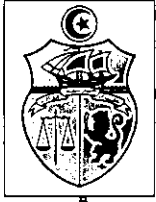


Date Printed: 12/30/2008

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JTS Box Number: IFES\_19  
Tab Number: 38  
Document Title: THE ELECTORAL CODE 2004  
Document Date: 2004  
Document Country: TUN  
Document Language: ENG  
IFES ID: EL00050





Republic of Tunisia

# The Electoral Code

2004

# THE ELECTORAL CODE

## **Law 69-25 of April 8, 1969 related to the Electoral Code.**

(The *Official Gazette of the Republic of Tunisia*, JORT n°14, dated April 8, 11 and 15, 1974, p.422).

In the name of the People,

We, Habib Bourguiba, President of the Republic of Tunisia,

The National Assembly having adopted;

Promulgate the following as law :

### Article 1

The provisions related to the presidential, parliamentary and municipal elections are grouped under the heading of Electoral Code in accordance with the text appended to the present law.

### Article 2

The following is repealed :

- Law 59-86 of July 30, 1959 related to the election of the President of the Republic and of the members of the National Assembly as well as the amendments that have since modified or completed it, notably law 61-56 of December 1, 1961.
- Articles 4 to 24, article 27 and paragraph 3 of article 56 of the decree dated March 14, 1957 related to the municipal law as modified and completed by subsequent amendments.
- The by-law issued by the Secretary of State to the Interior of March 15, 1957, establishing the mode of enforcement of the applicable electoral system for the designation of municipal councils as well as the amendments that have since modified or completed it, notably the by-law of January 11, 1963.

The present law will be published in the *Official Gazette of the Republic of Tunisia* (JORT) and enforced as the law of the State.

Signed in Carthage, April 8, 1969

The President of the Republic of Tunisia

Habib Bourguiba

# **TITLE ONE**

## **COMMON PROVISIONS**

### **CHAPTER I**

#### **Voter Eligibility Requirements**

##### **Article 1**

Suffrage is universal, free, direct and secret.

##### **Article 2**

All Tunisian men and women having completed twenty years of age, holding Tunisian citizenship for at least five years, enjoying their civil and political rights, and suffering no kind of disability provided for under the law, shall be eligible to vote.

##### **Article 3** *(amended by organic law 88-144 of December 29, 1988)*

The following cannot be registered on the electoral roll :

1. Career military personnel and young recruits during their period of draft, as well as staff members of national security forces such as defined under article 4 of Law 82-70 of August 6, 1982, related to the general status of national security forces;
2. persons convicted of a crime;
3. Persons convicted of an offence having served an und deferred three-month prison sentence or a six and more months deferred prison sentence;
4. Non-rehabilitated bankrupts;
5. The mentally insane confined to specialized hospitals;
6. Persons benefiting from legal counsel services.

##### **Article 4**

Persons convicted of reckless offences, except in case of a concomitant failure to report the offence, shall not be prevented from registration on the electoral roll.

##### **Article 5** – *(amended by organic law 2003-58 of August 4, 2003)*

No one shall be registered on more than one electoral roll. Voters registered on several electoral rolls must indicate, before the two weeks preceding the posting provided for in article 9 of the present code, their list of choice. Short

of such an indication, their registration shall be maintained in the district where they were last listed, and they shall be removed from all other lists.

## **CHAPTER II**

### **Permanent revision of electoral rolls**

#### **Article 6** *(amended by organic law 2003-58 of August 4, 2003)*

Electoral rolls are valid in a continuous way. They shall be permanently reviewed under the conditions provided for in the present code, on the basis of the lists established in accordance with the provisions of organic law 2002-97 dated November 25, 2002, concerning the preparation of the system of permanent revision of electoral rolls.

They cannot be modified, except through removal from the electoral roll, according to the cases defined in articles 5 and 12 of the present code, or through addition, according to the provisions of the same code.

Electoral rolls shall be available at the seat of the district or of the sector in non-municipal zones where all voters can take cognizance of.

#### **Article 6a** *(amended by organic law 2003-58 of August 4, 2003)*

The electoral rolls of each district and of each sector in a non-municipal zone shall include :

- Voters born in the district or sector ;
- Voters whose actual place of residence is located within the district or sector;
- Voters who have for two consecutive years prior to their registration paid a tax on goods or property located within the territory of the district or sector;
- Non-resident voters who are professionally active within the district or sector and have expressed their intention to exercise their voting rights within the district or sector;
- Voters who upon justification of wedlock have requested to be registered on the same electoral roll as their spouses.

#### **Article 7** - *(amended by organic law 2003-58 of August 4, 2003)*

Tunisian diplomatic or consular missions abroad shall review the electoral rolls concerning Tunisians residing abroad and registered therein, according to the conditions and modalities provided for under the present code.

Any claims related to the establishment of electoral roll shall be communicated and duly investigated by the head of the diplomatic or consular mission in charge, who will subsequently decide on the distribution of voter cards.

**Article 8 - (amended by organic law 2003-58 of August 4, 2003)**

Each citizen can, at any moment and depending on the case, ask the president of the municipality or the chief of sector for non-municipal zones to be registered on an electoral roll if he meets the legal conditions necessary to be a voter.

A form reserved to that effect shall be filled by the concerned person who is given a copy after checking his identity.

However, in case of an appeal against a decision of refusal of registration, the concerned person may not renew his request until the appeal is definitively decided or withdrawn.

Subject to the provisions of article 11 of the present code, registration applications may not be filed after the publication of the decree inviting voters and until the end of the electoral operations.

**Article 9 - (amended by organic law 2003-58 of August 4, 2003)**

The president of the municipality for each district, and the chief of sector for each non-municipal zone, shall post, on December 31<sup>st</sup> and on June 30<sup>th</sup> of each year, and for one month, an additional list.

The additional list shall comprise the registered voters.

During the two weeks preceding the posting, the president of the municipality or the chief of the sector, depending on the case, shall establish the additional list; each of them shall be assisted by four voters of the district designated by order of the Minister of Interior. Additional lists shall indicate the voter's full name, date and place of birth and address.

During the period stated in paragraph 3 of the present article, they shall also undertake, with the assistance of the voters mentioned above, the removal of the names of voters, in conformity with articles 5 and 12 of the present code. During the same period, and except for the case of death, the president of the municipality, and the chief of sector, depending on the case, shall inform without delay, by registered mail with acknowledgement of receipt, any voter whose name has been removed for whatever reason. Otherwise, the voter shall be considered as being registered, notwithstanding the removal of his name.

Two months following the posting date, the president of the municipality or the chief of sector, depending on the case, shall incorporate the additional list within, and make it part of, the electoral roll stated in article 6 of the present code, with the modifications resulting from the decisions of the revision

commission or those of the Court of First Instance which acts as an authority of appeal in conformity with the provisions of the present code.

The Ministry of Interior shall announce, through the written and audio-visual media, the dates and expiration of the periods of posting and of appeal. It shall periodically remind of these dates, through the same media and within the same period.

**Article 10** *(amended by organic law 2003-58 of August 4, 2003)*

In case the posting date stated in article 9 of the present code immediately precedes the general ordinary elections, the electoral rolls shall be posted, followed by the additional lists, starting from the above date and till the publication of the decree inviting voters.

The time-limits provided for in paragraph 1 of article 18, in article 20 and in paragraph 1 of article 21 shall, in this case, be reduced each to 3 days, on the condition that the notification provided for in paragraph 3 of article 18 of the present code is made immediately. The period provided for in paragraph 5 of article 9 of the present code shall be reduced to one month and twenty days.

**Article 11** *(amended by organic law 2003-58 of August 4, 2003)*

The following can, for election purposes, be registered on electoral rolls after publication of the decree inviting voters:

1. Civil servants and employees of the State, of public local communities and public institutions, and their spouses when they are under an obligation of transfer or retirement.
2. The military and the personnel of the internal security forces when they lose this status.
3. Persons satisfying the age requirement for voting eligibility after the closure of electoral rolls.
4. Persons whose incapacity has been waived.
5. Citizens in whose favor a final decision has been rendered to permit their registration on electoral rolls.
6. Each Tunisian registered on an electoral roll established by a Tunisian diplomatic or consular mission abroad and holding a voter card in his name delivered by the said mission.

Registration outside the periods of revision provided for in the cases listed in the paragraph above, can only take place if the interested party submits a written application to the municipal authority or sector concerned along with the necessary justificatory documents three days at the latest before the ballot date.

A special form reserved to that effect shall be filled, and a copy shall be delivered to the concerned person after checking his identity.

**Article 12** (amended by organic law 2003-58 of August 4, 2003)

Shall be removed from the electoral roll :

1. Deceased voters as soon as their act of death has been registered.
2. The military called to duty.
3. Persons whose incapacity has been established.

The removal is made upon a written request by the voter desiring to be registered on a list other than the one on which he is registered, provided that he provides evidence of his request to be registered on another list.

**Article 13** (amended by organic law 93-118 of December 27, 1993)

All costs incurred in establishing electoral rolls and publicizing their revision shall be covered by the State budget.

**Section II**

**Litigation related to registration on electoral rolls**

**Article 14** (amended by organic law 2003-58 of August 4, 2003)

All disputed pertaining to registration in, or removal from, electoral rolls shall be examined by the revision commission.

The revision commission shall include :

- One judge appointed by the Minister of Justice : President
- A representative of the governor : member
- Three voters selected by the Minister of Interior : members.

**Article 15** (amended by organic law 2003-58 of August 4, 2003)

Any citizen who, despite his registration application, has not been registered or any voter whose name has been removed, may make a claim which, to be valid, must be submitted to the president of the municipality or to the chief of sector, depending on the case, by registered mail with acknowledgement of receipt. The date of depositing the registered letter is considered as being that of the presentation of the claim. The claim is considered as legally presented if it is sent during the posting period stated in article 9 of the present code.

No claim may be received after expiration of the above-stated deadline.

Any voter may, during the same above-mentioned period, ask, while submitting supportive justificatory documents, the removal of the name of a voter in the cases mentioned in numbers 1, 2 and 3 of paragraph 1 of article 12 of the present code.

**Article 16** – (repealed by article 3 of organic law 88-144 of December 29, 1988).

**Article 17** – (repealed by article 3 of organic law 88-144 of December 29, 1988).

**Article 18** – (amended by organic law 88-144 of December 29, 1988).



The commission shall rule, free of cost, within the eight days following the expiry of the period in which claims can be filed.

The commission shall automatically order the registration of omitted voters or the removal of voters unduly registered. Every time the commission rules on a removal from the electoral roll, the voter with the contested registration will be immediately notified, free of cost, by the president of the commission and can present his comments in writing, as well as provide all information justifying his registration. He has the right to a hearing with the commission.

The commission's decisions shall be recorded in a report duly signed by its members. These decisions shall be communicated to the administrative authority in charge of establishing the electoral rolls, who will notify the interested parties through registered mail with an acknowledgement of receipt.

