

Tunisia Embeds Anti-Corruption Agency in Constitution

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Tunisia adopted its new Constitution on 27 January 2014, marking a historic turning point, not only for the people of this small Arab country in North Africa, but also for peoples of many other countries in the region, and beyond, that are aspiring for democracy and stability.

Three years ago, Tunisia witnessed a revolution that triggered a series of transformative events across the Arab region, at the forefront of which was a resounding outcry against corruption. Since then, efforts have been underway to undertake related reforms; And while it is often argued that corruption is less rampant today than what it has been under the former regime, there is wide agreement that success in institutionalizing the fight against corruption in Tunisia has not risen to the level of aspirations, and, in many way, remains limited and fragile.

The new Constitution, however, makes an important step in the right direction, in particular through article 125 which establishes the “Good Governance and Anti-Corruption Agency”, alongside other constitutional agencies, and grants it financial and administrative independence. Article 130 provides more information:

“The Good Governance and Anti-Corruption Agency contributes to the policies of good governance and preventing and combating corruption, and to following up on its implementation and the dissemination of its culture, and enhances principles of transparency, integrity and accountability.

The Agency is in charge of detecting corruption cases within the public and private sectors, conducting related inquiries and verifications, and transferring them to the concerned authorities.

The Agency is mandatorily consulted on draft laws related to its field of competency.

It may provide its opinion on public regulatory texts related to its field of competency.

The Agency is composed of independent, impartial, competent and honest members who undertake their responsibilities one six-year term, with one third of its members renewed every two years”¹.

In many ways, this step resembles Morocco’s move to constitutionalize its own anti-corruption agency in 2011. More than two years have passed, and the law establishing the constitutionalized agency is yet to see the light, thus, arguably creating some sort of vacuum in the country's overall drive against corruption. This situation may hold a lesson for Tunisia. Among other things, it denotes the complexity of the task at hand, and the challenges it may pose in transitional contexts.

¹ Unofficial translation, original text in Arabic at http://www.anc.tn/site/main/AR/docs/constit_proj_26012014.pdf.

In welcoming Tunisia's new Constitution, President Moncef El Marzouki stated: *"this text sums up our pains and hopes. In it is reversely written all that we have not succeeded in achieving so far"*². His words may as well be a sneak peak on the gravity of the challenges ahead. Among them, without doubt, will be the challenge of setting up and operationalizing the Good Governance and Anti-Corruption Agency.

International standards and comparative experiences require that such agencies enjoy adequate guarantees that ensure its independence and effectiveness. By embedding the agency and its guarantees in the Constitution, Tunisia has made a very important first step forward, and has theoretically made it impossible for subsequent laws to undermine the agency.

Now, attention is expected to turn to the implementation of this new constitutional text, and particularly, on its implications for the current situation. At the moment, the Tunisian Anti-Corruption Authority, the successor of the fact-finding commission established in the early days of the revolution, is currently in charge of the anti-corruption since its establishment by Framework Decree No. 120 issued on 14 November 2011³. It has worked alongside the Ministry for Governance and Anti-Corruption, which now ceased to exist, as is, under the new Government announced earlier this week.

Achieving a swift and effective transition from the current situation to the new situation that is mandated by the new Constitution, and that will be managed by the new Government, is going to be of crucial importance for the Tunisian people and their drive to achieve reform and development.

Not only will such a transition provide better circumstances to confront corruption, which undermines the quality of lives for many, and threatens their sense of security and dignity, but it will also be critical to honor the country's commitment to develop a national anti-corruption strategy, the first in Tunisia's history, and to play a more active role in this field at the regional and global levels, particularly as it prepares to assume the leadership of the [Arab Anti-Corruption and Integrity Network](#), and to host the [16th edition of the International Anti-Corruption Conference](#) later this Fall, becoming the first Arab country to do so.

² The full speech in Arabic is available at https://www.youtube.com/watch?feature=player_embedded&v=f0tlecmly6M.

³ The full Decree in Arabic is available at <http://www.pogar.org/publications/ac/legalcompendium/Tunisia.pdf>.