



Tunisian Republic



ANNUAL REPORT

Summary

2016



TRUTH AND DIGNITY COMMISSION





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COMMISSION IN FIGURES UNTIL 31/12/2016

Submitted files

62020 submitted files
9797 files were recorded in total in June 15, 2016
5488 Arbitration and Reconciliation request
205 files related to a victim region
685 files submitted by the state litigation

File processing

61347 sorted files
5112 initially rejected files
1099 Arbitration and Reconciliation Files processed
944 Arbitration and Reconciliation files processed related to Human Rights violations

Submitted files per office

31414 in the central office in Tunis
5468 in the regional office in Sfax
4688 in the regional office in Gafsa
3443 in the regional office in Kasserine
3435 in the regional office in Sousse
2314 in the regional office in Medenine
2023 in the regional office in Gabes
1956 in the regional office in Sidi Bouzid
1447 in the regional office in Jendouba
944 in the regional office in Kef
107 in The Book fair
1515 via Internet

Commission and communication

7 Press conferences
78194 followers in Social Media

Human Resources

562 agents
54% executives
23% managerial staff
17% services 'providers
67% Females
33% Males



Communication with the Commission through the call center:

22538 incoming calls to call center
66% Incoming calls from males
34% Incoming calls from females
1400 notices to the commission's centers



The commission's budget

2.5 million Dinars in 2014
10 million Dinars in 2015
14.9 million Dinars in 2016



Instant Care and temporary compensation Unit

4915 urgent intervention request
1845 urgent intervention decisions
2873 achieved interventions



hearings per office

17866 hearings achieved since the start of the sessions till the end of 2016
16037 hearings achieved according to offices during 2016
81 Hearing offices
190 listeners
9024 Tunis office
1012 mobile units
1269 Sfax office
815 Sousse office
802 Gafsa office
714 Kasserine office
684 Medenine office
513 Sidi Bouzid office
500 Gabes office
418 Jendouba office
286 Kef office



THE MOST IMPORTANT ACTIVITIES OF 2016

January 2016



January 8, 2016 Martyrs day celebration in Kasserine.



January 16, 2016 Meeting with the civil society representatives in Menzel Bouzelfa.



January 22, 2016 Reparation and rehabilitation committee meeting with civil society.



IN PICTURES

February 2016

February 2, 2016 Work session with the Provisional Commission for Judicial Justice.



February 15, 2016 Visit of a delegation from the commission of Martyrs and Wounded of Revolution and General Amnesty and Transitional Justice.



February 16, 2016 A delegation from the Swedish International Development and Cooperation Agency.



February 17, 2016 Work session with the minister of Religious Affairs to discuss victims' reparation (pilgrimage).



February 2016



February 18, 2016 Dialogue session with victims from the Democratic Liberal Movement.



February 21, 2016 Meeting in the municipality of Mnihla on "Woman and Transitional Justice".



February 25, 2016 File submission "a victim region".



February 26, 2016 Consultation meeting about the relation between the commission and specialized judicial chambers.



March 2016

March 4th, 2016 meeting with Colombian judge, Marcia Rodriguez, to discuss anti-corruption mechanisms.



March 9th, 2016 Work session with Media, Training, Documentation and Studies Observatory on children's rights protection.



March 16, 2016 Training course with the United Nations Development Program and the High Commissioner for Human Rights.





April 2016



◀ **April 1st-2nd, 2016** Inauguration of regional offices.



◀ **April 10th, 2016** Meeting with civil society and victims in Tozeur.



◀ **April 14, 2016** The first mobile unit for collecting victim's files heads to Siliana.



◀ **April 14, 2016** Training workshops for the National Bureau of Family and Human Development.





April 2016

April 20, 2016 Visit of the Minister of state property "The state accepts the principle of reconciliation in files processing in the process of Transitional Justice."



April 21, 2016 The mobile unit is heading to Monastir and Kairaouen.



April 28, 2016 A delegation from the commission honoring the resistant Hamad Ben Mohamed Elmbarki in Hamma.



April 29, 2016 Work session with the National Independent Coordination for Transitional Justice "We came in order to make the process succeed and we must not be divided by details."





May 2016



May 5th, 2016 Signature of the first Arbitration and Reconciliation convention.



May 10, 2016 Meeting with victims of Bread Riots.



May 14, 2016 Meeting with Associative Radios on the role of associative media in the process of Transitional Justice.





May 2016

May 16, 2016 Submission of a collective file for women victims of circular 108.



May 20, 2016 Submission of 2015 annual report to the president of the parliament.



May 25, 2016 Conference on independent commissions.



May 27, 2016 work session with a delegation from ONU FEMMES.





June 2016



June 1st, 2016 submission of the commission's annual report to the head of government.



June 23, 2016 Submission of the commission's annual report to the president of the Tunisian Republic.

From June 7th to June 15, 2016

Tunisian State, political activists, Human Rights activists, political parties, organizations, Unions, National figures and Civil Society submitting their files to the commission





June 2016





June 2016





July 2016

July 1st, 2016 Work session with “Bawsla” organization to discuss the ways to cooperate and support transparency.