#### Article 19 (amended by organic law 79-35 of August 15, 1979).

The decisions of the revision commission can be the object of an appeal to the jurisdiction's Court of First instance and even an overruling by the Administrative Court.

#### Article 20

The appeal shall be filed within a five-day period following the day of the revision commission's decision for the administrative authority and the day of notification of the decision for the interested party.

#### Article 21 (amended by organic law 2003-58 of August 4, 2003)

The Court of First Instance shall rule in the five days following the submission of the case. The appeal shall be held in a public hearing. The president of the district or chief of sector shall be immediately notified of the hearing.

**The period for lodging an appeal is reduced to 15 days. The period for presenting the memorandum of cassation and of the attached documents is reduced to 30 days; the administrative court shall decide on the appeal submitted to it within a 30-day period starting from the date of presenting the memorandum of cassation.**

#### Article 22

All judicial acts pertaining the electoral matters are exempted from the tax stamp and registered free of charge.

### Section III

#### Voter cards

#### Article 23 (amended by organic law 88-144 of December 29, 1988).

A voter card shall be issued to all those registered on the electoral roll. The validity period of this card is set by decree.

Expenses incurred in the printing and distribution of voter cards shall be covered by the State budget.

#### Article 24

Voter cards are established by the president of the municipality for districts and by the chief of sector for sectors. These cards shall necessarily include :

- The voter's full name, date and place of birth, and address;
- The voter's registration number on the electoral roll;
- An indication of the locality where the voter can vote.
- An indication of the polling station where the voter shall go to vote.

#### Article 25 *(amended by organic law 2003-58 of August 4, 2003)*

**Voter cards shall be distributed to the voters by the president of the municipality or the chief of sector. For ordinary general elections, the distribution of cards shall start during the 5<sup>th</sup> month preceding the election month, and shall end 15 days before the day of the ballot. For the other elections, the distribution shall start as soon as the decrees inviting voters are issued and shall end, in all cases, two days before the election day.**

**The voter card shall be handed directly to the voter since the beginning of the distribution and for a 3-month period, for ordinary general elections, and for a 2-week period, for the other elections. The concerned voter shall acknowledge receipt of his card by appending his signature next to his name. After the end of the two above-stated periods, and depending on the case, and till the expiry of the distribution periods, the cards that have not been distributed shall be sent to their holders by registered mail at the addresses indicated on the electoral rolls.**

**A commission shall be established, with the limited mandate of examining claims submitted by voters who are legally registered on electoral rolls but have not received their voter cards at the expiration of the distribution period.**

**The governor shall decide by decree on the membership of every commission which includes :**

- Two representatives of the administration to be appointed by the governor.
- A representative of each legally constituted political party at its own written request. This representative must be a voter registered on the electoral roll of the district where he is appointed.

**The district president or the chief of sector shall chair the commission.**

**Non-distributed voter cards shall be returned to the district or chief of sector. These cards can be picked up by the voter on the day of the ballot at the commission referred to in the second paragraph of the present article at the seat of the municipality for districts or county council for sectors.**

At the close of the ballot every commission in charge of card distribution shall check-list unclaimed cards and prepare a special report to be signed by all its members.

These cards and the special report will be deposited at the district seat or county council in a sealed envelope. This envelope can only be opened by the district president or chief of sector during the following electoral roll revision period.

The president of the municipality or the chief of sector shall take into account the indications that have motivated the return of the card to the municipality or seat of sector.

### **CHAPTER III**

#### **Electioneering**

Article 26 (*amended by organic law 88-144 of December 29, 1988*) Public electoral meetings are free. However, a written declaration shall be submitted to the governor or the delegate at least twenty-four hours prior to the meeting.

Article 27 (*amended by organic law 88-144 of December 29, 1988*).

Each meeting shall include a bureau comprised of at least three persons in charge of maintaining order, preventing all infringements of the legislation, ensuring that the character of the meeting remains in line with the declaration and free from any discourse contrary to public order and accepted standards of good behavior or inciting criminal or felonious acts.

The full names and addresses of the bureau members shall be detailed in the declaration referred to in article 26 of the present code.

#### **Article 28**

A representative of the authority can attend the meeting. However, he can dissolve the meeting if so required to by the bureau or in the case of physical assault.

Article 29 (*amended by organic law 79-35 of August 5, 1979*).

The provisions of the Press Code as promulgated by law 75-32 of April 28, 1975 are applicable to electoral campaigns.

#### **Article 30**

Voting ballots are exempted from the formality of copyright registration.

#### **Article 31**

On election day, it is forbidden to distribute ballot papers, pamphlets or any other document.

## Article 32

It is forbidden for public officials to distribute ballots and candidate pamphlets as well as give professions of faith.

## Article 33 (amended by organic law 88-144 of December 29, 1988)

During the election campaign, special areas for the posting of electoral posters shall be reserved by the public authority. Within each of these areas, an equal surface shall be assigned to each candidate in a presidential election or to each list of candidates in other elections.

All other posting pertaining to the election outside these specialized areas and in areas reserved for other candidates is forbidden.

The relevant administrative authority can order the removal of all posting contravening the previous provisions.

## Article 34 (amended by organic law 2003-58 of August 4, 2003)

The posting areas shall be assigned according to the order of arrival of requests which must be submitted during :

- The five days following the day of the Constitutional Council's proclamation of the final lists of candidates to the presidency of the republic.
- The two days following the day of posting, by the Governor, of the final lists for the election of the members of the Chamber of Deputies.
- The first four days of the second week preceding the election day for the election of municipal councils.

## Article 35 (amended by organic law 2003-58 of August 4, 2003)

The posters, ballot papers, electoral leaflets and general electoral programs must have the following formats :

1. The format 84.1 cm X 59.4 cm for posters intended to be placed in the posting areas set by article 33.
2. The format 42 cm X 29.7 cm for the announcement of the holding of electoral meetings.
3. The format 42 cm X 29.7 cm for electoral leaflets and programs.
4. The format 10.8 cm X 14.8 cm for ballot papers including one or two candidates.
5. The format 14.8 cm X 21 cm for ballot papers including 3 to 30 candidates.
6. The format 21 cm X 29.7 for ballot papers including more than 30 candidates.

## Article 36

Electoral posters shall be printed on the same paper color as ballots. They are exempt from the tax stamp.

**Article 37** *(amended by organic law 2003-58 of August 4, 2003)*

Candidates for presidential elections or for the Chamber of Deputies are authorized to use the Tunisian radio and television for their electoral campaigns.

Requests for airing radio and TV programs shall be addressed, by registered mail with acknowledgment of receipt, to the authority supervising public radio and TV establishments, within the time-limit stated in the first dash of article 34 of the present code for the first round of presidential elections, and within the time limit stated in the second dash of article 34 of the present code for the election of the members of the Chamber of Deputies.

In the event of holding a second round for the presidential elections, no request is required.

The date and time of programs are set by drawing lots by the authority supervising public radio and TV establishments. These programs shall have an equal duration for presidential candidates and a variable duration, according to the number of candidate lists, for the election of the members of the Chamber of Deputies.

The draw shall take place in the presence of candidates or their representatives for presidential elections, and in the presence of candidates or representatives of the lists of candidates for the election of the members of the Chamber of Deputies, within a period not exceeding 15 days before the day of the ballot.

In all cases, candidates or their representatives shall be duly invited to attend the operation of drawing lots.

**Article 37a** *(amended by organic law 2003-58 of August 4, 2003)*

The campaign for electing the President of the Republic as well as that for electing members of the Chamber of Deputies shall be open two weeks before the day of the ballot.

The campaign for electing the members of the Chamber of Advisors or of the members of municipal councils shall be open one week before the day of the ballot.

In the event of holding a second round of presidential elections, the electoral campaign for the second round shall be opened on the Sunday that follows the first round election day.

The electoral campaign shall, in all cases, end twenty-four hours before the day of the ballot.

## **CHAPTER IV**

### **The vote**

#### **Section I**

#### **Polling stations**

##### **Article 38** *(amended by organic law 2003-58 of August 4, 2003)*

The governor shall designate the location of the polling station(s) in every district or sector. These locations shall be brought to the knowledge of voters at least seven days before the day of the ballot through posters to be posted at the seat of the governorate, delegations and sectors.

**The number of voters in one polling station shall not be less than 450 for districts where the number of voters is equal to or more than 7000.**

Polling stations cannot be located on premises belonging to political parties or to a national organization.

The governor shall designate the president of every polling station as well as two voters in charge of assisting him. The members of the polling station cannot be selected from among the candidates.

##### **Article 39** *(amended by organic law 2003-58 of August 4, 2003)*

At least two members of the polling station shall be present at all times throughout the duration of the ballot.

Each candidate to the presidential election or list of candidates for legislative or municipal elections has the right to the permanent presence in every polling station of an authorized delegate to control the electoral operations.

The names of the accredited delegates and their deputies must be communicated in writing at least three days prior to the day of the ballot to the governors who will issue a receipt for the declaration.

**The accredited delegates and their deputies must be themselves voters registered on any electoral roll.**

The accredited delegates or their deputies may record their observations on the course of elections in a memorandum that must imperatively be attached to the ballot report provided for by article 55 of the present code. The report must also mention the accredited delegates' or their deputies' time of presence in, and departure from, the polling station.

##### **Article 40** *(amended by organic law 2003-58 of August 4, 2003)*

Each polling station shall hold a list of the voters registered in its district.

Members of polling stations are not allowed to bear badges indicating their political affiliation. This prohibition applies to the accredited delegates of

**candidates and to their deputies. The president of the polling station shall ensure the respect of this prohibition.**

Each polling station shall rule on all questions that might arise during the ballot and have them consigned in its final report.

#### Article 41

The president of the polling station is in charge of maintaining law and order in his station. No armed force can be placed on the premises without his consent.

The president has the right to dismiss from the polling station voters disrupting the vote.

Voters can only occupy themselves with the vote for which they were invited. They are denied all discussions and deliberations.

The president can, if need be, halt the ballot so as to restore calm.

No voter shall be allowed on the premises if he is in possession of any kind of weapon.

### Section II :

#### The vote

#### Article 42 *(amended by organic law 2003-58 of August 4, 2003)*

**Voters are summoned by decree. For ordinary general elections, the decree must be issued at least 3 months before the day of the ballot.**

#### Article 43

The ballot shall last only one day; it shall take place on a Sunday. A poster on the door of every polling station will indicate the hours set for the ballot.

#### Article 44

The legally registered voter shall, upon presentation of his voter card, be admitted into the polling station to vote.

#### Article 45

Voting shall be carried out in envelopes provided by the administration. The number of envelopes provided shall be equal to the number of registered voters.

These envelopes shall be opaque, stamped with the governorate's seal and uniform in type. They must be of white paper for the presidential election and of Manila paper for legislative and municipal elections. On the day of the ballot, these envelopes shall be at the disposal of voters in the polling station.

