Tunisia 2015

Assessment of the Tunisian Court System

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This Baseline Assessment of Management and Administration in the Tunisian Court System was jointly sponsored by the National Center for State Courts (NCSC) in Williamsburg, Virginia, USA, and the International Legal Assistance Consortium (ILAC) in Stockholm Sweden.

The Assessment was conducted in Tunisia from 19 January to 1 February 2015. The primary assessors were Markus Zimmer representing NCSC and (IACA) and Rhodri Williams representing ILAC. Arranging for interviews, managing the logistics, conducting interviews, and gathering and reviewing the substantive content associated with the Assessment on the ground were officers of the ILAC-Tunisia Office located in Tunis, Ms. Leïla Dachraoui and Mr. Ismaël Benkhalifa.

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Assessment Team

Markus Zimmer IACA/NCSC USA
Team Leader and Author

Rhodri Williams ILAC Sweden
Leïla Dachraoui ILAC Tunisia
Ismaël Benkhalifa ILAC Tunisia

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Introduction

This Baseline Assessment of Management and Administration in the Tunisian Court System (Assessment) was jointly sponsored by the National Center for State Courts (NCSC) in Williamsburg, Virginia, USA, the International Legal Assistance Consortium (ILAC) in Stockholm, Sweden, and the International Association for Court Administration (IACA) in Arlington, Virginia, USA. The Assessment was conducted in Tunisia from 19 January to 1 February 2015. The primary assessors were Markus Zimmer representing NCSC and (IACA) and Rhodri Williams representing ILAC. Arranging for myriad interviews, managing the logistics, conducting interviews, and gathering and reviewing the substantive content associated with the Assessment on the ground were officers of the ILAC-Tunisia Office located in Tunis, Ms. Leïla Dachraoui and Mr. Ismaël Benkhalifa, both of whom are trained and experienced advocates. Annex A to this Assessment includes brief biographical statements of the Assessment Team members.

The organization and conduct of the Assessment were stimulated in a series of preliminary needs-assessment discussions by Mr. Williams and other ILAC representatives with key officials in Tunisia's Ministry of Justice, Human Rights and Transitional Justice in 2014 (Ministry). Those representatives included the Honorable Hafedh Ben Sala, then-Minister of Justice, and the Honorable Inès Maâtar, Judge and Head of the Ministry's Office of International Coordination and Cooperation. For the duration of the Assessment, the Ministry bore full responsibility for the institutional management and oversight of the Tunisian judicial and court systems.

The Assessment also was stimulated by comments solicited by international instructors in a judicial training initiative to deliver to all Tunisia judges a one-week training curriculum entitled "Judging in a Democratic Society." That program, a component of ILAC's broader Middle East and North Africa Programme, recently completed its third year of delivering that curriculum to most of Tunisia's judges, providing those instructors with opportunity to discuss informally with them the status of the court system's management and administration from their perspective as judges working in busy trial and appellate courts. The Assessment also was prompted by the dearth of publicly available systematic assessments and reports by senior international specialists dealing with the management, administration and operations of the Tunisian court/judicial systems.

The Assessment also was motivated by the new 2014 Tunisian Constitution whose provisions in Title V: The Judicial Authority, mandate a groundbreaking transition to an independent judiciary, including major initiatives to implement institutional independence by transferring core functions from the Ministry to a newly empowered and self-managing Supreme Judicial Council. The elements of this transition are multifold and complex; some of them are discussed at length later in this Assessment.

Executive Summary

This Assessment reviews the status of the management and administration of the lower courts and tribunals of the judicial power of the Tunisian Government from a variety of institutional perspectives. The Assessment's baseline is defined, on the one hand, by basic principles that govern the management and administration of healthy public sector organizations. On the other hand, its baseline is defined by best practices that characterize modern court management and administration. Many of these best practices and guidance on them are articulated in materials prepared by the International Framework for Court Excellence, the National Center for State Courts, and the National Association for Court Management, among others.

Annex A of this Assessment offers a brief historical overview of the development of the rule of law in Tunisia. It reviews how the administration of justice evolved during the reign of the Ottoman Empire when Tunisia's political status was that of a semi- autonomous province under the oversight of successive sultans. It examines how Tunisia's transition from semi-autonomous province to protectorate under the French colonial administration resulted in fundamental institutional changes in Tunisia's framework of justice administration. During that period, French colonial administrators substantially transformed Tunisia's justice system from one based on a diverse legal pluralism that included indigenous dispute resolution and criminal justice mechanisms alongside religious courts to a western European model based on the justice system of post-revolutionary France. The section then briefly explores how Tunisia's successful quest for independence from its colonial masters led to further unification of the judicial system by eliminating the jurisdiction of the religious courts while retaining much of the substantive and procedural bases for dispute adjudication and criminal justice administration implemented by the French colonizers.

Section Two of the Assessment reviews the current management and organizational framework of Tunisia's lower courts and tribunals, its primary focus. It examines the chain of management and supervisory authority, drawing attention to the unusual and curious insertion of senior prosecutors as primary administrative managers of all court support personnel, including the chief clerk who functions as the court administrator but answers to the general or public prosecutor. The assessment concludes that this insertion of senior prosecutors into the management hierarchy of the first-instance tribunals and the courts of appeals is both unnecessary and counterproductive. It recommends that those positions be eliminated and that the responsibilities and authority currently delegated to them be transferred to the chief clerks in both the first-instance tribunals and the intermediate courts of appeals. This section also recommends that the role of general and public prosecutors in assigning criminal matters to investigative

judges be transferred to the court presidents or their designee magistrates to avoid potential conflicts of interest.

Section Three of the Assessment analyzes caseload data graciously provided to the Assessment Team by the General Inspectorate of the Ministry of Justice. Those data include statistics on annual numbers of (i) pending cases, (ii) new cases filed, and (iii) cases disposed of during a five-year time frame, 2010 – 2014, and broken down by statistical year: 1 August – 31 July. The data analyzed include cases broken down by each of the ten intermediate courts of appeals, excluding the two newest courts. They also include aggregate data broken down by region or governorate for the first- instance tribunals and the district tribunals. The Assessment includes a summary analysis of the data based on those three categories: pending cases, new cases filed, and cases disposed of during each of the five years. This summary analysis reveals serious concerns about the current overall performance and productivity of Tunisia's lower courts and tribunals in key areas and what those concerns portend for the future if remedial action is not taken. Those concerns are reflected in several critical recommendations the Assessment makes for:

- Additional more detailed research into the caseload data to more precisely target the areas needing immediate attention, ideally with the assistance of international experts in caseflow analysis;
- Implementing improved caseflow management practices and procedures, including increased judicial oversight and control of the adjudication process from filing to disposition;
- Developing and conducting a comprehensive caseflow management training curriculum for magistrates in all levels of the lower courts and tribunals; and
- Enhanced deployment of automated case information tracking and management systems with judicial access to the current status of cases.

Section Four of the Assessment reviews the administration and allocation of human resources in Tunisia's lower courts and tribunals. This review summarizes the concerns expressed by all senior court and prosecutorial managers, from court presidents to general and public prosecutors to chief clerks. The primary concern, endorsed by all interviewees, is inadequate staffing at both the judicial and the clerical levels. There also was unanimous consensus that the incidence and gravity of inadequate staffing has increased in the years since the 2011 revolution. Positions vacated by magistrates and court clerks who either retired or transferred to another court are not being filled, a practice that, over time, has led in some courts and tribunals to serious declines in overall court productivity and the inability to promptly process annual workloads. The staffing situation on the court support level has also been compromised by waivers instituted by the post-2011 Revolution government that allow members of protected classes, who may not meet the established qualifications for civil service employment, to be

hired based on their status as veterans of the 2011 Revolution or prisoners convicted of political crimes under the previous regime. The section also analyzes the Ministry's role as the:

- Central recruiting and hiring authority for all court clerk entry-level positions and how that arrangement (i) unnecessarily prolongs the filling of vacant or new positions and (ii) eliminates any role for court presidents and chief clerks in the recruiting, vetting and hiring of candidates for various clerical positions, and
- Central disciplinary authority for allegations of employee misconduct and unacceptable performance and how that role (i) bureaucratizes the process, (ii) leaves court managers and supervisors without direct authority to maintain productivity and enforce minimum job performance standards, and (iii) adversely affects support staff morale.