July 13, 2016 Work session with the minister of Justice.



July 18, 2016 The commission giving its opinion on the draft law on reconciliation in economic and financial fields to the General Legislation Committee.



July 27, 2016 Gender approach in the process of Transitional Justice.



August 2016



August 2nd, 2016 Visit of Mr. Dimitri Chalev, the representative of the High Commissioner for Human Rights.



August 3rd, 2016 Session on the victim region with civil society partners.



August 5th, 2016 Visit of a delegation from the University of An-najah of Palestine.



August 9th, 2016 Coordination between the commission 'offices and regional civil society.



August 2016

August 16, 2016 Visit of a German Governmental delegation to the commission.



August 17, 2016 Work session with a delegation from the General Tunisian Union for Employment presided by Mr. Mouldi Jendoubi.



August 18, 2016 Dialogue meeting with the civil society.



August 31, 2016 Work session to evaluate the progress of the work of Reparation commission.





September–October 2016



September 5th, 2016 Training workshop on research and investigation technics for researchers and judges.



September 6th, 2016 Truth and Reconciliation Commissions in Africa create a common network in Kigali (Rwanda).



September 16, 2016 workshop on reparation and Dignity fund with representatives from Government Presidency, ministry of Finance and other ministries' representatives.



September 22, 2016 Meeting of steering committee of the PROJECT OF Transitional Justice in Tunisia COPIL (UNDP).





September–October 2016

September 26, 2016 Workshop on National Memory Preservation in Transitional Justice.



October 13, 2016 Presentation to media of the results of the commission' mapping of Human Rights Violations.



October 15, 2016 Work session with the Minister of Interior.



October 25, 2016 Signature of the charter of Public hearings' coverage with the syndicate of journalists and the professional bodies of national media.





September–October 2016

Invitation of political parties and national organizations to attend the first public audition



September 26, 2016 With the labor party .



September 27, 2016 With Ennahda Movement.



October 6, 2016 With National commission of lawyers.



October 11, 2016 With the party of Democratic Current.



October 14, 2016 With the General Tunisian Union for Employment.





September–October 2016



October 25, 2016 with the “Al Jomhoury” Party.



October 31, 2016 With Attakatul Party.

November 2016

November 2nd- 3rd, 2016 National Conference on Transitional Justice.



November 4th,-14, 2016 Signature of conventions with national media to cover the public hearings.





November 2016



November 4th,-14, 2016 Signature of conventions with foreign media to cover the public hearings.



November 17, 2016 first public hearing.



November 18, 2016 A public hearing.





November 2016

December 7th, 2016 Endorsement of the commission's budget in the parliament.



December 17, 2016 Second public hearing.



December 30, 2016 first arbitral decision issued by the Truth and Dignity Commission given executive value by the first president of the Court of Appeal.





THE PRESIDENT'S QUOTE

2016

2016 was the Truth and Dignity Commission's momentous takeoff with activities gathering pace as portrayed by this report which depicts all activities falling within TDC's mandate, especially:

- Intensifying the pace in camera hearing sessions and consolidating investigative teams that had completed selection and surveying operations, kick starting fact-finding and examining the cases that are waiting to be transferred to the Specialized Judicial Chambers.
- Moving forward with arbitration procedures and the signing of the first arbitration decision that was endowed with enforceable character.
- Starting elaboration of comprehensive reparation program
- Setting out measures that take into account the gender approach
- Advancing work pertaining to memorials and devising archive-surveying program connected to the history of Tunisia, located in Tunisia or abroad.
- Starting public hearing sessions designed to seek and unveil the truth about the violations to the public opinion.

The Tunisian people have closely followed those public hearing sessions aimed at unveiling the suffering endured by the victims, with most of them wondering in disbelief: "Could such horrors have taken place in Tunisia?" "We did not know about them!"

Indeed, through these public hearings, the Tunisian people came to realize the full scope of the horrors endured by thousands of victims. The suffering of a mother desperately looking for her son who succumbed to police brutality and torture. The eternal frustration sustained by a university student because he abstained from joining the ranks of the regime. The pain of a non-politicized girl whose education came to a halt because she decided to wear a veil.

Meanwhile, the Truth and Dignity Commission faced during 2016 numerous misinformation campaigns with an average of 36 articles



a month. This campaign gathered momentum in December with 95 articles, which coincided with the holding of public hearing sessions which clearly embarrassed the foes of Transitional Justice.

The smear campaigns that targeted the Commission focused on the questioning of its mandate by disputing the Transitional Justice Law, casting doubt on the Commission's independence and impartiality, ending up with allegations of corruption against the Commission.

The Draft Bill for Economic reconciliation also contributed to the disturbance of the Commission's proceedings. This Bill is likely to curb the institutional foundation of the rule of law that Tunisia has strenuously endeavored to establish courtesy of the bloody sacrifices of the Revolution's Martyrs and in keeping with the Constitution of the Second Republic for which the President of the Republic is supposed to be the founding guarantor.

