those of Article 12 of the Organic Law on Local Authority Budgets confirms that the archetypal principle of dividing budgetary control between the executive body and the assembly has been respected. However, the amateur nature of the locally



elected representatives, progressive presidentialisation that has occurred in municipal-level administration since the 1985 amendment, and ongoing heavy-handed trusteeship carried out by the State in this area have led to a gradual loss of financial power for local bodies. In reality, intervention from the local assembly in developing the local budget involves voting on projects prepared by the municipality's Secretary General and examined by the municipal bureau. However, this vote does not have any relevance to the projected budget because Article 12 of the aforementioned law states that this document only comes into effect once it has been approved by the trusteeship authority.

#### *The residual nature of local fiscal control*

Local authorities do not enjoy any autonomous fiscal control. Paragraph 7 of Article 34 (new) of the Tunisian Constitution states that documentation relating to determining the baseline, rate and methods of tax collection take the form of a law. As a result, the taxation process, as well as the fiscal tool itself, is out of the hands of local authorities and the State has the sole rights.

The new code on local fiscal issues, adopted in 1997, aimed to unify local fiscal issues and make them more profitable. However, the legislature was not particularly innovative in terms of structuring these local fiscal issues. They remained composed of two types of taxes: taxes on land with constructed buildings and land which is not built on; and taxes on various activities, in particular the tax on industrial, commercial or professional establishments (TCL tax) and the hotel tax. These taxes make up the majority of autonomous resources for local authorities. The baseline is set by the legislature, who also regulates the rate for these taxes. This is the case for the TCL, for example, which

is calculated at a rate of 2% of the turnover, with a limit of 60 thousand dinars, so as not to penalise businesses which are already liable on the same basis for the state tax on businesses. Land taxes are calculated at a rate of 2% based on two criteria: the reference price per square metre covered, and the type of building. These two criteria are set out every three years by decree. In this way, the role of the local authority is limited to verifying the statement given by the taxpayer and, where appropriate, measuring the area of land covered by the building, as well as selecting the reference price for the square metres covered, of which the maximum and minimum are already established by the decree.

#### *Low level of autonomous financial resources*

Improving the return on autonomous financial resources for local authorities was one of the major goals of the 1997 reform. Despite developments which have taken place, their autonomous financial resources remain modest. In 2004, these resources for municipalities reached 74% of all the current resources. The proportion of fiscal revenue itself has reached 55% of their autonomous resources.

The increase in these numbers does nothing to change the lack of autonomous local authority resources. On this subject, we must remember, as mentioned above, that all autonomous local authority resources only represented 2.5% of the State's ordinary revenue in 2004. On the hand, we must also note that local authority charges are also constantly increasing. In 2004, local expenditure increased by 13.2% compared to expenditure in 2003. Although revenue for the same period only increased by 12.1%. In this way, local authorities remain largely dependent upon help from the State. In fact, in the same year, financial aid from



the State represented 52% of all municipal resources. Half of this is transferred from the common fund for local authorities in the form of an operations allowance and, where necessary, in the form of investment allowances. The other half comes from the loan and support fund for local authorities, which has the monopoly as moneylender to local authorities. These two bodies are the tools which allow the State to be involved in the process of local decision-making and at the same time to impose their economic and financial preferences on the municipalities.

The low level of autonomous resources for local authorities is mainly due to the structure of local fiscal issues itself. Local taxes, and specifically land taxes, are uneconomical by their very nature. Their level of profitability is largely tributary to taxpayers voluntarily paying the amount due. However, the lack of civic-mindedness of taxpayers, who see the tax as a despoilment, coupled with the shortage of the material and human resources available to local authorities, has led to poor collection rates for local taxes. On this subject, it is important to note that of the 264 municipalities, only 35 have autonomous financial revenue. In the same way, we must highlight that during the 2003 financial year, 80% of local authorities declared their rolls in the public accounting entries a year after the deadline. This situation is weakening the local tax collection rate further and, in the same way, is strengthening the State's hold over municipalities. In 2003, the collection rate for land taxes did not go above 20% of the total amount eligible.

In 2004, the total autonomous resources for local authorities represented only 2.5% of the State's ordinary revenue. In the same year, State financial aid represented 52% of all resources for municipalities. Half of this was transferred from the common fund for local authorities as operations

allowances and, where relevant, in the form of investment allowances. The other half came from the loan and support fund for local authorities, which has the monopoly as moneylender to local authorities.

## VI. Local responsibilities and powers

As an agent of the State, the governor is "a trustee of State authority and the government representative within his/her governorate", and he/she coordinates decentralised services. The responsibilities of governors were reinforced under the Organic Law of 4 February 1989 and the Decree of 24 March of the same year, as well as by means of the recent amendment to the Organic Municipal Law by the Organic Law of 18 July 2006.

The municipal council sets the authority's facilities programme in line with municipal resources. It is consulted in advance on all projects which must be carried out by the State, or by any other public authority in its territory.