#### Article 45a *(amended by organic law 2003-58 of August 4, 2003)*

An allowance to finance the electoral campaign shall be granted to every candidate in a presidential election and every list of candidates in a legislative election. The amount of the allowance shall be determined on the basis of every one thousand

voters at national level for presidential elections, and at the level of the district for legislative elections.

These allowances shall be granted under the following conditions :

1 - Each candidate to the presidential election shall be granted half of his allowance as soon as the **Constitutional Council declares the validity of his candidacy**. The second half of the allowance shall be released if the candidate obtains at least 3% of the valid votes at national level.

2 - Each list of candidates to legislative elections shall be granted half of the allowance as soon as it obtains the definitive receipt referred to in article 92 of the present Code. The second half of the allowance shall be released to every list attaining at least 3% of the valid votes in the concerned constituency.

For the other elections provided for under this Code, each list of candidates having obtained at least 3% of suffrage at the level of its constituency can claim the reimbursement of expenses incurred in printing a number of ballot slips equal to the number of voters registered in the district marked up by 10%, and the expenses incurred in printing a number of election posters determined on the basis of one poster per 500 voters within each electoral district.

The formats of election posters and ballot slips, the cost of which shall be refunded, are those determined in **paragraphs 1, 5 and 6 of article 35 of the present code**.

The decree referred to in article 42 of the present code shall determine for each case, the amount per one thousand voters, or the lump cost for each election poster and ballot slip that shall serve as a base in calculating the expenses to be reimbursed.

#### **Article 46** *(amended by organic law 2003-58 of August 4, 2003)*

In each polling station, ballots for each candidate to a presidential election or for each list of candidates in other elections shall be placed on a special table reserved to that effect. The number of ballots for each candidate or list of candidates shall be equal to the number of voters registered at that polling station marked up by 10%.

The State shall be in charge of printing the ballots for presidential and legislative elections. These ballots shall have different colors.

Political parties should at the time of their formation choose the color of their candidates' ballot slips, which shall serve in all elections to be organized in accordance with the provisions of the present code.

**Each presidential candidate who is not affiliated to any political party shall choose from among the colors to be presented to him by the President of the Constitutional Council. This choice shall occur in the order of presentation of candidacies. An acknowledgement of receipt shall be delivered.**

Candidate lists to legislative elections not affiliated to political parties shall choose from among the colors presented to them by the governor or his representative



when submitting candidacies. The choice shall occur in the order of presentation of candidacies. An acknowledgement of receipt shall be delivered.

**In all cases, the provisions of paragraph 2 of the present article shall be taken into consideration. Paper of white color may not be chosen, as it is strictly reserved to printing texts issued by the public authorities.**

**Article 46a (amended by organic law 2003-58 of August 4, 2003)**

For all elections other than presidential and legislative, organized in conformity with the provisions of the present code, each list of candidates from an electoral district shall be in charge of printing its ballot slips and shall submit them at the seat of the governorate 72 hours prior to the election day. The number of ballots shall equal the number of voters registered in the electoral district marked up by 10%. An acknowledgement receipt shall be delivered to this effect.

**The ballot papers selected by the candidate lists shall, subject to the provisions of paragraphs 2 and 6 of article 46 of the present code, be of different colors.**

Each list of candidates shall submit to the seat of the governorate a sample of the ballot slips it has selected, against a receipt, before the start of the election campaign.

**Article 47 (amended by organic law 88-144 of December 29, 1988).**

There shall be a ballot box in every polling station. However, when two or more elections are held simultaneously, one ballot box shall be reserved for each election in every polling station.

Each ballot box shall have no more than one opening for the insertion of the envelope containing the ballot slip.

When the voting begins, the polling station chief shall verify in the presence of all members of the station as well as the candidates' representatives attending, that the number of ballot papers in the station is the same for all candidates. Then after opening the ballot box and ensuring in the presence of voters that it is totally empty, the polling station chief shall use two locks or padlocks to close the box, keep one of the keys in his hands and put the other key in the hands of his eldest assessor.

**Article 48 (amended by organic law 2003-58 of August 4, 2003)**

Upon entering the voting station, the voter shall produce his voter card or any written proof of his identity, which he can establish even through the testimony of two voters who are not candidates. Then, the voter shall himself pick up, from a special table provided to this effect, one envelope, or if both presidential and legislative elections are being held simultaneously, two envelopes, one of white paper and the other of Manila paper as provided for in article 45 of the present code, and a ballot paper of each candidate list and, without leaving the polling station, he shall enter the polling booth so as to put the ballot of his choice in the envelope reserved to this end.

The voter shall then return to the voting office where the polling station chief verifies that he holds only one or two, depending on the case, envelopes of different colors, which he himself shall place in the corresponding ballot box.

After voting, the voter shall append his signature on the list of voters next to his name. Voters who cannot read and write and those with a disability preventing them from signing shall append their finger-prints on the list of voters next to their names. In case of incapacity, the chief or a member of the polling station shall make mention of that. The polling station chief or one of its members shall affix a stamp bearing the date of the vote in one of the squares of the voter card.

Each voter entering the polling station prior to the time scheduled for the closing of the ballot shall be able to vote.

**Article 49** *(amended by organic law 2003-58 of August 4, 2003)*

Voters who cannot read or write and voters with a disability preventing them from individually carrying out the voting operations referred to in the previous article are authorized to seek the assistance of a non-candidate voter of their choice to assist them in accomplishing the above-mentioned operations.

**Voting by proxy is forbidden.**

**Section III**

**Counting of votes**

**Article 50** *(amended by organic law 2003-58 of August 4, 2003)*

Once the ballot is over, the station members proceed immediately to the counting of votes.

The operations of counting votes, like those of the vote, shall be public.

**The ballot box shall be opened in the presence of the accredited delegates or their deputies referred to in article 39 of the present code. In case of total or partial absence of delegates, a mention of this shall be made in the ballot report stated in article 55 of the present code.**

**If after verifying the number of envelopes contained in the ballot box, it turns out that this number is more or less than that of annotations, a mention of this shall be made in the ballot report.**

**Article 51** *(amended by organic law 90-48 of May 4, 1990)*

The members of the polling station shall assume the function of scrutineers. They are, if need be, joined by other additional scrutineers selected by the station chief from among the voters present, in order to form as many vote counting tables as needed.

At each vote counting table one scrutineer removes the folded ballot slip from its envelope, which he passes on to another scrutineer who reads it out loud. At least

two other scrutineers simultaneously record the votes obtained by the various candidates or lists of candidates on special vote counting forms prepared to this effect.

Once the vote count is completed, the scrutineers record the number of votes obtained by each candidates or list of candidates on the vote counting forms. These forms are signed by the scrutineers and submitted to the polling station along with the envelopes and the ballots.

When there is no unanimous agreement on the attribution of a vote to one particular candidate or list of candidates, the scrutineers must refrain from counting that vote; the envelope and the ballot are duly signed, numbered and submitted at the end of the vote count to the polling station that will rule on the vote's validity.

#### Article 52

If the scrutineers find several ballots in one envelope indicating the same name, only one of these ballots shall be taken into account.

#### Article 53 (amended by organic law 93-118 of December 27, 1993)

The following shall be considered as invalid ballot papers :

- All ballot papers containing the name of a non-candidate;
- All ballot papers other than those put at the disposal of voters by the polling station;
- All ballot papers found in the ballot box with no envelope;
- All ballot papers found in the ballot box within an envelope unrelated to the present ballot;
- All ballot papers displaying a sign or any other device whereby the voter could be recognized;
- All ballot papers in which a candidate's name has been replaced or crossed out.

#### Article 54 (amended by organic law 90-48 of May 4, 1990)

The polling station shall determine the result of the ballot by tallying the totals on the vote counting forms from the various groups of scrutineers and assigning to each candidate or list of candidates the votes proven to be gained after ruling on the dubious ballots.

#### Article 55 (amended by organic law 88-144 of December 29, 1988).

In addition to specifying the results of the vote count according to the votes obtained by each candidate, the ballot report, drafted in three copies, shall also establish the definitive number of votes and that of voters registered at the station's electoral roll. The report shall also mention the number of unmarked and invalid ballots which shall not be taken into account in the vote count results. These ballots shall be attached to the report along with the other valid ballots. All these documents shall be transmitted, without delay, to the vote gathering bureau if available or else to the vote centralizing bureau.

The governor can, prior to election day, designate by decree one or more vote gathering bureaus outside the polling station within a same electoral district. The governor shall also determine the polling stations within the boundaries of each gathering bureau.

The governor shall, prior to election day, designate one vote centralizing bureau per electoral district to be located outside of the vote gathering bureau.

Vote gathering bureaus are in charge of tallying the vote results received from the various polling stations attached to them. Vote gathering bureaus shall also draft a report in three copies to be signed by all members of the bureaus.

The vote centralizing bureau is in charge of tallying the vote results received from all the vote gathering bureaus if available or else all the polling stations within the electoral district boundaries. The vote centralizing bureau shall rank the candidates or lists of candidates and draft a report in three copies to be signed by all its members.

The composition of vote gathering and centralizing bureaus shall be established in accordance with the provisions of paragraph 3 article 38 of the present code.

All documentary evidence shall be gathered at the behest of the chiefs of polling stations or of the vote gathering bureau(s), if available, or of the centralizing bureau, and handed over to the governor.

#### **Article 56 (amended by organic law 2003-58 of August 4, 2003)**

Subject to the provisions of paragraph 2 of article 102 of the present code, each candidate or his duly designated representative has the right to supervise vote counting and unfolding operations on the premises where these operations occur and to require the recording of any his observations, protests or objections to the said operations, either before or after the proclamation of ballot results.

The delegate of the candidate must be a voter registered on any electoral roll.

#### **Article 56a (added by organic law 88-144 of December 29, 1988)**

All expenses arising from the ballot shall be covered by the State budget.

### **CHAPTER V**

#### **Penal provisions**

#### **Article 57**

Persons registered on an electoral roll under a false name or quality or having used fraudulent declarations or false certificates to conceal a legal incapacity or having requested and obtained a registration on two or more electoral rolls shall be liable to a one-to-six-month imprisonment sentence and a fine of 240 dinars.

The offender could also be deprived of the exercise of his civic rights for a period of two years.

### Article 58

All fraud in the issuance or delivery of a certificate of registration in or removal from electoral rolls shall be liable to legal pursuit as provided for under article 57 of the present law.

### Article 59

All infractions to articles 31, 32 and the last paragraph of article 33 of the present law shall be liable to a fine of 12 to 120 dinars without prejudice to the confiscation of ballot slips and other distributed documents.

### Article 60

Any voting cast through a manipulated registration of the kind outlined in article 37 of the present law or by falsely assuming the identity or quality of a registered voter shall be liable to such penalties as provided for under article 57 of the present law.

### Article 61

Public and civil action instructed in accordance with articles 57 to 60 of the present law shall be prescribed after three months following the proclamation of election results.

### Article 62

Article 53 of the Penal Code is applicable to the sentences prescribed by articles 57 to 60 of the present law.