The Commission has been up against accusations ranging from enjoying "extraordinary powers" to being an uncontrolled "a State within the State". In the meantime, the Commission was struggling to discharge its duties, having to face attempts at disrupting its proceedings by some State institutions, unlike others which were forthcoming in helping the Commission accomplish its duties.

It is noteworthy that in the discharge of its duties, the Commission has always strived to consecrate the principles of transparency and good governance by developing an internal oversight system and by dedicating a post to the duty of an internal auditing manager. Moreover, the report of the auditor has confirmed that the Commission's financial statements convey a genuine and true picture of the accounts, realistically depicting all substantial features of the good financial conduct by the truth and Dignity Commission. The latter has always exercised its duties under the supervision of the Court of Auditors, submitted to the oversight of the People's Representative Assembly which approves its budget.

Pursuant to its Constitution, Tunisia chose to address the painful events and incidents that the country had witnessed from 1955 to 2013 through the process of Transitional Justice. This choice has been designed to alleviate the tensions that have shaken society and to achieve social cohesion, the only means to counter extremism.





Furthermore, memorialization stands as a guarantee for the non-recurrence of the violations that had strained the State, ruining its economy. The process of Transitional Justice will, therefore, be the best way to establish democracy.

For the record, the Commission's task is not to prosecute the alleged perpetrators, nor does it try to stalk them. It is simply tasked to probe into human rights violations along with other violations pertaining to financial corruption and embezzlement of public funds, setting out responsibilities, seeking truth and restoring rights to the victims.

Those who are firmly combatting the process of Transitional Justice are not willing to achieve reconciliation with their victims, nor are they prepared to make an apology to the national community that they had for so long looted.

The Truth and Dignity Commission reiterates its intention to achieve the process of Transitional justice in steadfast fashion, adamantly confident that it can count on the cooperation needed from all the stakeholders as regards the remainder of its mandate in keeping with the expectations of the bulk of the Tunisian people.



EXECUTIVE SUMMARY_____



ursuant to the Organic Law number 53 of the year 2013, dated on 24 December 2013, on the establishment and regulation of Transitional Justice, whose article 67 provides for the Commission's drafting of annual reports and a comprehensive final report, the Truth and Dignity Commission has drafted its 2016 annual report that has been approved by its Council.

This report features a presentation of the Commission's different activities, its main assignments pertaining to the implementation of its mandate in the field of Transitional Justice along with the Commission's administrative and financial activities●





2016 CHALLENGES

The challenging of closing the deadline for complaints' receipt

In the period extending from December 15, 2014, the opening date for file submission, to June 15, 2016, the Truth and Dignity Commission had received 62 020 complaints lodged by individuals and groups (associations, national political parties and organizations along with labor unions). The number of files deposited on the last day, June 15, amounted to 9797 files, which has been asserted by notaries who drafted a minute to that effect at the Commission's headquarters and in all regional offices.

These files comprised direct and indirect victims in addition to victim regions whose files amounted to 205.

The Commission received 685 complaints lodged by the General Commissioner in charge of State's Litigation, requesting arbitration and reconciliation on behalf of the State, as a party having sustained prejudice from corruption and misappropriation of public funds. The Commission also received files submitted by the National Anti-Corruption Commission.

The files deposited also included cases of various human rights violations along with instances of administrative and financial corruption. The files deposited covered the various eras extending from July 1955 to December 2013 as per the Commission's mandate. This period of time pertains to the various political, ideological and social currents and movements, including minority groups with regard to color, race and religion.

As for arbitration and reconciliation files, the Commission received petitions in this regard from symbols of the former regime as alleged perpetrators

Kick-off of public hearing sessions

In 2016, the Truth and Dignity Commission proceeded to the holding of public hearing sessions, the first of which was held on November 17, 2016. This session had reverberated positively among the public who had kept close eye on the hearings broadcast live by national and foreign channels, with more than one million viewers.

These public hearing sessions are designed to keep the public posted





about the scale and the severity of the violations witnessed by Tunisia during that historical era extending from July 1955 to the end of 2013 with a view to getting to the bottom of such violations and address their grassroots.

Moreover, these public hearings are aimed at preserving national memory and ensuring non-recurrence of the violations by documenting them and grasping their historical context in addition to the rehabilitation of the victims, restoring their dignity by granting them the opportunity to voice their plight.

These sessions are also meant to dismantle the system of totalitarianism and corruption, upgrading legislation with a view to establishing the rule of law and instilling the culture of accountability, countering impunity and enabling the perpetrators of violations to come forward and apologize from the victims so as to achieve national reconciliation.

By virtue of the requirements as per Article 40 of the Transitional Justice Law, the Commission devised a comprehensive witness and victim protection program. The latter has been based on a set of measures and arrangements designed to ensure their physical and psychological safety and to guarantee confidentiality as regards personal data and information. Furthermore, a protection unit specialized in detecting and assessing actual threats was established with appropriate preventive measures being taken to spare witnesses and victims any risks or threats that may result from their public appearance prior, during and after testifying.

The Commission, in association with the civil society, as a major and effective player in a successful Transitional Justice process, drew up a charter by virtue of which it pledged to comply with the witness and victim protection program during the hearing sessions.