This section includes a number of recommendations focused on addressing these and related human resource issues, including the need to engage in a weighted caseload analysis to determine how many magistrates are required to competently process the types and numbers of cases filed with the lower courts and tribunals and a work- measurement analysis to more precisely determine how many of what kinds of support positions are required to competently administer those courts and tribunals. This section also inquires into the generous commitment of valuable judicial resources to routine and recurring categories of cases, for example the use of three-magistrate panels for simple civil and penal proceedings and five-magistrate panels for simple felony-level criminal proceedings. The Assessment argues that trends in modern court systems focus on the efficient use of judicial resources by relying primarily on single magistrates or judges to handle such matters and recommends that the Supreme Judicial Council consider reviewing and reducing the numbers of magistrates currently deployed for proceedings in the first-instance tribunals and the intermediate appeals courts. This section also analyzes the current requirement that magistrates, in drafting their case judgments, include a summary narrative of evidence submitted and their analysis of it. It includes a recommendation that a cost- benefit analysis be undertaken to determine whether continuing to impose such a requirement in all cases is necessary, given the additional burdens it places on magistrates who already are burdened with large caseloads.

Section Five of the Assessment reviews processes and procedures relating to the administration and security of court case files. The analysis summarizes several key issues relating to how the content of case files is managed without any means of securing the documents to the case-file jacket the lack of any record of that content apart from the actual documents in the file. The relatively lax approach to the security of court case files and their contents create potential opportunity for unscrupulous court staff and parties to remove and destroy critical evidentiary documents from the case file, thus compromising the integrity of the court's

records and possibly influencing the outcome of the litigation. The section includes several recommendations and suggestions for improving case file security and integrity, including implementation of an automated docketing system for tracking the filing of case documents.

Section Six of the Assessment reviews the history of progress in Tunisia's courts and tribunals of deploying functional automated solutions to ease the burden of recording case information. The analysis concludes that the Ministry's Department of Computerization has made only modest progress in the design and deployment of automated case information management systems and that, as a consequence, the Tunisian courts are compelled to continue to rely on and maintain labor-intensive and time-consuming manual systems that undermine their efficiency and effectiveness. This section also reviews the status of key systems software applications deployed in the appeals courts and the first-instance and district tribunals and notes, for example, that the versions currently being deployed for computing functions are all aging and have all been succeeded by the release over time of more current versions. Indeed, the vendors of those systems no longer support the older versions in daily use in Tunisia's courts and tribunals, thereby exposing them to increased risks of malfunctions, greater vulnerability to being hacked, and decreasing security. The section recommends that the judicial leadership seek funding assistance from the international community necessary to upgrade to current versions of those software systems.

This section also reviews current statistical reporting requirements imposed on the courts, focusing on the lengthy monthly reports chief clerks prepare for submission to the relevant authorities in Tunis. The Assessment suggests that it is unreasonable to require courts and tribunals to prepare on a monthly basis reports of 100-plus pages of detailed statistical data and recommends that a study be undertaken with the purpose of dramatically reducing both the length of those reports and the number of original signatures and stamps they require.

Section Seven of the Assessment describes the condition and suitability of court facilities and access by magistrates to courtrooms for conducting hearings. The situation in several of the facilities reviewed in the Assessment is critical, particularly in the large metropolitan courthouses that house the Tunis First Instance Tribunal I and the Tunis Court of Appeals. Both facilities are insufficient to adequately house the current population of magistrates and court staff. In addition, the number of courtrooms does not suffice to adequately handle the number of trial- and appellate- level proceedings required to process the enormous numbers of filed cases. The section includes several recommendations for consideration by the Supreme Judicial Council to address these critical issues.

Section Eight of the Assessment reviews the chronic resource issues that confront not only the lower courts and tribunal but in addition, the Ministry of Justice and the High Judicial Institute. These resource issues pose serious restrictions on the

ability of the judicial/court systems to competently administer justice in Tunisia. The section offers several recommendations for addressing these resource issues, one of which is to revise the current schedule of fees for court services to require a filing fee for civil cases and to petition the Chamber of Deputies for authorization for the judicial power to retain the receipts for such fees to address those resource issues. The section also recommends creating a separate commercial or business court structure and implementing, as has been done in a number of modern court systems, a filing fee schedule based on a sliding scale linked to the value of the plaintiffs' claims in commercial disputes.

Section Nine of the Assessment addresses at length the inadequacy of the education and training programs, both at the entry-level and the continuing professional level for magistrates and for clerks. The Assessment does not completely fault the High Judicial Institute for such inadequacies, recognizing that the problem of resource constraints applies to it as well. This section includes a number of specific recommendations intended to modernize how the Institute organizes and delivers its curriculum based on best practices in use in modern court systems. Those recommendations include guidance on how to decentralize responsibility and authority for system-wide education and training by establishing a corps of court- and tribunal-based training officers who can organize, conduct and deliver certain categories of education and training content on the local and regional levels.

Section Ten of the Assessment reviews the tradition of incorporating into laws and regulations detailed government agency operating and administrative directions and guidance that is better suited for incorporation into a system of flexible policies. Traditional civil law court systems, for example, operate on the assumption that organizational functions, authority, and responsibility all have to be reduced to specific written provisions incorporated into precise and detailed laws. Such laws often end up hindering organizational flexibility and responsiveness to the changing landscape of the modern world and encumber the time and energy of legislative law- making when formal amendments are required to authorize minor adjustments in how court and tribunal organizational and administrative functions are performed.

Although that approach may have been appropriate in the first half of the 20th Century and earlier, in the dynamic modern world of the 21st Century, the role of law with regard to institutional operations and administration is more appropriately reserved for outlining specific authority and responsibility but leaving the detailed minutia to the policy-making discretion of the organizational heads to whom such powers are delegated. The section describes, for example, the constraints in law that restrict the leaders of the High Judicial Institute from experimenting with innovative educational initiatives in developing its annual curriculum of instructional programs for magistrates and clerks. The section recommends that the leadership of the judicial/court systems undertake a gradual but systematic effort to review those law and regulations that unnecessarily restrict its ability to respond with flexibility and innovation to changing circumstances, to replace them where possible with policies and procedures that fall within the discretionary authority of the Supreme Judicial Council.

Acknowledgements

The Team members gratefully acknowledge the assistance of the numerous high-level officials in Tunisia's courts who graciously agreed to meet and share their perspectives on the challenges that currently confront their courts and their efforts to effectively administer justice.

In each instance, these officials shoulder significant responsibilities whose successful execution routinely requires them to invest time and effort well beyond what is considered a normal workweek. Yet they spent hours with the Team members, providing detailed responses to the inquiries they posed. They are identified by name and position in the list of individuals consulted in Annex B to this Assessment. They include court presidents, deputy presidents, general prosecutors, deputy general prosecutors, public prosecutors, magistrates, and court administrators/chief clerks of numerous courts of appeals, first-instance courts and one district court. They also include the Chief Justice of Tunisia's Court of Cassation, in his capacity as Chairman of the Interim Supreme Judicial Council (Interim Council), and other Interim Council members who made time in their frenetic schedule of meetings to meet and engage with the Team on several challenging issues currently being considered. Those issues include whether oversight and responsibility for all court support staff, currently exercised by the Ministry, could be competently assumed by the new Supreme Judicial Council (New Council) or its designee/adjunct.