### Article 62a (added by organic law 88-144 of December 29, 1988)

Candidates are forbidden from accepting any foreign financial assistance, direct or indirect, regardless of its quality or nature.

Any infraction to the provisions of the paragraph above shall entail the following :

1. A one-to-three-year imprisonment sentence and a three-to-ten-thousand-dinar fine, or only one of these two sentences.
2. The automatic loss of candidate or elected official status as soon the judgment is rendered, depending on its timing before or after the election results proclamation.

The right to instruct a case on the basis of this article shall lapse five years after the proclamation of the election results.

### Article 62-III (added by organic law 2003-58 of August 4, 2003)

During the electoral period, no person may use a private or foreign radio station or TV channel, or one broadcasting from abroad, in order to incite people to vote or to abstain from voting for a candidate or a candidate list. Also forbidden is the use of these stations and channels from purposes of electoral campaign during the electoral period.

Any violation of the prohibition provided for in paragraph 1 of the present article is punishable by a fine of 25,000 dinars. This penalty can in no way be mitigated.

## **Chapter VI**

### **Fields of application of Title I**

#### **Article 62-IV** *(added by organic law 2003-58 of August 4, 2003)*

Subject to the provisions pertaining to the Chamber of Advisors and to referendum, the provisions of Title 1 shall be applied to all elections organized by virtue of the present code.

**TITLE II**  
**SPECIAL PROVISIONS FOR THE ELECTION**  
**OF THE PRESIDENT OF THE REPUBLIC**

**CHAPTER ONE**  
**Eligibility Conditions**

**Article 63** *(amended by organic law 2003-58 of August 4, 2003)*

The President of the Republic is elected for five years. He is re-eligible for two successive mandates.

**He can renew his candidacy.**

Presidential elections shall take place during the last thirty days of the incumbent presidency.

**Article 64** *(amended by organic law 2003-58 of August 4, 2003)*

A candidate to the Presidency of the Republic shall meet the following conditions :

1. hold the status of voter;
2. be of Muslim faith;
3. be of Tunisian nationality by birth without discontinuity and be exclusively of this nationality;
4. be of parents and grand-fathers both paternal and maternal who are Tunisian and have remained as such without discontinuity.
5. be at least 40 and at most 75 years old on the day he stands as a candidate.

**Article 65** *(repealed by article 3 of organic law 88-144 of December 29, 1988)*

**CHAPTER II**  
**Candidacy**

**Article 66** *(amended by organic law 2003-58 of August 4, 2003)*

Candidacy applications shall be submitted to the Constitutional Council during the second month preceding the day of the ballot.

In order to be accepted, candidacy applications must be presented individually or collectively by at least thirty citizens from among the members of the Chamber of Deputies or the presidents of municipal councils. These selected officials shall submit to the Constitutional Council a declaration of

**candidate presentation. This declaration must be on plain unheaded paper bearing the legalized signatures of the elected officials presenting it.**

Each of these elected officials can sign no more than one declaration of candidate presentation.

Each candidate must make a five thousand dinar security deposit to the treasurer general. This deposit shall only be refunded if the candidate obtains a minimum of 3% of the vote. The candidate must submit and sign a request on fiscal paper, comprising notably the following information :

1. The full name, date and place of birth, address and profession of the candidate;
2. The full name, date and place of birth, address and profession of the candidate's parents and both grandfathers;
3. The list of elected officials mentioned above.

In support of his declaration, the candidate must notably submit an extract from his act of birth dating less than one year, as well as official justificatory documents proving that he and his parents and both grand-fathers have all maintained their Tunisian citizenship without discontinuity.

All documents related to nationality are delivered by the Ministry of Justice.

**Article 67 (amended by organic law 2003-58 of August 4, 2003)**

**Candidacy applications shall be recorded on a special register initialed by the President of the Constitutional Council.**

**After checking the legality of candidacies, the Constitutional Council shall make a definitive declaration of the list of candidates three days following the expiration of the deadline for submitting candidacies.**

**Article 67a (amended by organic law 2003-58 of August 4, 2003)**

**Any person whose candidacy is submitted by virtue of article 66 of the present code may submit to the secretariat of the Constitutional Council a request for the purpose of examining objections pertaining to the list of presidential candidates, on the day following the proclamation of this list.**

**These provisions shall apply to candidates by virtue of constitutional law 2003-34 of May 13, 2003, providing for exceptional provisions to paragraph 3 of article 40 of the constitution.**

**The Constitutional Council shall rule on the requests submitted, on the third day following the day of the proclamation mentioned in paragraph 1 of the present article, and shall declare, within the stated deadline, the final list of candidates which shall be published in the *Official Gazette of the Republic of Tunisia*, at least 20 days before the day of the ballot.**

**Article 67-II**

**Withdrawing candidacies for presidential elections after the expiration of the deadline for submitting candidacies is inadmissible.**



### **CHAPTER III**

#### **Voting modalities and proclamation of results**

##### **Article 68** *(amended by organic law 2003-58 of August 4, 2003)*

Tunisians residing abroad can, once the provisions of article 7 of the present code are met, exercise their right of vote to elect the President of the Republic in the special voting centers provided to this effect.

Notwithstanding the provisions setting the election day under article 43 of the present code, voting by Tunisians residing abroad shall commence on the second Saturday preceding the day of the ballot set for elections within the Republic. In case a second round of presidential elections is organized, voting shall commence on the Wednesday preceding the day of the ballot set for elections within the Republic.

Voting abroad shall cease on the Saturday preceding election day at home.

Vote counting shall begin as soon as the ballot is over.

A decree shall establish the electoral district with which these centers are affiliated as well as how these shall operate.

##### **Article 69** *(amended by organic law 2003-58 of August 4, 2003)*

The general vote tally shall be carried out publicly at the Ministry of the Interior no later than 12 o'clock of the day following the day of the ballot. The result shall be communicated right after to the President of the Constitutional Council.

##### **Article 70** *(amended by organic law 2003-58 of August 4, 2003)*

The President of the Republic is elected by the absolute majority of the valid votes.

In case this majority is not obtained in the first round of elections, a second round shall be organized on the second Sunday following the day of the ballot. Subject to the provisions of article 70a, only the first two candidates having obtained the highest number of valid votes in the first round may participate in the second round.

##### **Article 70a** *(added by organic law 2003-58 of August 4, 2003)*

Each candidate whose candidacy is declared valid can, within a time-limit of 48 hours after closing the polling stations, contest, with the secretariat of the Constitutional Council, the legality of the election operations of the first round and their results.

##### **Article 70-II** *(amended by organic law 2003-58 of August 4, 2003)*

If, during the legal time-limit, no objection is made, the Constitutional Council shall declare, during the day following the expiration of the deadline

for appeal, the election of the candidate having obtained the absolute majority of the valid votes in the first round.

In case this majority is not obtained, the Constitutional Council shall announce, within the same time-limit provided for in paragraph 1 of the present article, the two candidates having obtained the highest number of the valid votes.

In case of appeal, the Constitutional Council shall rule on it and shall declare the results with a two-day period after the expiration of the deadline for appeal, depending on the case and according to the modalities provided for in paragraphs 1 and 2 of the present article.

The list shall be immediately published in the *Official Gazette of the Republic of Tunisia* (JORT).

Withdrawals are inadmissible, unless they are presented to the Secretariat of the Constitutional Council, one day following the proclamation, by the Council, of the results of the first round.

The Constitutional Council shall designate and, if need be, declare immediately the two candidates eligible for the second round. The list shall be published, without delay, in the *Official Gazette of the Republic of Tunisia* (JORT).

#### Article 70-III (amended by organic law 2003-58 of August 4, 2003)

For the second round, appeals are open for the two candidates having participated in it.

The same time-limit and the same procedures provided for in article 70a of the present code shall apply.

The Constitutional Council shall declare the results in accordance with paragraph 1 of article 70-II of the present code. In case of appeal, the provisions of paragraph 3 of the same article shall apply.

#### Article 71

The election result shall be published in the *Official Gazette of the Republic of Tunisia* (JORT).

**TITLE III**  
**SPECIAL PROVISIONS FOR THE ELECTION**  
**OF NATIONAL ASSEMBLY MEMBERS**

**CHAPTER I**  
**Composition of the National Assembly**  
**and Term Length of its Members**

**Article 72** *(amended by organic law 98-93 of November 6, 1998)*

The total number of seats at the Chamber of Deputies shall be set by decree on the basis of one seat per 52,500 inhabitants; an additional seat shall be allocated if, after this operation, there is a population surplus exceeding half the demographic base required to determine the total number of seats.

The number of seats allocated to each electoral district shall be determined by the same decree as in the paragraph above on the basis of one seat per 65,000 people.

In all cases the number of seats allocated to one single district cannot be less than two, and an additional seat shall be allocated to a district if the operation referred to above leaves a population surplus exceeding half the demographic base used to determine the total number of seats for electoral districts.

The difference between the total number of seats at the National Assembly and the number of seats allocated to electoral districts shall be apportioned nationally.

**Article 73** *(amended by organic law 2003-58 of August 4, 2003)*

The Chamber of Deputies shall renew itself integrally subject to the provisions of article 108 of the present code.

**Subject to the constitutional provisions concerning the extension of the mandate or the dissolution of the Chamber of Deputies, the general elections shall take place during the 30 days preceding the expiration of the mandate.**

**Article 74** *(repealed by article 11 of organic law 2003-58 of August 4, 2003)*

**Article 75** *(repealed by article 3 of organic law 88-144 of December 29, 1988)*

**CHAPTER II**  
**Eligibility and Ineligibility Requirements**

**Article 76** *(amended by organic law 98-93 of November 6, 1998)*

## **Updating of the Electoral Code**

Articles 80 through 87, 116 and 117 of the Electoral Code are repealed by Article 46 of Organic Law 2004-48 dated June 14, 2004, organizing the work of the Chamber of Deputies and the Chamber of Advisors, and defining the relations between the two chambers.

(JORT No.48 dated June 15, 2004)

None can be candidate to the Chamber of Deputies unless the following conditions are met :

- The candidate must be a voter;
- The candidate must be of a least 23 completed years of age on the day candidacy is presented;
- The candidate must be of Tunisian nationality, born of a Tunisian father or mother.

Article 77 (amended by organic law 88-144 of December 29, 1988)

The following can be candidates to the National Assembly only after resigning their functions and responsibilities :

- The president and members of the Constitutional Council of the Republic;
- The president and members of the Economic and Social Council;
- Governors;
- Magistrates ;
- First delegates, secretaries general of governorates, delegates and chiefs of sector.

Article 78

Individuals stripped of their civic rights by a judicial decision in application of the law are ineligible.

Article 79 (repealed by article 3 of organic law 88-144 of December 29, 1988)

### CHAPTER III

#### Incompatibility

Article 80 (amended by organic law 88-144 of December 29, 1988)

The exercise of non-elective public office, remunerated by the State, public institutions or public local communities will be incompatible with the Deputy's mandate.