Another charter has been drawn up by the Commission involving media agencies and designed to govern public hearing sessions in association with the National Union of Tunisian Journalists along with the Union of Media Executives and the National Federation of Newspaper Managers. All the partners signed the charter following training sessions staged by the Commission in association with its United Nations partners.

The Commission also signed agreements with several Tunisian and foreign media in order to cover public hearings, all of which came to consecrate the provisions and content of the charter as regards respect and compliance with the specificities of these hearings.





Public hearing sessions consisted of 22 testimonies given by victims and witnesses. The Commission decided to grant priority to gross and systematic human rights violations among which willful killing, torture, enforced disappearance, breaching the right to a fair trial, sexual aggressions, arbitrary arrest, deprivation of livelihood, forms of violation of labor rights, violating the right to health, administrative control, violating the right to practice one's religion. These hearings have also covered the violations that were perpetrated during the Revolution, and those pertaining to freedom fighters, Islamists, left-leaning and Pan Arab activists, students, Bread Incidents, Mining Basin Events, Barraket Essahel Affair and financial corruption.

Handing down the first arbitration agreement

On December 30, 2016, the Truth and Dignity Commission rendered its first arbitration agreement pertaining to an arbitration case involving a natural person and a public institution. The Chief Justice of the Tunis Appeal Court indexed it with enforceability in keeping with the requirements of article 50 of the Transitional Justice Organic Law. The arbitration dispute subject of said ruling consisted in dismissing arbitration petitioner's request as a victim, to claim a parcel of land registered as part of at the Carthage Park lot from the Real Estate Agency, as the defendant party to the arbitration. In light of the Agency's forthcoming attitude, a preliminary arbitration and reconciliation settlement was signed by both parties to the arbitration on March 21, 2016, the first settlement reached by the Truth and Dignity Commission. Enforcement of arbitration and reconciliation along with management of its hearings are carried out in keeping with the Manual of Procedures of the Arbitration and Reconciliation Committee which is consistent with the guidelines of judicial proceedings and the principles of justice and fairness such as equality of litigants, due regard to confrontation between them and to the right to defense, integrity and impartiality.



In camera hearing sessions

The Truth and Dignity's Council decided to hear all depositors whose files have been admitted, a Tunisian exception, unlike the procedures adopted by most truth commissions worldwide which settled with a few samples of victims. In 2016, the Commission held 16 037 hearings, most of which individual hearings, in addition to collective hearings of victims which take place in its headquarters and regional offices.

In camera hearing sessions stand as one of the stages of fact-finding, investigation and truth seeking and a mechanism designed to document the record of the violations endured by the victims.

In this regard, the Commission has from the outset, endeavored to document those hearings making recourse to software applications and audio-visual recordings with the prior consent of statements givers in writing. Such data has been stored in the "statement" database, which constitutes a major source of information on the violations and the circumstances surrounding their occurrence to which the Commission resorts subsequently.

The number of hearing offices rose to 81 with 190 statement takers in various areas such as law, psychology, sociology and social services scattered around headquarters, regional and mobile offices.

The number of hearing sessions made in 2016 amounted to 10036 sessions, 1012 of which were mobile hearings and 6001 carried out in regional offices.

And based on the findings of violation mapping, the Commission staged in 2016 5 collective hearings during which recourse was made to the collective interview and focal group technique.

Violation mapping resulted in the determination of 18 events

The Commission proceeded to the mapping of violations, an initial diagnosis based on external sources (surveys and studies, articles emanating from local or international academicians, human rights activists or reporters), depicting violations, the circumstances surrounding their occurrence, their contexts, the perpetrators, their victims and their impact. This mapping yields raw material that helps us grasp the contexts for subsequent fact-finding work.





Taking action for temporary and urgent relief provided to victims

The State allocated 1.5 million dinars from the 2015 budget, earmarked to temporary and urgent compensation for victims, which was transferred as of 2016. Then, the Commission initiated its temporary and urgent relief program for the benefit of the victims pursuant to the requirements of article 39 of the Transitional Justice Law. The Commission reported 4915 applications for urgent relief in 2016. Special attention was given by the Commission to urgent cases of victims showcasing difficult social conditions and frail health, with due regard to the groups as per Article 12 of the Transitional Justice Organic Law, that is, the elderly, women, children, the impaired, people with special needs, the sick in addition to vulnerable groups. 1845 urgent response decisions were issued in 2016 for the benefit of the applicants.

Progress of the Commission's Council and Committees' proceedings

The Commission's Council held 86 general assemblies in 2016 with an average of at least 7 meetings a month. During those meetings, it adopted the manuals of procedure of the Commission's committees, amended the bylaws and the General Manual of Procedures and issued decisions pertaining to Transitional Justice and to the Commission's administrative management. The legal quorum regarding the legality of the Commission's proceedings triggered a legal controversy, especially in connection with the Administrative Court. Consequently, the Commission petitioned legal consultation on the issue of the quorum from the Administrative Court on March 1, 2016. The response of the Administrative Court came on March 14, 2016 denying the motion by the fact that "such consultation shall not be admissible as it originated from a party lacking capacity." The Chief Justice deemed that "the interpretation of the decisions rendered established that the





phrase “the subjects submitted by the Government” for consultation to the administrative court are those that emanate exclusively from the Prime Minister or from one of its members, which is not fulfilled by the consultation in question which originated from non-governmental authority.” Yet, the administrative Court has previously granted consultation to an official non-governmental authority, having the same capacity which is the Supreme Independent Commission Overseeing Election.