The Team also expresses its appreciation to the leadership cadre of the High Judicial Institute for cheerfully making itself available to meet with the Team for an extended discussion of the programs and services it seeks to provide under sometimes difficult circumstances. Team members also met with the Inspector General of the Ministry and several members of his leadership team who were equally generous with their time and responded graciously to the Team's request for statistical data on court caseloads. The Team also acknowledges the contributions to its understanding of the Tunisian justice and court systems of two very helpful meetings with the President of Tunisia's Anti-Corruption Commission who brings to his office over four decades of experience as a practicing advocate in Tunisia's courts. Further, the Team extends its gratitude to the President of the Tunisian National Bar Association for taking time to meet with the Team and respond to a number of inquiries.

Finally, the Team expresses it gratitude for having had the opportunity to meet with representatives of a variety of international and regional organizations actively working with Tunisian officials to help improve and enhance various elements of the country's justice system. They include the Tunis Offices of the United Nations Development Program (UNDP); United Nations High Commissioner for Human Rights (UNHCHR); and United Nations Office of Drugs and Crime (UNODC). The Team also extends its appreciation to leaders of the Tunisian offices of the Delegation of the European Union and the Council of Europe. All of these players generously shared publications and other materials with the Team members.

Scope of the Assessment

Prior to passage of the new 2014 Constitution, the organization and authority structure of Tunisia's judicial system was based on the model imposed by the French colonial authority and patterned after the judicial system established in post- revolutionary France at the end of the 18th Century. Under the old Tunisian Constitution, the judicial system was divided into two orders, including several categories of judicial courts on the one hand and, on the other, the Council of State comprising the hierarchy of administrative courts and the Court of Auditors.

The framework included several other bodies:

- The Council for Conflicts of Jurisdiction to adjudicate disagreements between the judicial and the administrative courts;
- The High Court of Justice which hears cases involving government officials charges with crimes of treason;
- The military tribunals; and
- The State Security Court, which heard cases involving charges of political and unionist opposition and was decommissioned on 29 December 1987.

Tunisia's new Constitution on 26 January 2014 dramatically modified the institutional governance of the country's judicial landscape while retaining its basic institutional framework. Provisions covering the judiciary provide for a new era of institutional independence in which certain key functions, hitherto performed under the oversight and authority of the Ministry, are to be transferred to the New Council during a transition period. Just how deeply into the administrative and managerial authority exercised by the Ministry this transfer will slice was being determined through a legislative drafting process as this Assessment was being drafted. To that extent, this Assessment does not attempt to freeze and analyze the moving target of whether full management and administrative responsibility for the judicial and court systems will be transferred to the New Council or whether key elements of it, such as oversight and supervision of all court administrative and clerical personnel, will remain with the Ministry.

The scope of this Assessment focuses on the Tunisia's judicial courts or courts of general jurisdiction whose multiple judicial chambers handle civil, commercial, penal (misdemeanors/petty offenses), criminal (felonies), family, commercial, labor and related cases. The number and level of specialization of these court chambers varies from court to court, based on the distribution of the caseload by case type and the number of magistrate positions assigned to the courts.

These courts include:

- District tribunals charged with first-instance adjudication of penal (misdemeanor and petty offense), contravention, minor civil cases, and other subject-matter areas determined by law;
- First-instance general-jurisdiction tribunals;
- Intermediate general-jurisdiction appeals courts; and
- The Court of Cassation, Tunisia's court of final appeal.

Of these, the Assessment focuses primarily on court system administration and management of the first-instance tribunals and the intermediate appeals courts. The Assessment also examines the Ministry's current role in supporting these tribunals and courts, recognizing that such role may be transferred either in whole or in part to the New Council within the next six months or so. The Assessment also reviews the role of the High Judicial Institute that has statutory authority to develop and deliver a curriculum of basic and continuing professional education and training for magistrates, bailiff's, notaries and select categories of support staff of the courts.

Composition of the Assessment Team

The Assessment Team (Team) comprises four members, two from the international community (USA and Sweden) and two Tunisians. Collectively, their education and experience reflect a broad range of exposure to the judicial, court and legal professional sectors on a global scale. Annex A to this Assessment provides brief biographical statements for the four core team members.

Assessment methodology

The factual evidence on which this Assessment is grounded was gathered in a series of in-depth on-site interviews with the key members of the executive/ management teams in the following general jurisdiction courts:

- Tunis Intermediate Court of Appeals
- Sfax Intermediate Court of Appeals
- Tunis First-Instance Tribunal I
- Sfax First-Instance Tribunal I
- Nabeul First-Instance Tribunal
- Beja First-Instance Tribunal
- Central Tunis District Tribunal

Members of those executive and management teams included the following:

1. Court presidents or chief judges and/or their first deputies in the intermediate courts of appeals
2. General prosecutors and/or their first deputies in the intermediate courts of appeals
3. Chief court administrators in the intermediate courts of appeals
4. Court presidents or chief judges in the first-instance trial courts
5. Public prosecutors in the first-instance trial courts
6. Chief administrators in the first-instance trial courts
7. IT systems administrators in the first-instance trial courts
8. President of a district court

Frequently experienced judges, including chamber presidents and counselors, would join the discussions. In virtually all courts, all members of these teams were extraordinarily generous with the time they committed to these in-depth interviews, the content of which ranged over a broad index of topics related to how their courts are organized, administered and managed. Visits to each court typically ranged from four to six hours. Interviews were followed by comprehensive tours through all operational and functional offices of the courts, including the following:

- Customer service counters
- IT operations rooms
- Commercial registration desks
- Courtrooms in which sundry civil and criminal hearings were underway
- Court civil and criminal archives rooms
- Select chambers' case processing rooms

During each court visit, the Team inspected the various categories of register books extensively used throughout all courts at all levels to manually record the identification minutia of filed cases and the details of each case's journey through the court processing cycle from filing to final resolution and disposition. In addition, during each court visit, the team also inspected the extent to which automated systems, both hardware and software, were being deployed to improve efficiencies in the management, archiving, and reporting of case information. The team also inspected on a random basis various categories of case files to determine how they were organized and what type of summary record, if any, was maintained of the contents of the case files.

As is to be expected in a succession of interviews, the content of responses was not always consistent from one court to another. In such instances, the Team would recount responses officials in other courts and politely inquire as to possible inconsistencies. In most instances, the inconsistencies were sooner or later resolved. Such inconsistencies were most pronounced in references to services and other forms of assistance rendered to the courts by centralized court-system support organizations such as the Ministry and the High Judicial Institute (Institute) whose responsibilities include the education and training of all judges and specific professional and clerical categories of court clerks. The Team scheduled meetings with senior officials at these organizations to resolve and validate, wherever possible, the core inconsistencies that emerged in their interviews with judicial and court system leaders. Toward the end of the two-week Assessment, the Team conducted targeted in-depth interviews with the following officials:

- High Judicial Institute
  - Director General of the Institute
  - Director of Continuing Education
  - Director of Basic Training
- General Inspectorate of the Ministry
  - General Inspector
  - Deputy General Inspector
  - Inspector
- Interim Supreme Judicial Council
  - Chairman and Chief Justice of the Court of Cassation
  - Other members of the Council
- Anti-Corruption Agency
  - President (The Team also met with the President at the start of the Assessment process)
- National Bar Association of Tunisia
  - President
  - Bar member

In the course of its interviews and discussions with these officials, the Team raised these issues of inconsistency to determine their sources. In each meeting, the participating officials were honest, frank and anxious to explain what, from their perspective, were the bases for the perceived inconsistencies. In many instances, the reasons for them were clarified. The Assessment references these discussions. The Team requested the General Inspectorate of the Ministry to provide it with specific categories of case statistical data. The request was graciously and promptly filled. Utilizing those data, the Team has included in the Assessment an analysis of overall court productivity and identified particular areas of concern toward which remedial attention should be directed to avoid serious challenges in the future. The Team also urges a more comprehensive analysis of case statistical data reviewed in greater detail to identify issues and specifically target remedial action. The Assessment includes a number of specific recommendations for consideration by the New Council and its designees. The recommendations address a number of areas that, in the Team's judgment, deserve consideration and possible action. All of the recommendations in the Assessment are made in the spirit of addressing how, in a proactive manner, the Tunisian court/judicial system can continue its efforts to emerge from the country's lengthy era of authoritarian rule and, more recently, its transitional experimentation with the challenges of instituting and maintaining a democratic government.