In the case where the Deputy is bound by the legislation related to the general status of State personnel, public local communities and public institutions having an administrative character, or by that related to the general status of trade organizations, public institutions having an industrial character and corporations directly and in majority owned by the State or by public local communities, he shall automatically be put on special leave as soon as the definitive election results become known. These provisions shall not apply to contractual agents.

The details of the special leave as well as the administrative situation of the above-mentioned agents shall be determined by a specific law.

**Article 80a** *(amended by organic law 2003-58 of August 4, 2003)*

No one can, at the same time, be a member of the Chamber of Deputies and a member of the Chamber of Advisors.

**Article 81**

The exercise of functions conferred and remunerated by a foreign State or an international organization shall also be incompatible within a parliamentary mandate.

**Article 82** *(amended by organic law 88-144 of December 29, 1988)*

Will also be incompatible with a parliamentary mandate the functions of head of enterprise, chairman of the board, managing director, director and manager, exercised within :

- public enterprises having a status of public industrial or commercial institutions or companies owned directly and in majority by the State or by public local community owned companies ;
- companies with an exclusively financial object and tapping public savings and credit.

**Article 83** *(amended by organic law 88-144 of December 29, 1988)*

Deputies shall be forbidden from accepting any function within the establishments and public companies mentioned in the articles above during their mandate.

**Article 84** *(amended by organic law 88-144 of December 29, 1988)*

Notwithstanding the provisions of the above articles, a deputy can be appointed to represent the State or public local communities in the public companies mentioned by the present code.

**Article 85** *(amended by organic law 88-144 of December 29, 1988).*

Lawyers vested with a Representative's mandate shall not conclude, plead or provide counsel against the State, public communities or public institutions.

Likewise, a solicitor or other court expert, member of the Chamber of Deputies, shall not in his professional activity initiate any proceeding or measure against the State, public local communities or public institutions.

**Article 86**

Representatives are forbidden from having or allowing their name followed by their function to be featured in any advertising activity on behalf of a financial, industrial or commercial enterprise.

**Article 87** *(amended by organic law 88-144 of December 29, 1988)*

A deputy representative who finds himself, upon election, in one of the cases of incompatibility mentioned in the present chapter shall, as soon as the ballot results

become definitive, automatically be considered as having resigned the functions incompatible with his mandate or be put on a special leave if he is a civil service official.

A Deputy who during his mandate is appointed to one of the functions provided for under articles 77 to 82 of the present code, who accepts a function that is incompatible with his mandate or who has ignored the provisions of articles 83 and 86 of the present code shall automatically be declared as having resigned, unless he voluntarily relinquishes his mandate. In both cases he shall be replaced in accordance with article 108 of the present code.

The automatic resignation will be pronounced by the Chamber of Deputies at the request of the President of the Republic or the bureau of the Chamber.

Incompatibility rules shall not apply to members of the government.

## **CHAPTER IV**

### **The ballot**

Article 88 (*amended by organic law 93-118 of December 27, 1993*)

Deputies are elected in one round of list-balloting.

The voter shall choose one of the lists running for election without replacing any of the candidates' names that are on that list. His chosen list will be placed in the envelope provided to that effect, to the exclusion of any other.

Article 89 (*amended by organic law 74-66 of July 2, 1974*)

The voting shall be carried out on the basis electoral districts; each governorate constituting one or more districts in accordance with the provisions of the decree referred to in article 72 of the present law.

Article 90 (*repealed by article 3 of organic law 88-144 of December 29, 1988*).

## **CHAPTER V**

### **Declarations of candidacies**

Article 91 (*amended by organic law 98-93 of November 6, 1998*)

Candidates on a list in an electoral district must draft a declaration bearing their signature and including the following :

1. The denomination given to the presented list ;
2. Each candidate's full name, the full names of his father and mother, his date and place of birth, address, profession and national identity card number complete with the date and place of issue ;
3. The electoral list on which the candidates are registered.

The color of the list must also be indicated for lists of candidates presented by political parties. As for lists not presented by political parties, the declaration shall mention the color selected in accordance with paragraph 4 of article 76 of the present code, in the presence of the person receiving the declaration of candidacy.

**Article 92** *(amended by organic law 2003-58 of August 4, 2003)*

**Candidacy applications shall be submitted to the governor or to his representative in plain unheaded paper, in two copies, during the fifth week preceding the day of the ballot.**

One copy shall be kept at the governorate while the other shall be immediately sent to the Ministry of Interior. The declarant shall be given a provisional receipt for his declaration. The final receipt shall be delivered in the four days following the presentation of the declaration at the governorate if the list is found to be in conformity with the prescriptions of the present code.

**The governor shall post the final lists in the seat of the governorate on the 20<sup>th</sup> day preceding the day of the ballot.**

**Article 93** *(amended by organic law 88-144 of December 29, 1988)*

Within the same district, different lists will bear different titles and a different political party affiliation.

Each list must include a number of candidates equal to the number of seats allocated to the corresponding constituency.

**Article 94** *(amended by organic law 2003-58 of August 4, 2003)*

No one can be candidate on more than one list in the same district.

None can be a candidate in more than one district.

**The presidential candidate may not stand as candidate in case the elections for the presidency of the republic are concomitant with the elections of the members of the Chamber of Deputies.**

**Article 95**

No list violating the above provisions shall be registered.

**Article 96** *(repealed by article 3 of organic law 88-144 of December 29, 1988)*

**Article 97**

Withdrawals of candidacy can only be presented before the deadline for the presentation of declarations of candidacy; they are registered identically to the declarations.

**Article 98**

If a candidate dies after the expiration of the deadline for presenting declarations of candidacy, the candidates presenting the list shall have the right to replace the deceased with a new candidate.



The governor must be notified of this replacement on the fifth day prior to the ballot at the latest.

## **CHAPTER VI** **Electioneering**

Article 99 (repealed by organic law 88-144 of December 29, 1988).

Article 100 (repealed by organic law 88-144 of December 29, 1988).

## **CHAPTER VII** **Counting of votes**

Article 101 (repealed by article 3 of organic law 88-144 of December 29, 1988).

Article 102 (amended by organic law 2003-58 of August 4, 2003)

The general vote tally shall be carried out in public for every electoral district by a commission composed of :

- The governor : President
- A judge designated by the Minister of Justice
- Three voters designated by the Minister of the Interior : Members

The tally shall be carried out on the basis of the report and other documents transmitted by the central bureau.

Each list shall have the right to select one of its representatives to attend the operations of the general vote tally commission.

Article 103 (amended by organic law 88-144 of December 29, 1988)

The general vote tally operation shall be recorded in a report made in three copies :

- one copy is sent to the Ministry of Interior ;
- another is sent to the President of the Constitutional Council ;
- the third copy is kept by the governor.

Article 104 (amended by organic law 93-118 of December 27, 1993)

The valid votes and the votes obtained by each list shall be totalized separately.

Article 105 (amended by organic law 93-118 of December 27, 1993)

All of the district's seats shall be attributed to the list obtaining the greatest number of votes.

In the case where a single list is running, it is declared elected no matter the number of votes it has obtained.

**Article 105a** *(added by organic law 93-118 of December 27, 1993)*

For seat apportionment at the national level, the electoral quotient shall be determined by adding up the number of votes having won no seats at constituency level and by dividing these votes by the number of seats to be apportioned nationwide.

The nationwide seat apportionment among lists having won no seats in one or more constituencies shall be done on the basis of the proportional system taking into account the highest average.

The following shall be taken into consideration in this apportionment :

- for the lists of political parties, votes obtained at the national level that have not won these lists seats at the level of one or more constituencies.
- for other lists, votes obtained at the constituency level that have not won these lists seats in the constituency.

In the case where averages are equal, the seat is allocated to the largest total.

Seats obtained by each party in the national distribution are awarded on the basis of the ranking on each list when the candidacy was presented. The first seat, however, is allocated to the list having received the highest percentage of votes in the constituency where it ran. The second seat will then be allocated to the next list until all the seats obtained by a party have been allocated. If the number of seats to be allocated exceeds the number of lists, the operation is repeated according to the same method.

In the case of equal percentages in two or more constituencies, the seat shall be allocated to the list having obtained the largest number of votes.

The seats obtained by lists not affiliated with political parties shall be allocated according to the ranking of candidate names on the list.

Results shall be publicly proclaimed by the Minister of Interior who shall make sure they are published in the *Official Gazette of the Republic of Tunisia* (JORT).

**Article 106** *(amended by organic law 2003-58 of August 4, 2003)*

In the case of a dispute over the registration of a list, each candidate on this list can complain to the Constitutional Council within two working days following the expiration of the deadline for the delivery of the definitive receipt. The Constitutional Council shall rule on the matter within two days from the date the complaint was filed.

Each candidate of a list having obtained the definitive receipt may also contest the legality of the other lists' candidacies during the day following the posting day. The Constitutional Council shall rule on the matter on the second day following the posting day.

Each candidate to legislative elections has the right to question the legality of the electoral operations and of the results within a three-working-day period following the proclamation of results by the Minister of Interior.

**The Constitutional Council shall rule on the matter within five days from the expiry of the period of appeal.**

**The president of the Constitutional Council can, if need be, add one and only one fifteen-day extension to the period of examining appeals.**

**In order to be admissible, the complaint must detail the facts and the legal means, and must include all necessary documentary evidence.**

**Appeals shall be filed at the secretariat of the Constitutional Council.**

**The decisions of cancellation or dismissal of appeals rendered by the Constitutional Council shall, in all cases, be final and can, in no way, be appealed.**

**Article 106a (amended by organic law 2003-58 of August 4, 2003)**

**If, in an electoral district, no appeal is made within the legal deadlines, the Constitutional Council shall declare the deputies of this district as definitively elected.**

**The president of the Constitutional Council shall inform, without delay, the speaker of the Chamber of Deputies of all his decisions.**

**Article 107 (repealed by article 11 of organic law 2003-58 of August 4, 2003).**

## **CHAPTER VIII**

### **Replacement of Deputies**

**Article 108 (amended by organic law 93-118 of December 27, 1993)**

**Legislative by-elections shall be held if half or more of the votes within a constituency have been cancelled. This shall be done within a period not exceeding three months and the ballot shall only concern the lists having participated in the cancelled elections.**

**If less than half of the votes are cancelled and if this cancellation has a direct effect on the constituency's election results, a new ballot shall be held only in the polling stations where the results were cancelled and within a period not exceeding three months from the cancellation date. In this case the ballot will only concern the lists having participated in the canceled elections and there shall be no electoral campaign.**

**The unfolding and counting of the votes shall be carried out on the basis of the new results.**

**The seats to be assigned in one constituency shall be allocated to the list having obtained the greatest number of votes.**

**If the seats in a constituency have already been allocated at national level, they shall be apportioned again among the other lists on the basis of the proportional rule taking the highest average into account.**

In the case of vacancy, by-elections shall be held within a maximum time-limit of 12 months from the vacancy date. The list ballot shall be on the basis of the majority of votes regardless of how the seat now vacant was initially allocated. No by-elections shall be held in the twelve months prior to the renewal of the Chamber of Deputies.