The Commission proceeded to a legal consultation which confirmed the legality of its proceedings and establishment of the quorum with the nine serving members and disregarding those who lost membership quality as per the requirements of Article 37 of the Organic Law. This has been confirmed after verification of the Legislative Council’s failure to fill the vacancies.

And with regard to the provisions of Article 37 of the Transitional Justice Organic Law which expressly provide, in no uncertain terms, to the cases of membership loss which are decease, dismissal or resignation, membership quality does not, therefore, apply to the three cases mentioned. The term member, consequently, applies solely and necessarily to serving members.

Based on this fact, the Commission’s Council proceeded to the issuance of its decision amending Article 9 of the Commission’s bylaws. To the Commission’s surprise, the departments of the Prime Ministry abstained from publishing this decision in the National Gazette of the Republic of Tunisia without legal justification and in disregard of the provisions of Article 56 of the Transitional Justice Law.



The Fact-finding and Investigation Committee

The Fact-finding and Investigation Committee sorted 61 347 files out of the 62 020 deposited at the Commission. Sorting files and complaints deposited and their classification constitute the first step in the process of fact-finding and investigation in order to rule out any files that do not fall under the scope of the Commission’s expertise. Eventually, 56235 files have been admitted while 5112 were dismissed.

As regards the figures and the statistics based on the nature of the perpetrators, the State institutions account for the bulk of the violations with 38 539 complaints lodged against it. With regard to the violations pertaining to civil and political rights, arbitrary arrest and imprisonment top the list with 14250 files, followed by violation of freedom of expression, information and publication with 11368 files, then comes torture with 10712 files.



As to the violations associated with economic, social and cultural rights, deprivation of livelihood, breach to the right to work, they are in the first ranking with 13984 files, followed by the right to housing and home privacy with 4858 files, then comes the violation of the right to health with 4137 files.

An inquiry unit has been established within the Fact-finding and Investigation Committee, composed of inquiry offices, each of which is supervised by an investigator with the rank of a judge seconded to the Truth and Dignity Commission. Each office also includes a team of assistant investigators.

Inquiry offices have been tasked with fact-finding and probing into cases of willful killing, death penalty in the absence of guarantees of fair trial, rape, along with various forms of sexual violence and torture. In the initial stage, cases pertaining to violation of the right to life were the concern.

For fact-finding and investigation purposes into the files eligible to referral to the specialized Judicial Chambers and pertaining to cases of death resulting from torture in detention centers and enforced disappearance, the inquiry office proceeded to on-site verification in keeping with the requirements of Article 40, bullet 9 of the Transitional Justice Law, listening to witnesses and interrogating alleged perpetrators including law enforcement officers, doctors having served under the Ben Ali rule in the presence of their lawyers in consecration of the principle of confrontation and the right to defense. Some of the cases are still in process at the inquiry offices.

In addition to investigative tasks, inquiry offices are entrusted with the duty of investigating the files presented during public hearings. During the months of November and December of 2016, the files dedicated to public hearing sessions took the bulk of the action program of the inquiry offices within the Fact-finding and Investigation Committee. The focus was all devoted to these files for the sake of a more in-depth examination as regards inquiry into the status of victim, listening to witnesses, interrogating alleged perpetrators and conducting on-site verification without overlooking the historical context of each file. The inquiry offices also endeavored to draft exhaustive reports along with briefs on all the files that were dedicated to public hearing sessions.





The Arbitration and Reconciliation Committee

The Arbitration and Reconciliation Committee, set up within the Truth and Dignity Commission, is tasked with the enforcement of arbitration and reconciliation, assisted with rapporteurs and experts in law, accounting, finance and other areas of expertise knowledgeable about arbitration and reconciliation. During 2016, the Committee had signed 4 arbitration and reconciliation settlements, two of which pertain to human rights violations and another two regarding financial corruption. 5579 files had been deposited at the registry office including a petition for arbitration and reconciliation for various violations that are broken down as follows:

- 3682 files requesting arbitration and reconciliation regarding human rights violations

- 1897 files requesting arbitration and reconciliation regarding financial or administrative or judicial corruption including the 685 files submitted by the General Commissioner in charge of State Litigation.

- In 2016, the Arbitration and Reconciliation Committee had examined a total of 1784 files, 944 files of which pertain to human rights violations. The examined files covered most of the violations provided for in the Transitional Justice Organic Law. The most recurrent of these files pertain to violations of the right to property, arbitrary arrest, deprivation of livelihood, the right of free travel abroad, torture and rape.