Each of the Team's recommendations falls into one of three priority categories: Urgent or immediate priority, high or short-term priority, and medium or long-term priority. Each recommendation in the Assessment is designated into one of these three priority categories and color-coded as follows:

Urgent or Immediate Priority

High or Short-term Priority

Medium or Long-term Priority

The Team does not intend that these categorical designations of relative priority are absolute; the leadership of the Tunisian judicial/court systems may disagree with the Team's perceptions of the relative priority of each recommendation and is, of course, free to do so. Team members acknowledge that this Assessment is based on its relatively brief but intensive two-week immersion into the internal management, administration and operations of select Tunisian courts. They also acknowledge that their judgments are those of experienced observers whose priorities may be different from those of the Interim Council and the New Council members or other court system leaders.

Coordination with the International Community

The Team included in its schedule of interviews discussions with officials of the various international organizations with rule-of-law mandates and expertise. These organizations have established a presence in Tunisia and are advising, supporting and working closely with select courts, the Ministry, the Interim Council, the High Judicial Institute, the Anti-Corruption Agency, the Ministry of Interior, and the National Bar Association of Tunisia. The Team met with representatives of the following organizations to discuss with them their specific assistance missions:

- United Nations Development Programme
  - Tunisia Office Head
- United Nations Office of the High Commissioner for Human Rights
  - Tunisia Office Head
  - Tunisia Office Deputy Head
- United Nations Office of Drugs and Crime
  - Tunisia Office Head and staff
- Delegation of the European Union
  - Tunisia Office Head
- Council of Europe
  - Tunisia Office Head
- Bureau of International Narcotics and Law Enforcement Affairs, Department of State
  - Tunisia Head of Office in U.S. Embassy

The Team learned in the course of these discussions that work has essentially been completed on the Ministry's comprehensive Action Plan for the Judicial and Penitentiary Systems 2015 – 2019 (*Plan d'action du système judiciare et pénitentaire* 2015 – 2019), henceforth (Plan). This Plan was prepared and completed under the auspices of the prior Minister of Justice. Assistance in facilitating, funding and implementing the Ministry's Plan will involve a coordinated effort that includes all of the agencies of the United Nations listed above as well as the European Union (EU) and the Council of Europe (CoE). The Plan includes explanatory text followed by a projected budget estimated at TD 203.822.282 (Tunisian Dinars) equivalent to roughly US$110 million.

The main body of the Plan is divided into five major pillars or primary task areas, each with a broadly defined result and estimated budget. Each pillar or task area is subsequently broken down using a columnar format into a series of individual sub-task areas. For each sub-task, the plan provides a brief description, the responsible Tunisian government agencies/offices, the designated international community partners, and the calendar year in which that sub-task is to be undertaken and completed.

A cursory review of the Plan reveals several sub-tasks that focus specifically on court administration and management, including the preparation and implementation of a code of ethics/conduct for court staff. Those specific sub-tasks list as the international community partners the CoE and the EU. A major element of the assistance is organized into phases entitled PARJ I, which was initiated in 2012, is now concluding and focused primarily on improving the civil case processing, and PARJ II, commencing in 2015 for roughly two years and focusing on criminal case adjudication. It appears that the effort foreseen for PARJ II has been integrated into the Plan.

Both phases are based on a pilot approach in which a small number of representative courts are selected along with the Institute in consultation with the Ministry. Elements of both PARJ components focus in part on how automation can improve efficiency. The CoE has to date shied away from major capitol investment projects such as purchasing large quantities of new IT hardware and contracting for the development or purchase of case-information-management software applications for the designated pilot courts.

The EU tentatively plans in 2015 to take over the CoE pilot court effort to improve the efficiency of civil case processing and to expand it to additional courts. In addition, the PARJ II phase includes prospective funding in the amount of €50 million, a portion of which is tentatively planned for investment in hardware, software and IT infrastructure to enhance the efficiency of criminal case adjudication at the first- instance tribunals and intermediate appeals courts levels.

Establishing a Framework for Oversight of Court System Reform and Modernization

This Assessment offers a broad perspective on the current status of Tunisia's system of judicial courts and offers a number of recommendations on how that system might be reformed and modernized within the constraints of the resources available to it and the assistance of the international rule of law community. In preparing and presenting this report, the Team is aware that several UN agencies, the CoE and the EU have been working with Tunisian court system leaders and other key organizations, players and stakeholders in the extended justice community. To its credit, the UN has initiated an effort to organize, coordinate and unify the planning and execution of a variety of initiatives designed to improve the rule of law, one of which is the coordinated Plan noted above. Moreover, the CoE and the EU are not only providing guidance and assistance but also material support. Although the Ministry has to date played an important role in coordinating and supporting these efforts of the international community, Tunisia's new 2014 Constitution includes provisions that, depending on how they are interpreted, may result in a comprehensive realigning of institutional responsibility and oversight for Tunisia's judicial/court system from the Ministry to the New Council. The assumption by this News Council of myriad new functions, responsibilities and possible organizational restructuring and development – quite apart from the task of coordinating and overseeing the various initiatives of the international community – in addition to their ongoing judicial duties, is likely to keep the members more than fully occupied.

Recommendation 1 **Priority: Urgent**	That the New Council consider appointing a high-level Executive Judicial System Reform and Modernization Commission (Executive Commission) to oversee, coordinate, and manage the judicial enterprise as it embarks on the effort to achieve institutional independence and undertake a comprehensive agenda of reform and modernization. This Commission would report to and undertake its work under the supervision of the New Council. One of its core functions would be to oversee, organize, coordinate and direct the work of the several international community organizations and agencies that are engaged in reforming and modernizing Tunisia's courts. This new Executive Commission also would be authorized to create various working groups to address specific areas identified as priorities in the reform and modernization agenda.

Section One: The Current Organizational Framework of Tunisia's Lower Courts

Tunisia's first post-independence President, Habib Bourguiba (1957 – 1987) initiated significant political and economic reforms but deployed an authoritarian regime to govern the country. The regime of his successor, Zine El Abidine Ben Ali (1987 – 2011), fostered a culture of economic corruption and intensifying political repression. Popular resistance mounted and erupted in late 2010 in events that quickly captured the attention of the international community and focused global attention on this small and habitually overlooked Arab country. Subsequently heralded as the stimulus for similar political eruptions in the region collectively termed the Arab Spring, Tunisia's revolution deposed the sitting President who fled with his family into exile in the Kingdom of Saudi Arabia the following January. The transitional government introduced fundamental democratic reforms, including elections, and created the conditions that led, in early 2014, to the passage of the new Constitution that was hailed with acclaim in most sectors of the international community.

The new 2014 Constitution's provisions reference in Title Five a newly crafted independent judicial authority led by the New Council invested with authority to oversee not only the independence of the judicial function in adjudicating cases but, in addition, as set forth in Articles 113 and 114, the independence of the institutional framework that undergirds the judicial and court systems. Precisely how these provisions will be fleshed out in the laws currently being drafted to articulate in greater detail how the New Council will exercise the broad categories of authority and accountability assigned to it remains to be determined. It can be asserted that the judicial and court systems will soon be managed and administered by a new governance framework in which the judicial authority plays the leading role.