Article 109 (*repealed by article 2 of organic law 88-79 of September 24, 1988*)

The provisions of article 109 of the electoral code are repealed in accordance with law 81-79 of September 24, 1981.

**TITLE IV**  
**SPECIAL PROVISIONS FOR THE**  
**ELECTION OF THE MEMBERS OF THE CHAMBER OF**  
**ADVISORS**

**CHAPTER I**  
**Composition of the Chamber of Advisors**

**Article 110** *(added by organic law 2003-58 of August 4, 2003)*

The total number of the members of the Chambers of Advisors shall be set by decree every 6 years, according to the number of the members of the Chamber of Deputies in office. It shall not exceed two-thirds of the number of the members of the Chamber of Deputies.

The one-third of the number set and reserved to sectors must be divisible in three equal parts without fraction; these parts must be divisible by two halves without fraction.

**Article 111** *(added by organic law 2003-58 of August 4, 2003)*

For each governorate, the number of members is set as follows:

- One member when the number of inhabitants in the governorate is less than 250,000.
- Two members when the number of inhabitants in the governorate is equal to or more than 250,000.

**Article 112** *(added by organic law 2003-58 of August 4, 2003)*

During the last 30 days of each 3-year period, half of the Chamber of Advisors shall be renewed, considering the distribution adopted in the composition of this Chamber and the provisions of article 136 of the present code. The mandate shall commence at the expiration of that of the outgoing members, either in accordance with paragraph 3 of article 5 of constitutional law 2002-51 dated June 1<sup>st</sup>, 2002, amending certain provisions of the Constitution, or on account of the expiration of the mandate's normal duration.

When the number of members for governorates is not divisible by two without a fraction, the draw shall be made for the half, without considering the surplus member.

The periodic renewal of the Chamber by half shall then take place, taking into consideration the mandate's full duration.

## **CHAPTER TWO**

### **Eligibility and ineligibility requirements**

#### **Article 113** *(added by organic law 2003-58 of August 4, 2003)*

No citizen can stand as a candidate for the Chamber of Advisors if he does not meet the following requirements:

- hold the status of voter;
- be born of a Tunisian father or a Tunisian mother;
- be aged at least 40 on the day of submitting his candidacy.

#### **Article 114** *(added by organic law 2003-58 of August 4, 2003)*

Candidates must meet the following conditions:

- The member to be elected for the governorate must, on the day of presenting his candidacy, be a municipal advisor or a member of the Chamber of Deputies elected in the district(s) of this governorate.
- The candidate representing the sector of employers or that of farmers must justify the professional capacity entitling him to stand as candidate for any of the two sectors. The professional exercise of the occupation shall be of a principal character.

#### **Article 115** *(added by organic law 2003-58 of August 4, 2003)*

The provisions of articles 77 and 78 of the present code shall apply to candidates for the Chamber of Advisors.

## **CHAPTER III**

### **Incompatibilities**

#### **Article 116** *(added by organic law 2003-58 of August 4, 2003)*

The provisions of articles 80 and 86 of the present code shall apply to the members of the Chamber of Advisors.

#### **Article 117** *(added by organic law 2003-58 of August 4, 2003)*

Each member belonging to the Chamber of Advisors and who falling under one of the incompatibility cases stated in the present article shall be considered either as automatically resigning from his functions that are incompatible with his mandate in the Chamber of Advisors, as soon as the election results become final or as soon as he accepts his appointment in the Chamber, or shall automatically be put on special leave if he holds a public office.

Any member of the Chamber of Advisors who is entrusted during his mandate with a responsibility or function provided for in articles 77 and 82 of the present code, or who accepts a responsibility incompatible with his mandate, or disregards the provisions of articles 83 and 86 of the present code shall have his mandate automatically ended, unless he resigns of his own free will.

In both cases, he shall be replaced in accordance with the provisions of article 136 of the present code.

The automatic resignation is declared by the Chamber of Advisors upon the request of the president of the Republic or of the Chamber's bureau.

## **CHAPTER IV**

### **Electoral rolls - Polling stations - The ballot**

#### **Section I**

##### **Electoral rolls**

#### **Article 118** *(added by organic law 2003-58 of August 4, 2003)*

Following the publication of the decree inviting voters, the governor shall establish by alphabetical order the electoral roll comprising all the members of the Chamber of Deputies elected in the governorate and all the municipal advisors of the governorate.

The governor shall give each voter, at least 7 days before the day of the ballot, a voter card including the voter's full name, number of registration on the electoral roll and the capacity by virtue of which he will participate in the elections.

#### **Section II**

##### **Polling stations**

#### **Article 119** *(added by organic law 2003-58 of August 4, 2003)*

Voting shall take place at the seat of the regional council which shall constitute a single station for each governorate.

#### **Article 120** *(added by organic law 2003-58 of August 4, 2003)*

The governor shall designate the chief of the polling station and two assistants from among the voters. Members of polling stations may not be chosen from among candidates.

The polling station shall keep the list of the voters who will vote in it.

The station shall rule on all objections that might arise during the election operations. These objections shall be mentioned in the ballot report.

### Section III The ballot

#### Article 121 (added by organic law 2003-58 of August 4, 2003)

The members of the Chamber of Advisors shall be elected in only one electoral round by vote on lists.

Are elected, at the regional level, the member or the two members for the governorate.

Are elected, at the national level, the members representing employers, farmers and wage-earners.

#### Article 122 (added by organic law 2003-58 of August 4, 2003)

The elections of the members representing governorates and of the members representing employers, farmers and wage earners shall take place in only one day.

A voter may not vote more than once, even if he holds concurrently two positions entitling him to participate in elections.

#### Article 123 (added by organic law 2003-58 of August 4, 2003)

Envelopes must be opaque, bearing the governorate's seal, having a uniform type and in white paper for the election of the members representing the governorates, and in Manila paper for the election of the members representing employers, farmers and wage-earners.

#### Article 124 (added by organic law 2003-58 of August 4, 2003)

In each polling station, the ballot papers for each list shall be placed on a special table reserved to that effect. The number of ballot papers shall be equal to the number of voters registered at that polling station, increased by 10%.

The state shall be in charge of printing the ballot paper.

In each polling station, two ballot boxes shall be placed: one for the election of the members representing the governorates; and one for the election of the members representing employers, farmers and wage-earners.

#### Article 125 (added by organic law 2003-58 of August 4, 2003)

For the election of the members representing governorates, the voter shall choose one among the candidate lists which he shall put in the envelope reserved to that effect. He shall not replace or remove any of the names included in the list.



For the election of the members representing sectors, the voter shall choose for each sector a list; he shall then choose from each list a number of names equal to the number of seats reserved to the sector in question, by crossing out the names falling out of his choice; he shall finally put nothing but the three chosen ballot papers in the envelope reserved to that effect.

Each ballot paper containing a number of names that is lower or higher than that of the seats reserved for the sector shall be considered as null and void. Each envelope not containing three ballot papers for all sectors shall not be taken into consideration.

## **CHAPTER V**

### **Declarations of candidacy**

#### **Article 126** *(added by organic law 2003-58 of August 4, 2003)*

The candidacy concerning the governorate shall take place as part of a list, by virtue of a declaration signed by the candidate(s), depending on the case. The declaration shall indicate :

1. The title of the list.
2. Each candidate's full name, father's full name, mother's full name, date and place of birth, address, occupation, and ID card number.
3. A certificate delivered by the Speaker of the Chamber of Deputies to the deputy indicating the capacity allowing him to stand as candidate, or a certificate delivered by the governor to the municipal councilor indicating the capacity allowing him to stand as candidate.

For the parties' candidate lists, the color of the list shall be indicated. Concerning candidate lists not representing parties, the chosen color shall be indicated in the same declaration in accordance with paragraph 4 of article 46 of the present code, in the presence of the person receiving the candidacy declaration.

#### **Article 127** *(added by organic law 2003-58 of August 4, 2003)*

Candidacy declarations concerning governorates shall be submitted on plain unheaded paper and in two copies to the governor or to his representative during the fourth week preceding the day of the ballot.

The provisions of paragraph 2 of article 92 and of articles 93, 94, 95, 97, and 98 of the present code shall apply to candidacy declarations concerning governorates.

**Article 128** *(added by organic law 2003-58 of August 4, 2003)*

The concerned professional organization shall submit a declaration signed by its representative at the national level, indicating its candidates and mentioning:

1. The name of the list presented
2. Each candidate's full name, father's full name, mother's full name, date and place of birth, address, occupation, and ID card with the number and date and place of issue.
3. An indication of the electoral rolls on which the candidates are registered
4. Certificate of affiliation to the organization in question.

The number of candidates shall not be less than twice the number of seats reserved to the sector in question.

**Article 129** *(added by organic law 2003-58 of August 4, 2003)*

Candidacy applications for sectors shall be written on plain unheaded paper, in two copies, and addressed to the Minister of Interior or to his representative, during the fourth week preceding the day of the ballot. A provisional receipt shall be delivered to the declarant. The definitive receipt shall be delivered within the four days following the day of submitting the declaration to the Ministry of the Interior, when the list presented is judged to be in conformity with the provisions of the present code.

A professional organization may not present more than one list, and no one may be candidate on several lists and for several sectors.

**Article 130** *(added by organic law 2003-58 of August 4, 2003)*

The provisions of articles 97 and 98 of the present code shall apply provided that the notification referred to in paragraph 2 of article 98 of the present code be made to the Minister of Interior.

A list established in violation of the above-stated provisions shall not be registered.

**Article 131** *(added by organic law 2003-58 of August 4, 2003)*

The governor shall post in the seat of the governorate the final lists of candidates representing the governorate and the sectors on the 12<sup>th</sup> day preceding the day of the ballot.

**CHAPTER VI**

**Electioneering**

**Article 132** *(added by organic law 2003-58 of August 4, 2003)*

Candidates may print only electoral leaflets and programs, according to the format indicated in article 35 of the present code.

Electoral meetings organized by candidates are limited to voters.

The provisions of articles 33, 34, 36 and 37 of the present code shall not apply to the electioneering for the election of the members of the Chamber of Advisors.

## **CHAPTER VII**

### **Counting of votes**

#### **Article 133** *(added by organic law 2003-58 of August 4, 2003)*

Once the ballot is over, the polling station members shall proceed to the counting of votes, in accordance with the provisions of articles 50 and 54, the first and last paragraphs of article 55, and article 56 of the present code.

The polling station chief shall transmit to the concerned governor the report related to the election of the one or two members for the governorate, as well as the report for the election of the members for the sectors, in three copies, along with all the justificatory documents.

The governor shall immediately send a copy to the Minister of the Interior and a copy to the President of the Constitutional Council, and shall keep the third copy with the justificatory documents.