840 files were about violations of financial corruption, embezzlement of public funds. They also included cases of judicial and administrative corruption, bank fraud especially when it comes to unlawful cessions of assets mortgaged in those banks, tax avoidance, and recourse to forfeiture mechanism for public interest to steal properties. The arbitration and reconciliation mechanism was denied to 349 cases by the General Commissioner in charge of State Litigation, 311 of which pertain to human rights violations and 38 to financial corruption. Among those files, 286 pertaining to human rights violations were denied by the General Commissioner in charge of State Litigation (the most important ones are 252 files against the Ministry of the Interior, 18 against the Ministry of Justice, 15 against the Prime Ministry, 1 against the Defense Ministry, 1 against the Ministry of industry and Commerce, 1 against the State Secretariat in charge of State Domains and Real Estate). The State General Commissioner advocated lack of capacity to justify denial of arbitration and reconciliation. The Arbitration and Reconciliation Committee is still waiting for the reply of the State General Commissioner regarding 520 files pertaining to





human rights violations. For the record, the State General Commissioner had submitted motions of continuance (adjournment) for 1000 arbitration hearings that were held in 2016 and which pertained to 322 files.

The Reparation and Rehabilitation Committee

The proceedings of the Truth and Dignity Commission gathered momentum in 2016, especially with regard to crafting the comprehensive reparation and rehabilitation program pursuant to the provisions of Article 39, bullet 5 which stipulated that among the tasks entrusted to the Commission is the duty of “devising a comprehensive individual and collective reparation program for the benefit of the victims of the violations.”

Individual reparation rests on a very important characteristic which consists in erasing the impact of the violating and resetting the victims back to their initial status prior to the violation by either recovering their freedom, identity, family life and citizenship or by return to the place of residence, recovery of one’s job and properties.

The Reparation and Rehabilitation Committee also crafted a pilot project designed for the decision of individual compensation in addition to a proposal on the provision of health services through the integration of victims in health coverage schemes along with medical and psychological rehabilitation.

Suggestions have been made in this regard for the elaboration of projects designed for the establishment of a physical, psychological and social rehabilitation and counseling center.

The Reparation and Rehabilitation Committee also proceeded to the evaluation of the health and social service mapping carried out in 2015 in order to gauge the extent to which it has met the health (physical and psychological) and social needs of the victims. Moreover, and the course of 2016, the Committee proceeded to the staging of a national consultation on the comprehensive reparation and rehabilitation program as it prepared to devise the comprehensive reparation program aimed at the victims of human rights violations.

Thorough examination of files regarding legal entities such as the group of political parties, associations, trade unions and organizations (27 files) was carried out to establish the violations they had endured as result of their political choices or due to their human rights struggle and to their ideological orientations. These groups were oppressed and harassed by the former regime.

Furthermore, the Committee also examined a victim region, comparing it with another region relying on regional growth indicators, developmental plans and official statistics and records (the National





Statistics Institute) to determine the extent to which this region has been deprived of basic services, thus highlighting the State's policy of marginalization and exclusion of some regions.

Women's Committee

Women's Committee is tasked to coordinate with the Commission's entities so as to ensure due regard to the specificity and privacy of women and children while processing files pertaining to violations perpetrated against women. This approach is consistent with the provisions of the Manual of Procedures for Women's Committee which was endorsed by the Commission's Council on May 27, 2016.

- The Committee also sees to the monitoring of the files of women victims who applied for arbitration and reconciliation.

- The Committee takes part in the examination of the victim files such as women, the elderly, vulnerable groups within the Urgent Care, Temporary Compensation and Counseling Unit.

- The Committee proceeds to the monitoring of cases of victims that were referred to psychological counseling, gauging their response to and benefit from Psychiatric Counseling Programs, in association with Nibrass Institute, in particular.

Women's Committee designed five questionnaires aimed at polling victims' expectations from the mechanisms of Transitional Justice and Truth and Dignity Commission. These questionnaires had been used in several interviews and meetings with victims scheduled in the regions of Nabeul, Monastir, El Kef, Tataouine, Tozeur, Menzel Bou Zalfa, Kélibia... The TDC signed a Memorandum of Understanding on gender-based violations with The Center for Applied Human Rights at York University, United Kingdom. This protocol is centered around the study and examination of human rights violations targeting women and the latter's perspectives and expectations from the mechanisms of Transitional Justice and for any change to their current status.

The Memorialization Committee

The National Memorialization Committee is tasked to undertake assignments and activities and to issue recommendations designed to preserve national memory, an endeavor that stands as an inalienable right to all successive generations of Tunisian male and female citizens. It is also a duty incumbent upon the State and all the institutions under its supervisions to ensure that lessons have been learnt and victim's memory eternally commemorated. The Committee started in 2016 with an inventory of the various initiatives taken to preserve memory and



perpetuate the memory of the victims including artistic and literary activities pertaining to national memorialization already conducted or still in the pipelines.

The National Memorialization Committee has staged several activities such as:

- Locations where violations originated, some of which went dilapidated, destroyed or abandoned, along with unknown or forgotten violation locations such as former detention centers, torture and arrest centers, places of mass killing and mass graves and ruins that symbolize the former regime of totalitarianism and corruption.
- Inquire about the symbolic locations that have been built or that the Commission will recommend building.
- Search for various forms of cultural expression such as public apologies, celebration tours, temporary exhibitions, artistic works, feature films and documentaries, cartoons, literary novels, theater plays, drawing and sculpture.
- Recommending research into methods of writing the history of grow human rights violations and teaching it with special emphasis on school manuals.
- Taking appropriate measures required to preserve the Commission's information heritage consisting mainly of documents, supporting files, archives and victims' narratives.