Under the current system, prior to the passage of any new laws that interpret and articulate these important new constitutional provisions, the judicial and court systems remain for the time being subject to the management and administrative oversight of the Interim Council and the Ministry.

First-Instance Tribunals

The authority structure in Tunisia's 28 general jurisdiction first-instance tribunals is based on a bifurcated management organization not uncommon among civil law systems. Responsibility for oversight and supervision of all judicial magistrates and all criminal investigative magistrates assigned to the first-instance courts rests with the court president or chief magistrate, a position whose incumbent is currently appointed by the Interim Council. This responsibility extends to supervising the courts' other magistrates in the performance of their primary function, the adjudication of cases, and includes serving as a mentor to the more junior magistrates with less experience and expertise. Court presidents or their designees also determine which magistrates, judicial and investigative, will attend education and training programs sponsored by the Institute.

By contrast, responsibility for oversight and supervision of all non-judicial court support staff rests with the public prosecutor, the senior prosecutorial official assigned to the first-instance tribunals. The public prosecutor is responsible for managing and supervising all deputy prosecutors assigned to the first-instance tribunal. The public prosecutor also is responsible for determining, at the conclusion of all preliminary criminal investigations, whether to dismiss the case, remand it to the Rogatory Commission for further investigation, transmit the case to an investigative judge of his or her choice, or promptly transmit it to the first-instance tribunal for a hearing if it is a case in obvious offense *(flagranto delicto)*. One public prosecutor confided to the Team that he was uncomfortable with the role of assigning criminal cases to the investigative magistrates, noting that for purposes of transparency and to avoid possible conflicts of interest, such assignments should be made by the court president or his or her designee. The Team agrees that the assignment of criminal cases to investigative judges, to avoid even the appearance of a conflict of interest, should be the responsibility of the court president or his/her designee.

Recommendation 2 **Priority: High**	That the existing law or regulation delegating authority to public prosecutors to assign criminal cases to investigative judges be amended to instead delegate such authority to the first-instance tribunal president or his/her designee.

Each first-instance tribunal also has a chief clerk or court administrator position that is responsible for the day-to-day coordination of all core court support functions associated with case processing and court hearings. These include but are not limited to:

- Coordinating the calendaring and staffing of all court proceedings and hearings,
- Issuing service of process for delivery by bailiffs
- Opening new cases, preparing case files, and filing documents
- Managing the case archives
- Overseeing the preparation of comprehensive monthly statistical reports
- Ensuring the accurate posting by hand of comprehensive case information in a variety of registry books
- Supervising support staff in each of the court's chambers and ensuring day-to- day support staff coverage of all chambers
- Coordinating the implantation of automated case information applications as they come on line and are implemented by the Ministry
- Ensuring that all court clerks are adequately trained to carry out the tasks and functions assigned to them

The court administrator or chief clerk reports to and is supervised by the public prosecutor who also is responsible for managing and overseeing the deputy prosecutors assigned to the first-instance tribunal's prosecutorial office. The public prosecutor office, in turn, is overseen by the general prosecutor assigned to the respective intermediate court of appeals that oversees the first-instance tribunal.

Courts of Appeals

The authority structure in Tunisia's 12 courts of appeals is similar to that of its first- instance tribunals, also based on a bifurcated management organization but with minor differences. The responsibilities of the appeals court president, in addition to managing and overseeing all appeals magistrates assigned to the appeals court, also include oversight and supervision of all of the court presidents and magistrates of the first-instance tribunals located within the geographic jurisdiction of the court of appeals. This responsibility includes reviewing the comprehensive monthly statistical reports prepared by each first-instance tribunal and district tribunal in the appeals court's geographic jurisdiction or governorate as a means of monitoring ongoing court performance and productivity.

In the same vein, the general prosecutor attached to each court of appeals oversees and supervises (i) all deputy appeals prosecutors assigned to the court of appeals

prosecutorial office, and (ii) the appeals court chief clerk and all appeals court support staff. The general prosecutor also is responsible for managing and overseeing (i) all first-instance tribunal public prosecutors and their deputy prosecutors, and (ii) all chief clerks and all court support staff in all of the first-instance tribunals that are located in the geographic jurisdiction of their respective appeals courts.

By best-practice standards in modern court management and administration, Tunisia's organizational structure and management model is antiquated, its chain of command unnecessarily convoluted and, by its structural framework, predisposed to inefficiency. Management-focused research into court administration confirms that the most successful and efficient court systems have eliminated traditional distinctions and archaic barriers between judges and court staff. Modern courts recognize that effective court administration is a function in which judges and professional court staff partner together in a jointly cooperative and proactive team culture. To achieve maximum performance and efficiency without sacrificing quality, they remove obstacles that hinder or obstruct the functionality of those partnerships and their productivity potential. The authority structure is simple and straightforward. Lines of authority are direct and focused within the organizational framework. To the extent possible, decision-making, planning, responsiveness and accountability are decentralized to the individual court and tribunal levels.

District Tribunals

Tunisia's 84 district or cantonal tribunals comprise Tunisia's lowest level of tribunals or courts of law. The extensive network of district tribunals reflects the Tunisian judiciary's and Ministry's joint efforts to provide access to justice in the more remote and sparsely populated governorates of the country. A number of district tribunals are based in rural areas of the country where the incoming annual caseload does not justify more than a single magistrate and a very small contingent of clerks/support staff. Simultaneously, however, the district tribunals also serve clients in the large cities; the largest is located in Tunis, populated by 20 magistrates in addition to clerks and other support staff.

Unlike the first-instance tribunals and appeals courts, the organizational framework of the district tribunals is much simpler and efficient. Prosecutors are not involved either in supervising court clerks and other support staff, and they have no role in administering the courts. In the larger district tribunals, the chief clerk reports directly to the court president whose oversight and management functions include all judges and all support staff. In each governorate, the president of the largest district tribunal also has oversight responsibility for the smaller district tribunals, including organizing and transmitting correspondence.

Unlike the first-instance tribunals and appeals courts, the district tribunals do not have prosecutorial offices attached to them. Instead, the court president, in addition to his or her judicial functions, simultaneously performs certain prosecutorial functions in consultation with the public prosecutor. Neither does the district tribunal organizational framework include investigative judges because the minor torts or contraventions that fall within the jurisdiction of the district courts do not merit such formal investigations. Unlike a number of countries, including, for example, the United States and Singapore, which utilize lower-level judges to adjudicate these minor categories of offenses, the Tunisian district tribunals are staffed with same category of magistrates as the first-instance tribunals and appeals courts. Service as a district-tribunal magistrate requires a minimum of five-years experience as a first-instance tribunal chamber judicial panel member.

The smaller and more remote district tribunals are presided over by a single magistrate who simultaneously functions as the tribunal's prosecutor. They also handle specific ministerial functions such as following up when, for example, the designated recipient of a summons refuses to accept service.

Prosecutorial Supervision of Court Support Personnel

The insertion of general and public prosecutors into the chain of authority in the management and administration of the first-instance tribunals and intermediate appeals courts derives from the old model instituted, in all likelihood, at some point by the Directorate of Judicial Services during the era of French colonial administration.

When the Team questioned whether the placement of senior-level prosecutors in the management framework of the courts was beneficial, the response from court presidents, court administrators and even senior prosecutors occupying those positions was unhesitatingly negative. Some responded that it introduces an additional and unnecessary level of management that functions more as an obstacle than a benefit. Others responded that it encourages inefficiency. Several of the senior prosecutors noted that their placement in these administrative roles, at best, is awkward; all would prefer to focus their management role solely on the prosecution office. Indeed, one public prosecutor with several decades of experience as a senior-level judge indicated he would prefer to have his office located in Tunis' main police station rather than the courthouse because prosecutors and police closely coordinate their efforts on a daily basis.