#### **Article 134** *(added by organic law 2003-58 of August 4, 2003)*

For the elections of the members representing governorates, the valid votes and the votes obtained by each list shall be totalized separately. The one or two seats to be reserved for the governorate shall be given to the list having obtained the highest number of votes.

For the elections of the members representing sectors, the valid votes and the votes obtained by the candidates of each list and for each sector shall be totalized separately. The seats shall be given to the candidates having obtained the highest number of votes at the national level for each sector. In case of equality of votes obtained in a sector, the seat shall be given to the elder candidate.

The results shall be proclaimed publicly by the Minister of Interior who shall make sure they are published in the *Official Gazette of the Republic of Tunisia* (JORT).

#### **Article 135** *(added by organic law 2003-58 of August 4, 2003)*

The provisions of article 106 of the present code shall apply to appeals concerning the election of the members of the Chamber of Advisors, subject to the following provisions:

- Appeals related to elections concerning a governorate shall be received only from the candidates of this governorate.

- Appeals related to elections concerning a sector shall be received only from the candidates of this sector.

The provisions of article 106a of the present code shall apply to the declaration, by the Constitutional Council, of the definitive election of the candidates of the governorates or of the sectors.

The Constitutional Council shall immediately inform the Speaker of the Chamber of Advisors of all its decisions.

## **CHAPTER VIII**

### **Replacement of members of the Chamber of Advisors**

#### **Article 136 (added by organic law 2003-58 of August 4, 2003)**

Complementary elections shall be organized at the level of the governorate when the Constitutional Council declares that the cancellation of the votes produces a direct effect on the results of the elections of the one or two members representing the governorate. These elections shall be organized within a time-limit not exceeding one month from the date of the Council's declaration, provided that the ballot concerns only the lists having participated in the elections.

Complementary elections shall be organized at the level of the governorate when the Constitutional Council declares that the cancellation of the votes produces a direct effect on the results of the elections of the candidate members of a given sector. These elections shall be organized within a time-limit not exceeding one month from the date of the Council's declaration, provided that the ballot concerns only the lists having participated in the elections.

If the cancellation produces no effect on the results of the elections related to a sector, the Constitutional Council shall confirm the results of the election of the members representing the sector, after re-counting and re-totalizing the votes concerning this sector.

In case of vacancy in the seats reserved to the members representing the governorates or to the members representing the sectors, complementary elections shall be held within a maximum period of 3 months from the date of the vacancy, by list-balloting, provided that the sectors' lists contain at least twice the number of seats to be filled.

The mandate of the elected members shall end at the expiration of the mandate of the replaced members.

No complementary election shall take place during the twelve months preceding the expiration of the mandate of the out-going member.

**TITLE V**  
**SPECIAL PROVISIONS FOR THE**  
**ELECTION OF THE MEMBERS OF MUNICIPAL COUNCILS**

**CHAPTER ONE**  
**Composition of Municipal Councils**  
**and Councilors' mandate length**

*Article 137 (amended by organic law 75-25 of March 31, 1975)*

*(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 110))*

The number of municipal councilors shall be determined on the basis of town population in accordance with the following table :

<b>Population</b>	<b>Number of Councilors</b>
Up to 5,000	10
5,001 to 10,000	12
10,001 to 25,000	16
25,001 to 50,000	22
50,001 to 100,000	30
100,001 to 500,000	40
more than 500,000	60

The number of municipal deputies shall be determined on the basis of the number of municipal councilors according to the following table :

<b>Number of Councilors</b>	<b>Number of Deputies</b>
10 councilors	3
12 councilors	4
16 councilors	5
22 councilors	7
30 councilors	10
40 councilors	15
60 councilors	20

*Article 138 (amended by organic law 80-20 of April 30, 1980)*

*(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 111))*

Subject to the application of the provisions of articles 160 and 161 of the present code, municipal councilors are elected for a five-year term. They are re-eligible.

Municipal elections shall be held during the month of May of the fifth year of the incumbent mandate for the integral renewal of the councils.

The powers of all municipal councils shall expire on the second Monday following the elections.

In every town, the council elect shall convene at the request of the incumbent president on the day after the expiry of the incumbent council's term of office.

If it proves to be impossible to normally hold municipal elections within the time prescribed due to exceptional circumstances in all or parts of the Republic's territory, the non-renewed council or councils shall remain in office until it becomes possible to organize new elections.

In the latter case, once the impediments causing the postponement of the elections have been removed, the council or councils shall be elected for the remainder of the normal term in progress as determined by the provisions of paragraph one of the present article. The powers of councils whose term has been extended, will expire within the deadline set in paragraph 3 and the newly elected councils shall take office in accordance with the provisions of paragraph 4 of this article.

## **ARTICLE II**

### **Eligibility and Ineligibility Requirements**

**Article 139** *(amended by organic law 88-144 of December 29, 1988)*

*(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 112))*

Are eligible to municipal council all town voters aged at least 23 on the day of candidacy presentation, subject to the provisions provided for in the following articles.

**Article 140** *(amended by organic law 88-144 of December 29, 1988)*

*(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 113))*

The following can stand as candidates for municipal councils, provided they resign their previous functions and responsibilities :

1. Governors
2. Magistrates
3. First delegates, governorate secretaries-general, delegates and chiefs of sector.

**Article 141** *(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 114))*

The following shall not be eligible in the jurisdiction where they exercise their functions :

1. Accountants in charge of town monies ;
2. Engineers and public works agents of municipal maintenance services.
3. Salaried town employees with the exclusion of those who having a civil service charge of independent function, receive no compensation from the town council other than for such services as are delivered for the council's benefit in the exercise of their profession ;
4. Employees, civil servants and agents of the governorate and the delegation.

**Article 142** (*reclassified by article 6 of organic law 2003-58 of August 4, 2003*  
(formerly 115))

Any municipal councilor who, after his election, finds himself in one of the ineligibility cases provided for under articles 140 and 141 of the present law, shall be immediately notified by the governor as having resigned except if the party concerned appeals to the Minister of Interior within ten days of the notification.

### **CHAPTER III**

#### **Incompatibilities**

**Article 143** (*reclassified by article 6 of organic law 2003-58 of August 4, 2003*  
(formerly 116))

No one can at the same time be member of several municipal councils.

**Article 144** (*reclassified by article 6 of organic law 2003-58 of August 4, 2003*  
(formerly 117))

Ascendants, descendants, brothers and sisters to the same degree and spouses cannot simultaneously be members of a municipal council. The mandate shall remain with the eldest among them.

**Article 145** (*reclassified by article 6 of organic law 2003-58 of August 4, 2003*  
(formerly 118))

Any municipal councilor who, for a reason arising after his election, finds himself in one of the ineligibility cases provided for under articles 143 and 144 of the present law, shall be immediately notified by the governor as having resigned except if the party concerned appeals to the Minister of Interior within ten days of the notification.

## **CHAPTER IV**

### **Candidacies**

**Article 146** (*amended by organic law 90-48 of May 4, 1990*)

**(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 119))**

Each list shall be constituted by a grouping of candidates collectively declaring that they accept to be registered on a same list.

Two or more lists running in the same constituency cannot have the same title or the same political party affiliation.

The declaration drafted on plain unheaded paper must be signed by the candidates in presence of the governor or delegate under whose territorial jurisdiction the town falls. The governor or delegate shall certify that this formality has been duly met.

The declaration must comprise :

1. The title and color given to the list taking into due account the provisions of article 35 of the Press Code and the provisions of the last paragraph of article 46 of the present code.
2. The full name, name of the father, date and place of birth, address and profession of each candidate as well as his national identity card number complete with place and date of issue.
3. The electoral district in which the list is presented.

Withdrawals of candidacy can only be presented before the deadline set for the presentation of candidacies ; they shall be registered identically to the declarations.

**Article 147** (*reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 120)*)

The presentation of candidate lists must necessarily take place at the seat of the governorate or the delegation under whose territorial jurisdiction the town falls.

**Article 148** (*amended by article 6 organic law 2003-58 of August 4, 2003*)

**(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 121))**

Candidacy lists shall be presented during the fourth week prior to the election day.

**Article 149** (*amended by organic law 88-144 of December 29, 1988*)

**(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 122))**

A special register for recording all the lists received along with the date and time of reception shall be kept at the seat of governorates and delegations. A provisional



receipt shall immediately be delivered to every declarant of a legally established and presented list. A definitive receipt shall be delivered by the governor within four days after verification that all candidates on the list meet legal eligibility requirements. The names of those candidates of whom a definitive receipt has been issued shall immediately be communicated to the municipalities concerned.

In case of litigation over the registration of a list, each candidate on the concerned list can complain to the commission referred to in article 156 of the present code within two working days from the expiry of the deadline for the delivery of the final receipt.

This commission shall rule on the matter within forty-eight hours after the presentation of the request.

Article 150 (*amended by organic law 81-71 of August 9, 1981*)

(*reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 123)*)

A list on which the number of candidates does not equal the number of seats to be allocated to the constituency concerned shall automatically be considered as null and void, as determined by the decree provided for under article 153 of the present code.

A candidate already registered on one list cannot be registered on another.

Article 151 (*reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 124)*)

Lists presented and registered in accordance with the provisions of article 149 of the present code shall receive a number from the governor and be posted on the doors of the concerned governorate and municipality for at least the five days preceding the ballot. Registered lists must also be posted on the door of the polling station on election day.

Each posted list must exclusively contain its title, ticket number and the full names of the candidates.

## **CHAPTER V**

### **Electioneering**

Article 152 (*repealed by article 3 of organic law 88-144 of December 29, 1988*)

(*reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 125)*)

## **CHAPTER VI**

### **The Ballot**

Article 153 (amended by organic law 90-48 of May 4, 1990)

*(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 126))*

Members of municipal councils are elected in one round of vote by list on the basis of proportional representation with preference given to the list having obtained the greatest number of votes.

The voting shall not be for candidates from different parties, but for candidates from a single list presented on a single ballot slip to be placed in the envelope.

The vote shall take place by district; the territory of each town comprises one or more electoral districts.

In regard to the total number of councilors per town, a decree shall determine the one or more electoral districts per town and apportion the number of councilors to elect for each district in light of its population and in accordance with the provisions of article 137 of the present code.

Article 154 (amended by organic law 98-93 of November 6, 1998)

*(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 127))*

In case of a single list, this list shall be declared as elected regardless of the number of votes it obtains.

In other cases, seats will be allocated as follows :

**Firstly :** the list having obtained the largest number of votes shall be given 50% of the seats.

**Secondly :** following this operation, the remaining seats shall be attributed to all lists according to proportional representation on the basis of the greatest remainder formula. Nevertheless, this apportionment cannot result in allocating more than 80% of the seats to a single list except in the case of fractioning the number of seats arising from the application of the above mentioned proportional scheme. In this case the 80% ceiling shall be exceeded by allocating one seat to the said list if the apportionment operation would so allow in the absence of the ceiling.