TDC endeavored to carry out a mapping, based on these topics, to the original and virtual websites and artistic initiatives designed to preserve memory, school curricula through external sources.

Consolidating the Commission's executive apparatus

The Commission saw to the provision of the human resources required to keep up with the pace of work performed by its entities and committees. Consequently, the number of personnel reached 562 staff members by December 2016 whereas in 2015, it was just 150. The Commission's staff members were hired in conformity with its Recruitment Procedure Manual. Staff are broken down into 431 contracted officers, 36 seconded staff and 95 service providers. With work picking up pace, the Truth and Dignity Commission resorted during 2016 to leasing two premises in the capital city. Both were used as branch offices for the establishment of hearing offices, immediate care and urgent response unit, and violation-mapping team. Moreover, the Commission set up five regional offices in April 2016, starting with two in Gabes and Medenine on April 1, and then the other three in Jendouba, El Kef and Sousse on April second under the supervision of the Commission's commissioners and in the presence





of representatives of local authorities and members of the regional committees that had overseen national dialogue on Transitional Justice. In conducting its purchases, the Commission relies on a special procurement procedure manual. In view of the nature and specificity of the Commission's tasks, and in order to ensure optimal effectiveness and flexibility for the Commission's performance, the lawmaker did not subject the Commission's purchases to the decree governing public procurement. The Commission, however, preferred, while drafting procurement manual of procedures, to reduce the ceiling of public purchases contracts beyond procurement framework whereby the limit was set at 50 000 dinars whereas pursuant to the decree governing public procurement, that limit has been set at 300 000 dinars.

Call Center

The call center is tasked to provide information via a toll-free hotline to the public in general and to file depositors in particular about the progress of files or about the Commission. In 2016, this call center reported approximately 22538 calls. In addition, it is designed to summon statement givers to the hearing sessions. In 2016, 10036 hearing sessions dedicated to statement givers were reported in the Commission's central headquarters, 1012 of which had been conducted by means of its mobile units.

Documentation and archiving

In 2016, three areas were designed to store and secure the Commission's archives. The first space was dedicated to storing complaint and petition files, the second one to the storage of compiled archives and the third one to storing intermediate archives. In 2016, the Commission pursued access to the archives either onsite or by means of direct handover. Access was also granted to the Democratic Constitutional Rally's stock, available in the National Archives, in addition to other new stocks. The Commission developed an archival description software for compiled archives which was initially used in 2016. Called ARCHIIVD, this application is in conformity with international certification standards and secured against any attempt to copy, photograph or publish documents or information contained in it.

21 lawsuits had been lodged against the Commission in 2016, 16 of which pertained to motions to stay in the execution of rulings while six of them were on merit. All of these cases were about the Commission's decisions as regards its handling of victims' files and some procedural





matters. So far, none of these cases have been adjudicated in merit by the Administrative Court as we draft the report herein.

Auditing

As of March 2016, the Commission has set up an internal auditing department, being one step ahead of the organic law of Constitutional bodies which required the establishment of an internal auditing unit within each entity's council that is subject to internal auditing code. Internal auditing stands as the Commission's in-house independent evaluation system. It is an independent and objective activity that guarantees quality, providing the Commission's Council with all assurances about the reliability and credibility of the data processed and examined.

An ever-evolving digital administration

Since its inception, the Truth and Dignity Commission has relied on a comprehensive information system designed to turn administrative manual work into a computerized exercise that allows swift exchange of information and decision-making, which upgraded the Commission to the rank of a digital administration.

Cooperation with national partners

The truth and Dignity Commission has held several meetings with the Provisional Authority Overseeing Civilian Justice to discuss issues pertaining to the transfer of files to the Specialized Judicial Chambers. A joint committee has ever since started outlining a manual of procedures depicting the file referral process by the Commission to those Chambers along with the role of the Public Prosecution Office and the degrees of litigation.

Moreover, the Truth and Dignity Commission staged a Think Tank workshop dealing with "the basic foundations of independence for autonomous entities" on May 26 and 27, 2016. This workshop was held in association with four other independent bodies: The Provisional Authority Overseeing penal Justice, the Independent Supreme Electoral Commission, the National Anti-Corruption Commission and the Independent Supreme Audi-Visual Communication Commission with the support of the United Nations agencies and Council of Europe. MPs, representatives of the government, of the Ministry of Finance and oversight institutions along with international experts from Venice Commission took part in the workshop. All of these participants





contributed with their insights as to the guarantees of autonomy for independent bodies and entities with regard to the appointment of their members, business management and their relationships with legislative, executive and judicial powers. The workshop ended up with the drafting of recommendations to this effect and with the establishment of the Forum for Independent Bodies.