Recommendation 3 **Priority: Urgent**	That the current authority and role of general and public prosecutors in managing and supervising court support staff be transferred to the court administrator/chief clerk court in both the appeals courts and the first-instance tribunals. Moreover, court administrators/chief clerks in both the first- instance tribunals and the appeals courts would report directly to their respective court president. Commensurate with this transfer, general and public prosecutors would remain in charge of managing and supervising the deputy prosecutors and the clerical staff responsible for assisting them in their prosecution functions; they would discontinue any and all other roles in court management and administration. Implementation of this transfer of authority might commence on a pilot basis with a small number of appeals courts and first-instance tribunals. In preparation for this transfer, curriculum developers at the Institute might develop, with assistance from international experts, a one-month management training skill-building curriculum for chief clerks/court administrators to prepare them to assume their expanded responsibilities

Recommendation 4 **Priority: Urgent**	That the Executive Commission proposed in Recommendation 1, on behalf of the Council and pursuant to Article 114 of the 2014 Constitution, draft amendments to existing laws or include in the text of new laws language that vacates the responsibility of court administrators/chief clerks to report to the general prosecutor in the appeals court and to the public prosecutor in the first-instance tribunals. The language of the amended or new laws would restructure that reporting relationship to provide that court administrator/chief clerks report directly to the court president. Implementing this recommendation would provide for a more direct and simplified reporting relationship by eliminating an unnecessary and redundant step in the authority and reporting structure of the courts. To the extent that the Ministry continues to play a role in the administration of the courts, its new primary contact in all administrative and operational matters would be the court administrator/chief clerk.

Section Two – Caseflow Management and Processing

Discussions with court presidents and court administrators/chief clerks in all courts and tribunals visited addressed whether national caseflow management and processing policies and procedures have been developed and implemented to improve court productivity and efficiency. To date, no such national policies and procedures appear to be in place. Moreover, discussions with the leadership of the Institute revealed that current and past training curricula do not include specific sessions on a standard national approach to caseflow management and processing, although some of the experienced judicial instructors do discuss techniques they have adopted for moving cases along the processing track.

A long-established core metric of the extent to which a court is successfully managing its caseflow is whether the pending caseload from year to year is growing or shrinking compared against the number of new cases filed and the number of cases resolved or disposed. Clearly, there may be other contributing factors, but many courts, when faced with growing and increasingly serious case backlogs, will seek the advice and guidance of experts in what modern caseflow management policies and procedures might help them address the challenge of dealing with significant growth in their pending case backlogs.

This Assessment includes summaries of pending annual case backlogs in Tunisia's court of appeals, first-instance tribunals and district tribunals over the past five years. The backlogs represent unresolved cases pending on 31 July, the end of the statistical year. The Ministry's General Inspectorate provided these numbers to the Team at its request.

Courts of Appeals

This section includes a summary analysis of courts of appeals caseload statistics provided by the Ministry. The analysis builds on numbers of pending cases, numbers of new cases filed, and numbers of cases disposed for each of the past five statistical years ending on 31 July 2010 – 2014. Additional statistical tables for the courts of appeals are available in Annex C to this Assessment. Note that the analysis covers only 10 of the current 12 courts of appeals. The two remaining courts are both recent creations.

Table 1

Summary of Appeals Courts Pending Caseloads End of Statistical Years 2010 – 2014					
Courts of Appeals	**Final Pending 2010**	**Final Pending 2011**	**Final Pending 2012**	**Final Pending 2013**	**Final Pending 2014**
Tunis	16,701	12,821	14,504	16,646	15,324
El Kef	3,255	2,536	3,680	5,495	5,468
Sousse	3,204	4,493	7,683	6,197	7,432
Monastir	3,875	2,730	3,362	3,426	3,540
Sfax	6,709	3,175	3,291	4,058	5,600
Gabes	992	765	1,267	1,657	1,908
Gafsa	2,319	2,062	2,123	2,896	4,143
Medenine	3,559	2,207	2,131	2,369	2,129
Nabeul	4,215	3,450	4,556	4,018	5,185
Bizerta	2,903	2,214	2,396	3,537	4,070
TOTAL	**47,732**	**36,453**	**44,093**	**50,297**	**54,799**

Data provided by the General Inspectorate of the Ministry

The numbers indicate that over the five-year period from 31 July 2010 to 31 July 2014, total case backlog in Tunisia's existing ten courts of appeals increased by slightly less than 15 %. Case backlogs increased in six of the ten courts, with Sousse and Gabes both more than doubling. Four of the ten courts, by contrast, managed to diminish their pending caseloads.

However, these numbers by themselves do not fully reflect the relative efficiency or inefficiency of case processing in the Tunisia's courts of appeals. The analysis is more fully informed when the pending case backlogs are compared against the number of incoming new cases for each of the five years.

Table 2 lists the number of incoming or new cases filed in each of the courts of appeals for the five statistical years ending on July 31 in 2010 – 2014.

Table 2

Summary of Appeals Courts Annual New Case Filings Statistical Years 2010 – 2014					
Courts of Appeals	**New Cases 2010**	**New Cases 2011**	**New Cases 2012**	**New Cases 2013**	**New Cases 2014**
Tunis	52,719	43,337	37,852	38,677	37,179
El Kef	14,579	11,368	10,008	11,551	12,735
Sousse	18,626	18,133	17,285	16,076	18,470
Monastir	14,823	12,027	10,345	9,487	10,541
Sfax	18,205	13,614	9,179	11,170	12,565
Gabes	5,804	4,257	3,672	4,202	4,997
Gafsa	9,421	8,732	6,011	6,334	7,326
Medenine	9,131	6,276	5,566	4,674	5,930
Nabeul	14,595	10,045	9,714	8,882	11,098
Bizerta	11,231	9,249	8,147	8,614	10,192
TOTAL	**169,134**	**137,138**	**117,779**	**119,667**	**131,033**

Data provided by the General Inspectorate of the Ministry

Reviewing these numbers, the Team's analysis yielded the following highlights.

- At the end of statistical year 2014, the pending caseload at the Tunis Court of Appeals was 15,324. During that same year, the court reported taking in 37,179 new cases. Compare that relative level of processing efficiency with the same quantities in statistical year 2010. In that year, the court reported receiving 52,719 new cases – significantly more than the 37,179 new cases in 2014. However, the court also ended statistical year 2010 with a pending caseload of 16,701, only slightly higher than the 2014 pending caseload of 15,324.
- New case filings in the Sousse Appeals Court have remained relatively stable and consistent over the five-year period. However, in that same time frame, the backlog of cases has more than doubled.
- New case filings in the Gafsa Appeals Court dropped 22 % over the five-year period. However, in that same time frame, the pending case backlog has nearly doubled from 2,319 in statistical year ending in 2010 to 4,143 in statistical year ending in 2014.
- Overall, in the five-year period, the total number of pending cases in all courts increased by approximately 15 % while the number of new cases filed increased by approximately 22 %.

Again, however, these numbers do not fully reflect the efficiency or inefficiency of the Tunisian courts of appeals. The analysis is even more fully informed when the pending case backlogs and the numbers of new cases filed are compared with the number of cases disposed of by each court of appeals over the five-year period Table 3 lists the number of cases disposed of during each statistical year by each of the ten courts of appeals ending on 31 July in 2010 - 2014.

Table 3

Summary of Appeals Courts Annual Case Dispositions For Statistical Years 2010 – 2014					
Courts of Appeals	**Cases Disposed 2010**	**Cases Disposed 2011**	**Cases Disposed 2012**	**Cases Disposed 2013**	**Cases Disposed 2014**
Tunis	51,837	48,270	35,956	36,713	36,165
El Kef	13,661	12,037	8,864	9,658	11,970
Sousse	18,400	16,844	14,968	16,205	17,184
Monastir	13,693	13,172	9,945	9,391	10,532
Sfax	17,296	17,112	9,514	10,073	11,112
Gabes	6,204	4,668	3,164	3,795	4,620
Gafsa	10,412	8,994	5,567	5,443	5,979
Medenine	9,440	7,628	5,361	4,512	6,180
Nabeul	14,907	10,778	8,333	8,742	9,956
Bizerta	10,816	10,010	7,980	7,443	9,420
TOTAL	**166,666**	**149,513**	**109,652**	**111,975**	**123,118**

Data provided by the General Inspectorate of the Ministry

Reviewing these numbers, the Team's analysis yielded the following highlights.