Article 1 of Law No. 75-33 of 14 May 1975, which brought about the amended Organic Municipal Law, states that municipalities are "in charge of managing municipal interests". This notion is rather ambiguous, however. What is meant by municipal or by local interests?

In this respect, the law grants municipalities, in Articles 36, 42 and 55 in particular, a certain number of responsibilities and powers, which notably include social, economic and cultural development in the surrounding areas; the authority's facilities programme, etc. In addition to these, other responsibilities and powers are granted to municipalities. They are given in the table below.

As well as the essential and mandatory public services set out by the legislature,



municipalities can create, or participate in the management of, other public services. In this way, Article 42 (new § 7) of the Law sets out the possibility for municipalities to be involved in directly running or having financial involvement in industrial or commercial businesses as a public service for local interest.

It is important to note, however, that the notion of local affairs or local interest is not exclusive. This notion is unclear, very relative, and also residual, and depends on the good will of central authorities.

In this way, to give an example, the decentralisation of development and approval procedures for urban planning schemes (PAU) within the municipality's perimeter was presented as the great contribution of the 1994 code of national planning and urban development. This move was called into question again by the Law of 4 August 2005, which allocated the approval of these PAU to the Head of State by decree, which constituted a veritable move towards recentralisation.

It is relevant to add that the fragility of duties assigned to municipalities has been exacerbated by competition from a certain number of traders and national public businesses. In this way, education as a public service is managed by the Ministry of National Education from the primary school level. This is also the case for public health. Water distribution is also a monopoly that benefits the National Water Exploitation and Distribution Company (SONEDE, a national public company). The law has also assigned drainage to another public company – the National Drainage Bureau. Public transport is also managed by public companies connected to the Ministry of Transport.

In this way, municipalities are detached from many urban services. Their responsibilities appear residual and

inconsistent. Aside from the culture of centralisation, which is ingrained in the Tunisian administrative system, this situation can be explained by the financial vulnerability and lack of human resources in Tunisian local authorities. These are the same reasons that explain the fact that, despite their residual nature, the majority of responsibilities assigned to municipalities have remained fairly ineffective and the results they have produced are not sufficient. The issues of managing growing urban areas are a resounding example of this.

In fact, with regard to urban management, it is municipal councils that develop urban planning schemes in collaboration, notably, with the State's decentralised services. Following public enquiry, the transparency and participatory nature of which was far from acceptable, the PAU project was voted in by the municipal council, before being approved by decree in the summer of 2005.

In addition, the municipal council plays a consultative role in terms of establishing land-management intervention borders and discussing detailed development plans in detail. It is also the head of the municipality who has responsibility and power to grant approvals to divide up land or to construct or demolish buildings.

Despite the reach of these responsibilities and powers at the legal level, it is now recognised that "uncontrolled housing has become a huge structural issue".

This phenomenon, which developed rapidly during the 1970s and 1980s, is still an issue today and spreads across large areas in urban agglomerations. It is rapidly eating away at periurban areas, particularly agricultural areas, and has led to a slight decrease in the density of urban areas.





## VII. Managing local-level staff

Local authorities suffer from a lack of human resources, and there is a huge discrepancy between planning officers and those who carry out the work. The total number of employees in regional and local administration represents barely 10% of the total number employed by the State's central government. The distribution by category of workers at the regional level shows a predominance of people with basic administrative qualifications (more than 50%) over more specialised and technical workers (around 2%). The rest are manual workers (around 45%).

The structure of municipal staff is characterised by the overall predominance of unqualified manual workers (80% approximately, with 10% specialist or technical officers). Their academic and training profiles are as follows: 68% of municipal employees are educated to primary school level, 25% have secondary school education and only 7% have qualifications equal to or higher than A-levels.

## VIII. Conclusion

The concept of "decentralisation" is not used rigidly in discussions by Tunisian political leaders. It is used to mean any activities of diverse nature relating to administrative, political and economic decentralisation. Everything that is not part of the capital is considered decentralised. The appeal of this concept can be explained by their functions of legitimisation.

However, the real scope of decentralisation does not seem to reach the level of formal, systematic and ongoing statements in public authority political discourse. Firstly, at the legal level, the notion of free administration is not mentioned in

constitutional and legislative plans. Secondly, at the historical and sociological level, the introduction of the notion of decentralisation is largely related to the colonial powers and not the result of an evolved idea or an endogenous development. This being the case, this addition of a method of organisation and management based on territorial social links has come up against resistance from traditional links based on blood relations. Decentralisation has been seen as an imported model from the colonial powers to help the colonisers. As a result, this "imported" model has been rejected and the ongoing difficulties in establishing it, which lead to its destruction and fragility, particularly in terms of a culture of governance and power since independence that has been more or less authoritarian, is not very participatory and lacks plurality. In this context, which is also marked by the absence of a genuinely disputed election, the legitimacy of the electoral process (which has long been dominated by historical authenticity and has failed due to the centralist and monolithic nature of the political regime) still has problems establishing itself as the recruitment criteria and the source of authority for local structures at the legal level.