Cooperation with international partners

Within the framework of the partnership agreement brokered in 2014 between the United Nations agencies (United Nations Development Program and High Commission on Human Rights, on the one hand, and the Truth and Dignity Commission, the Provisional Authority Overseeing penal Justice and the Ministry of Justice, on the other, a meeting of the steering committee project for the consolidation of Transitional Justice convened on September 22, 2016 at the Commission's headquarters. Said meeting was attended by representatives of the Provisional Authority Overseeing Civilian Justice, the Ministry of Justice and the Ministry of Foreign Affairs along with United Nations partners and donors. Mid-term Project evaluation report was on the agenda of this meeting.

The UN partners endeavors during 2016 focused on the following topics:

- Providing assistance as regards the holding of public hearing sessions
- Providing support to the Specialized Committees within the Commission
- Providing technical support to the Commission as regards field surveys
- Holding training sessions for the benefit of Tunisian journalists and reporters on the coverage of public hearing sessions and on witness and victim protection.

Official authorities abstain from enforcing Articles 37, 40, 51, 52 and 54 of the Transitional Justice Organic Law

As the pace of the Commission's activities gathered momentum in the course of 2016, so did the obstacles that hindered the discharge of its duties. Most of these challenges resulted from the non-enforcement of Articles 37, 40, 51, 52 and 54 of the Transitional Justice Organic Law by the bulk of the State's institutions. These articles provide for the lifting of the bans that are in force in the current legislation, allowing access to





all the cases pending before legal jurisdictions and to all decisions and rulings thereof. These obstacles mainly play out as follows:

- Failure of the People's Assembly to provide for the vacancies that opened up within the Truth and Dignity Commission as per Article 37 of the Transitional Justice Organic Law despite the numerous correspondence attempts by the Commission since July 2014 .
- Denying the Commission access to the archives by, for instance, the Military Tribunal and the Judicial and Financial Court.
- Abstention of the Presidency of the Republic from honoring the enforcement of the agreement signed on May 25, 2015, authorizing the Commission to have access to presidential archives.
- Abstention of some public institutions from filling out the forms for archive storage locations or from disclosing any information on their regard.
- Lodging lawsuits against the Commission by the Minister of State domains in order to cancel reservation procedures files by it pursuant to Article 55 of the Transitional Justice Organic Law.
- Denying the Commission legal consultation on the legal quorum for the meetings of its Council by the Administrative Court, invoking the petitioner's lack of capacity to submit such a motion.
- Abstention of the Prime Ministry from publishing the Commission's decisions in the National Gazette and from issuing the decree regarding the Dignity Fund



2017 OUTLOOK

2016

was a major landmark in the history of the Truth and Dignity Commission as the latter managed to complete the establishment of its entities, devise its strategies and overcome logistical shortcomings, thus signaling the genuine kick-off of TDC's implementation of its mandate whose performance is now in full swing.

And with due regard to the time frame allotted to the Commission, 2017 has been essential to the achievement of its mission, the selection of its output and preparing for the drafting of the final report, which requires the Commission to expedite the pace of its proceedings, especially in the following areas:

- Pursuing selection, sorting processing and investigating files with regard to human rights, focusing on those dealing with financial corruption and misappropriation of public funds by consolidating specialized teams.
- Implementing the training program provided for the judges and lawyers on the judicial processing of files at the Specialized Judicial Chambers so as to start referral of cases to those Specialized Chambers.
- Concluding in camera hearing sessions.
- Maintaining and pursuing public hearing sessions, tackling all various eras and the events that the country has been through, along with other issues pertaining to institutional reforms.
- Adjudicating arbitration and reconciliation settlements awaiting disposition, endeavoring to raise the number of arbitration and reconciliation settlements brokered.
- Devising a comprehensive reparation program designed for the victims of violations as per the provisions of Article 11 of the Transitional Justice Law, with due regard to the findings emanating from the National Consultation.
- Brokering partnership agreements with relevant ministries in charge of reparation and rehabilitation of the victims of violation such as the Ministry of Health, Ministry of Social Affairs, Women's Ministry and Ministry of Employment and Vocational Training.
- Extending special care for cases in need of health and social response, especially women and the elderly, expediting response for their benefit through provisional and immediate relief by consolidating Immediate Care Unit.





- Taking the appropriate measures required for the memorialization of violations, endeavoring to turn part of the lands that used to harbor the Civilian Prison 9 Avril 1938 before its demolition into a center of National Memorial, a potential institution, per se, that can be entrusted with the enforcement of the Commission's reconciliation in this regard.
- Submitting recommendations to the People's Representatives Assembly for the establishment of an institution tasked with the memorialization of National Memory before expiry of the Commission's mandate to allow handover of all archives and supporting documents compiled by the Truth and Dignity Commission which stand as a historical treasure and a national accomplishment for everyone to preserve and protect dearly from dispersion and disappearance.
- Pushing for more forthcoming response on part of State institutions in dealing with the Commission, complying with the requirements of the Transitional Justice Law, especially with regard to the Commission's right to access archives so that it can fulfill its mandate as per the deadlines set forth without recourse to its extension, which remains feasible should all stakeholders exhibit the will to do so●