- For the Tunis Appeals Court, the number of incoming new cases shows a decline in the number of new cases filed. The declines are significant in years 2010 – 2012, then level off and stabilize in 2013 – 2014. However, the number of pending cases at the end of statistical year 2014 is only slightly lower at 15,324 when 37,179 new cases were filed than in statistical year 2010 when the court ended the year with 16,701 pending cases and 57,719 new cases filed.

- Indeed, over the five-year period, the total numbers provided by the Ministry's General Inspectorate in all three categories yield the following data:
  - Overall increase in the total number of pending cases approximately 15 %
  - Overall increase in the total number of new cases filed approximately 22 %
  - Overall decrease in the total number of case dispositions approximately 26 %

The overall decrease in numbers of cases disposed of needs to be further investigated and analyzed to determine whether per-judge productivity has fallen, whether fewer judges and/or court clerks were available, or whether the decline can be attributed to some other cause or multiple causes. Once a careful analysis has determined the cause(s), remedial action targeting the causes should be initiated to reverse the trend.

First Instance and District Tribunals

The three tables below summarize the following statistical case data for Tunisia's first-instance and district tribunals by statistical year for the years ending on 31 July 2010 – 2014.

- Number of pending cases in active status awaiting final resolution at the end of the reporting period
- Number of new cases filed during the reporting period
- Number of cases disposed and resolved by the end of the reporting period

Again, the Ministry's General Inspectorate provided these data at the Team's request. The Team is grateful for the General Inspectorate's cooperation and willingness to provide the requested data. In analyzing the numbers, the Team discovered some minor errors and some inaccuracies. It is not clear to the Team whether those errors and inaccuracies have their source in the original data provided by the courts or in the Ministry's compilations. In the Team's judgment, they are not sufficiently serious to compromise the general conclusions that the Team has drawn on the basis of its analysis.

Table 4 lists total pending cases for (i) all of the first-instance courts, and (ii) all of the district courts grouped by the geographical governorates or provinces in which the courts of appeals that oversee them are located. It is important to emphasize that the numbers do not reflect case data either for *individual* first-instance or district tribunals.

Table 4

Summary of Pending Cases for the First-Instance and District Tribunals as of 31 July for 2010 – 2014						
Regions	**Types of Tribunals**	**Pending Cases 2010**	**Pending Cases 2011**	**Pending Cases 2012**	**Pending Cases 2013**	**Pending Cases 2014**
Tunis	First-Instance	352,134	274,597	302,301	337,140	419,988
	District	8,974	10,212	9,988	13,122	13,000
Nabeul	First-Instance	52,892	60,701	94,820	115,771	100,957
	District	5,807	7,777	9,106	8,607	9,515
Bizerta	First-Instance	39,662	37,801	48,989	67,671	62,052
	District	3,975	4,472	4,228	5,081	5,419
El Kef	First-Instance	30,932	47,814	56,685	57,066	63,536
	District	9,510	10,127	8,859	10,177	10,899
Sousse	First-Instance	36,376	49,640	68,020	64,817	80,354
	District	6,589	6,468	8,751	7,630	10,050
Monastir	First-Instance	22,293	28,581	43,698	44,736	40,258
	District	4,553	5,722	5,259	5,779	6,350
Sfax	First-Instance	59,504	64,826	71,396	51,000	74,229
	District	13,679	11,581	6,542	5,963	5,565
Gabes	First-Instance	11,306	15,683	18,776	24,184	22,307
	District	4,786	3,006	12,030	14,885	3,495
Gafsa	First-Instance	22,931	37,702	61,211	63,745	66,955
	District	4,914	5,067	5,730	5,626	6,852
Medinine	First-Instance	17,246	13,396	21,438	27,503	27,784
	District	8,043	7,349	4,823	4,883	6,433

Data provided by the General Inspectorate of the Ministry

Reviewing these numbers, the Team's analysis yielded the following observations:

- The collective numbers for the combined first-instance courts in each governorate over the five-year period all reflect growth in pending caseloads. In virtually all of the governorates, the growth is significant and should serve as a warning sign to the New Council that further analysis and intervention should be undertaken.
- The growth in the first-instance courts' pending caseloads in several of the governorates is alarming, suggesting immediate remedial action is required to reduce the case backlogs. For example, in the governorates of Nabeul, El Kef, Sousse, Monastir and Gabes, collective first-instance tribunal pending caseloads more than doubled in the five-year period. In Gafsa Governorate, they tripled from 22,931 to 66,955.
- Among the district tribunals in the ten governorates, the statistics for most reflect fairly steady and consistent growth. The exceptions are Sfax where the numbers reflect dramatic reductions in pending backlogs, as well as Gabes and Medinine, suggesting that the district tribunals in these governorates have implemented an effective strategy for consistently reducing their caseloads.

When the analysis of case processing in the first-instance and district tribunals by governorate is expanded to include statistical data on the numbers of new cases filed during the five calendar years being tracked, new and more serious concerns emerge.

Table 5

Summary of New Cases Filed in the First-Instance and District Tribunals as of 31 July For 2010 – 2014						
Regions	**Types of Tribunals**	**New Cases 2010**	**New Cases 2011**	**New Cases 2012**	**New Cases 2013**	**New Cases 2014**
Tunis	First-Instance	569,328	436,570	409,345	425,231	420,286
	District	126,285	81,052	68,860	66,799	78,080
Nabeul	First-Instance	228,219	180,372	148,860	114,427	140,557
	District	52,514	34,195	30,731	21,939	28,960
Bizerta	First-Instance	171,185	106,326	88,052	87,721	94,925
	District	50,168	39,298	28,542	23,993	28,532
El Kef	First-Instance	230,923	158,127	135,543	136,647	154,147
	District	97,056	61,359	56,351	51,699	57,011
Sousse	First-Instance	297,988	217,856	190,041	207,189	218,466
	District	107,094	81,972	68,498	53,175	58,879
Monastir	First-Instance	206,779	147,664	129,989	120,070	124,301
	District	106,353	61,179	42,000	41,581	52,016
Sfax	First-Instance	293,052	177,870	152,121	156,617	170,676
	District	93,628	65,620	36,982	25,804	30,421
Gabes	First-Instance	99,716	57,159	41,188	49,491	46,344
	District	37,156	27,562	31,756	24,951	10,442
Gafsa	First-Instance	141,172	121,750	101,193	110,152	130,781
	District	55,607	35,712	37,094	33,827	37,170
Medinine	First-Instance	111,837	65,034	55,020	56,602	63,814
	District	48,021	33,164	20,214	17,498	23,264

Data provided by the General Inspectorate of the Ministry

Reviewing the numbers in Table 5 of new cases filed by statistical year in the context of the pending caseload data, the Team's analysis yielded the following observations:

- When comparing the numbers of new cases filed with the numbers of pending cases for the first-instance tribunals, the Team discovered several instances that raised immediate concerns and dictate the need for further analysis and prompt remedial action. Ordinarily, the pending caseloads of relatively healthy and productive courts represent a small percentage of the total number of cases filed when the two indicia are compared at the end of the statistical year. In the first-

instance tribunals of the Tunis Governorate, however, the total number of pending cases as reported by the General Inspectorate at the end of the 2014 statistical year, the numbers are within fewer than 300 cases of each other. The number of new cases filed that year was 420,231 while the number of pending cases remaining on the courts' dockets was 419,988, a difference of 298 cases. In the Nabeul Governorate's first-instance tribunals, the numbers for the same period, statistical year 2014, are 140,557 new cases filed and 100,957 cases pending. At the end of the prior statistical year, 2013, 114,427 new cases were filed and the pending case backlog was 115,771 – *more than the number of new cases filed.*