**Thirdly :** regarding the attribution of the remaining seats and in the event of two or more lists obtaining the same remainder, the first seat shall be attributed to the list obtaining the greatest number of votes taking into account the provisions of paragraph 2 (secondly) of the present article. Failing this, the seat shall be attributed to the next list and the following seat shall then be attributed to the list with the highest number of votes in accordance with the classification until all seats have been attributed. In the case of equality of votes obtained, the seats shall

be attributed respectively to the list with the eldest candidates not having obtained seats taking into account the classification in each list at candidacy presentation.

**Fourthly :** if the apportionment has not led to the attribution of all the seats, the remaining seats shall be allocated to the list next to the one having obtained the highest number of votes if the former is a single list. In the case of plurality of runner-up lists, the remaining seats shall be attributed to the said lists, regardless of the list with the highest number of votes and according to the proportion of votes obtained on the basis of the greater remainder formula. In the case of equal remainder, the provisions of paragraph 2 (thirdly) of the present article shall apply. Lists obtaining less than 3% of the suffrage in an electoral district shall not be considered for the attribution of seats.

In case two or more seats are equal in obtaining the highest number of votes, voters shall be called for a new round of elections to be held within a month of the ballot. Only the lists having participated in the initial elections shall be able to run in the new ones. While waiting for these elections, the administration of municipal services shall, according to the need, be entrusted to acting councilors to be designated by order issued from the Minister of Interior.

If the voting operations are contested, the deadlines indicated in the previous paragraph shall not be taken into consideration until the litigation commission provided for under article 156 of the present code decides to maintain the equality among the lists.

If the commission referred to in the above paragraph rules for the non-equality of the lists, the seats shall be apportioned in accordance with the provisions of paragraphs 2 and 3 of the present article. Except for this case, provisions of paragraphs 2 and 3 of article 159 of the present code shall be invoked according to the case.

Article 154a (amended by organic law 90-48 of May 4, 1990)

(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 127a))

The results without the seat apportionment shall be publicly proclaimed by the president of the single polling station or centralizing bureau and posted at that polling station. The report drafted in two copies and signed by all the members of the polling station shall be addressed to the governor; one copy to be forwarded to the Ministry of Interior and the other to be filed at the governorate.

The governor or his representative shall publicly proclaim the apportionment of seats per list, in light of the report of result proclamation arriving from the various single polling stations or centralizing bureaus throughout the electoral districts of the considered town.

The heads of lists having obtained one or more seats shall present within two working days following the proclamation of results the final classification of all their lists' members to the governor or his representative against a receipt.

If a head of list fails to abide by the provisions of the paragraph above, the classification on the lists at candidacy presentation shall be retained.

The governor or his representative publicly proclaims the final classification of every list having obtained a seat or more and the names of candidates on each list which will form the municipal council. The report shall be drafted in two copies one to be transmitted to the Ministry of Interior and the other to be filed at the governorate.

## **CHAPTER VII**

### **Litigation of electoral operation**

**Article 155** (*reclassified by article 6 of organic law 2003-58 of August 4, 2003* (formerly 128))

Each voter legally registered on a district's definitive electoral lists has the right to dispute the validity of electoral operations.

Complaints must either be recorded in the report of electoral operations or be presented to the offices of the municipalities or governorate concerned under whose jurisdiction the town falls, within eight days following the ballot; otherwise they shall be considered as null and void.

**Article 156** (*reclassified by article 6 of organic law 2003-58 of August 4, 2003* (formerly 129))

Complaints shall be immediately communicated to a litigation commission for a decision thereon. This commission comprises the following :

- One judge appointed by the Minister of Justice: President;
- Two voters appointed by decree from the Minister of Interior at the governor's proposal : Members

**Article 157** (*reclassified by article 6 of organic law 2003-58 of August 4, 2003* (formerly 130))

The authority concerned brings the matter of the registered complaint to the knowledge of the councilors whose election is being contested, using administrative channels. The councilors shall be requested to submit their observations on the matter to the litigation commission within a period of five days.

The litigation commission shall rule within fifteen days of the case's submission. The councilor whose election is contested and the administrative authority shall mandatorily be summoned to appear before the commission.

**Article 158** (*reclassified by article 6 of organic law 2003-58 of August 4, 2003* (formerly 131))

The litigation commission decisions are final and offer no possibility of appeal. These decisions are exempt from the tax stamp and registration fees.

Article 159 (amended by organic law 90-48 of May 4, 1990)

(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 132))

Municipal councilors remain in office until the complaints have been definitively ruled on.

In case the nullification of half of the suffrage or more is pronounced, the electorate shall be called to vote again in new elections within a two-month period from the date of nullification. The new ballot, however, shall only include lists having participated in the previous elections. While waiting for these elections, the administration of municipal services shall, according to the need, be entrusted to acting councilors to be designated by an order issued from the Minister of Interior.

If less than half of the votes are cancelled and if this cancellation has a direct effect on the election results, a new ballot shall be held only in the polling stations where the results were cancelled within a period not exceeding three weeks from the cancellation date. In this case the ballot shall only include the lists having participated in the cancelled elections and there shall be no electoral campaign. The unfolding, counting of the votes and new distribution of seats shall be done in light of the new results and in accordance with the provisions of the present code.

Municipal Councilors remain in office until the proclamation of election results.

## **CHAPTER VIII**

### **Replacement of Municipal Councilors**

Article 160 (amended by organic law 90-48 of May 4, 1990)

(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 133))

In the case of vacancy at the municipal council, the candidate immediately following the elected councilor causing the vacancy on his list shall be called to replace him.

When the provisions of the previous paragraph cannot be applied, complementary elections shall be held if the municipal council loses a third of its members, within a two-month period from the last vacancy.

However, during the year preceding the general renewal of municipal councils, complementary elections shall only be held if the municipal council loses more than half of its members.

Article 161 (amended by organic law 88-144 of December 29, 1988)

(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 134))

In the case of the nomination of a special delegation in accordance with the organic law on city administration, the election or re-election of the municipal council shall

be held within a year from the designation of the special commission regardless of any other provision.

These elections cannot take place if there remains less than twelve months to the integral renewal of municipal councils.

**TITLE V**  
**REFERENDUM SPECIAL PROVISIONS**

**CHAPTER I**  
**Referendum Organization**

**Article 162** *(amended by organic law 2003-58 of August 4, 2003)*

*(reclassified by article 8 of organic law 2003-58 of August 4, 2003 (formerly 135))*

Voters can be called to a referendum in application of the provisions of articles 2, 47 and 76 of the constitution. A voter invitation decree shall set the date of the referendum and hold the text or object of the referendum in appendix.

**This decree and its appendix shall be published in the *Official Gazette of the Republic of Tunisia* (JORT) forty-five days before the date of the referendum. The referendum campaign shall be opened two weeks before the day of the ballot and closed 24 hours before the day of the ballot.**

**Article 162a** *(amended by organic law 2003-58 of August 4, 2003)*

*(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 135a))*

Tunisians abroad who meet the conditions provided for in article 7 of the present code can participate in the referendum in the polling stations established to that effect, at the same dates and under the same conditions set forth in article 68 of the present code.

**Article 162-II** *(added by organic law 2003-58 of August 4, 2003)*

Shall be put at the disposal of each voter in all polling stations an opaque envelope in Manila paper, in uniform type and bearing the governorate's seal, as well as two ballot papers in uniform type and in white color, the first paper containing the word "yes" printed in black in the middle; the second containing the word "no" in white color in the middle of a black background.

**Article 162 – III** *(added by organic law 2003-58 of August 4, 2003)*

The vote is performed by choosing the answer "yes" or "no" and putting the corresponding ballot paper in the envelope reserved to that effect.

**Article 162 – IV** *(added by organic law 2003-58 of August 4, 2003)*

Each political party represented in the Chamber of Deputies by at least one representative has the right to participate in the referendum campaign, by

filing a request to the Minister of Interior by registered mail with acknowledgement of receipt, 30 days at least before the day of the ballot.

Is taken into consideration the deputy's belonging to the party when presenting his candidacy to the Chamber of Deputies.

The Minister of Interior shall proclaim the list of the parties authorized to participate in the referendum campaign 20 days at least before the day of the ballot.

**Article 162 – V** *(added by organic law 2003-58 of August 4, 2003)*

Political parties participating in the campaign can seek authorization from the authority supervising the public radio and TV establishments to use the radio and television.

The request shall be addressed by registered mail with acknowledgement of receipt 18 days at least before the day of the ballot.

For radio and TV broadcastings, programs shall be distributed among the parties participating in the referendum campaign at an equal duration to which shall be added a duration for each deputy belonging to the concerned party, provided that the total duration of the broadcast for one political party, irrespective of the number of its deputies in the Chamber of Deputies, does not exceed a certain limit. These durations are set by the Minister supervising the public radio and TV establishments.

**Article 162 – VI** *(added by organic law 2003-58 of August 4, 2003)*

The votes shall be counted to determine the number of votes obtained for the answer “yes” and the number of votes obtained for the answer “no”.

In declaring the results of the referendum, the rule of the majority of valid votes shall be adopted.

**Article 162 – VII** *(added by organic law 2003-58 of August 4, 2003)*

Subject to the provisions of article 53 of the present code, the vote is considered null and void when the envelope contains several ballot papers comprising contradictory answers as to the object of the referendum.

Ballot papers containing the same answer and put in the same envelope shall be counted as one vote.

## **CHAPTER II**

### **Control of operations**

**Article 163** *(amended by organic law 2003-58 of August 4, 2003)*

*(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 136))*

The Constitutional Council shall supervise the course of the referendum operations.



The Constitutional Council shall immediately be informed by the government of all the measures taken in connection with the referendum operations.

The Constitutional Council shall designate its delegates from among the judicial body, or from among the members of the Administrative Court or of the Court of Accounts, to ensure the follow-up of the referendum operations.

The Minister of Interior shall proclaim the referendum results and without delay transmit the report of the general vote tally to the Constitutional Council which shall declare the definitive results within a maximum of three days after examining the delegates' reports.

**Article 164** *(amended by organic law 2003-58 of August 4, 2003)*

*(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 137))*

If the Constitutional Council notices the existence of any irregularities in the course of the referendum operations, it can decide, according to the nature and gravity of these irregularities, whether to confirm the said operations or to cancel them totally or partially.

**Article 164a** *(added by organic law 2003-58 of August 4, 2003)*

Each political party participating in the referendum campaign can designate one of its representatives to attend the course of the referendum operations, under the conditions and procedures of control of electoral operations provided for by the present code.

### **CHAPTER III**

#### **Proclamation of Results**

**Article 165** *(amended by organic law 2003-58 of August 4, 2003)*

*(reclassified by article 6 of organic law 2003-58 of August 4, 2003 (formerly 138))*

The Constitutional Council shall proclaim the referendum results by a decision published in the *Official Gazette of the Republic of Tunisia* (JORT).