- The Team was struck by the inverse relationship for some of the governorates between growth in pending caseloads over the five-year period and the gradual reductions in most years in the number of new cases filed. This generally inverse relationship between pending cases and newly filed cases over five years contravenes effective caseflow management strategies which provide that reductions in incoming or new cases in productive courts are followed by reductions in pending case backlogs, other factors being equal. Conversely, those strategies provide that increases in the number of incoming cases are followed by commensurate increases in the growth of pending case backlogs, other factors being equal.
- The success of the district courts in the Sfax Governorate in reducing its pending case backlog, now appears on further analysis to have been a function less of aggressive pending caseload reduction practices than a consistent series of dramatic reductions in new cases filed for four of the five statistical years.
- The Sfax Governorate's district tribunals experienced dramatic reductions in the number of new cases filed by almost half for the past four out of five years, yet the pending caseload has gradually *increased* for four out of the five years. More detailed analysis is required to determine precisely what the issues are here. As noted earlier, a core operating principle of healthy and productive courts is that there should be a direct correlation between reductions in numbers of cases files and numbers of pending cases, other factors being equal. Here the correlation has been an inverse one to the detriment of timely case processing and the efficient administration of justice.

When the analysis of case processing in the first-instance and district tribunals by governorate is expanded to include statistical data on the numbers of cases resolved or disposed of during each of the five statistical years being tracked, as set forth in Table 6, new and more serious concerns emerge.

Table 6

Summary of New Cases Filed in The First-Instance and District Courts as of 31 July for 2010 – 2014						
Regions	**Types of Tribunals**	**Cases Disposed 2010**	**Cases Disposed 2011**	**Cases Disposed 2012**	**Cases Disposed 2013**	**Cases Disposed 2014**
Tunis	First-Instance	510,344	385,206	372,390	364,984	338,865
	District	124,319	78,887	67,908	63,202	76,344
Nabeul	First-Instance	223,326	170,943	114,133	90,729	141,772
	District	52,478	32,208	29,109	21,733	28,000
Bizerta	First-Instance	155,045	107,933	76,853	69,744	95,518
	District	51,000	38,738	27,863	23,162	27,388
El Kef	First-Instance	229,684	140,081	126,838	14,138	145,781
	District	96,849	60,372	56,735	50,207	56,415
Sousse	First-Instance	297,015	206,740	172,692	205,350	199,475
	District	106,550	81,149	66,113	53,504	57,379
Monastir	First-Instance	203,347	140,256	114,689	116,972	124,370
	District	107,786	60,124	42,062	41,106	51,715
Sfax	First-Instance	301,654	172,866	146,015	170,070	163,298
	District	89,410	70,726	38,956	28,918	30,350
Gabes	First-Instance	101,634	52,132	37,506	43,724	47,085
	District	36,981	29,279	22,736	21,357	10,626
Gafsa	First-Instance	138,808	105,263	76,878	95,096	127,235
	District	56,281	35,500	36,301	33,106	35,810
Medinine	First-Instance	130,731	68,003	46,053	48,624	62,602
	District	51,837	33,649	20,856	17,472	21,684

Data provided by the General Inspectorate of the Ministry

Reviewing the numbers in this summary table of case dispositions by statistical year in the context of pending caseloads and new cases filed, the Team's analysis yielded the following observations:

- Annual case dispositions in both the first-instance and the district tribunals in all ten governorates reveal a consistent decline in numbers from year to year for the first four years of the five-year period. In the fifth year, most managed to reverse that decline with increases ranging from modest to significant, indicating gains in court productivity. Some, however, continued their decline into the fifth year. The first-instance tribunals in Tunis Governorate, for example, disposed of

510,334 cases in 2010. By 2014, the annual number of disposed cases fell to 338,865, a significant and alarming reduction in overall court productivity from 2010 of 171,469 cases. In the first-instance courts of Nabeul, productivity declined from 223,236 dispositions in 2010 to less than half that number in 2013, then rising again in 2014 to 141,772 dispositions. These enormous fluctuations in case processing productivity are unusual and should be explored in detail to determine their causes.

- The Team compared numbers of new cases filed with numbers of cases disposed for the five-year period in the first-instance tribunals. Of the first-instance tribunals in the ten governorates, four managed to dispose of slightly more cases than were filed with the court during statistical year 2014; by contrast, six of the ten disposed of fewer cases than were filed that year. In the Tunis Governorate's first-instance tribunals, 2014 case dispositions totaled 338,865 while new cases filed that year reached 420,286, resulting in an increase in the pending case backlog of 81,421 cases. In 2013, case dispositions for the Tunis Governorate's first-instance tribunals reached 364,984 while new cases filed that year totaled 425,231, resulting in a pending case backlog increase of 60,247 cases. The quantity of such annual increases bodes poorly for the future productivity of the Tunis Governorate first-instance tribunals. The numbers should alarm the New Council and stimulate further analysis and carefully targeted remedial action.
- The Team also compared numbers of new cases filed with numbers of cases disposed for the five-year period in the district tribunals. Of the ten governorates in which the district tribunals are grouped, only one, the district tribunals in Gabes, managed to dispose of slightly more cases than were filed in statistical year 2014. The other nine groups of district tribunals all disposed of fewer cases than were filed. In many of the nine, however, the differences were relatively small and did not significantly increase pending case backlogs. Indeed, in Sfax Governorate, the difference was 71 cases.

The collective impact of the Team's analyses and observations, based on the statistical data provided to it by the General Inspectorate, indicate that the Tunisian courts and tribunals are ailing. The symptoms include the following:

- Declines in productivity across various types of courts
- Significant increases in pending case backlogs in most courts
- Inability of most courts to timely process their annual case filings
- Reduced new case filings inversely proportional to growth in pending cases

The relatively short two-week duration of the in-country baseline assessment of court management and administration in Tunisia's judicial system did not enable the Team to sufficiently investigate the underlying causes of these symptoms. Insufficient judicial and staff resources were unanimously identified by all court system leaders at all levels as a primary contributing element, but clearly there are other elements that require further research and analysis, including the institutional framework of the judicial system and the role played by the Ministry, a role whose future is uncertain in the face of provisions in the new 2014 Constitution that fundamentally expand the judicial system's self-governance authority and accountability.

Recommendation 5 **Priority: Urgent**	That the New Council authorize the international community under the direction of the Executive Commission proposed in Recommendation 1 to establish a Caseflow Management Strategy Commission comprising a small group of Tunisian judicial system leaders and two experienced and specialized international experts in court systems to: • Further review and analyze the preliminary findings of the Team with reference to the caseflow management and processing issues identified in this section of the Assessment • Develop a set of short- and long-term priorities to address the challenges the courts are facing • Determine which existing laws and procedural codes need to be amended to authorize more efficient caseflow management practices and procedures and to work with legislative leaders to draft the amendments • Draft a strategic five-year plan for addressing the priorities • Enable the assistance of international experts in court systems to implement the plan in cooperation with other related international community initiatives • Require the Commission to report to the Council every quarter on the status of its progress

Select Best Practices in Caseflow Management

Best practices in modern court systems rely heavily on effective caseflow management and processing policies and procedures designed to move cases as efficiently as possible from filing to resolution without compromising the effective administration of justice. Five of the basic principles on which such policies and procedures rely are:

- **Magistrates as Case Managers:** Best practices provide that magistrates are case managers who actively set deadlines for key events in the life of each case assigned to them and monitor compliance with those deadlines. Research continues to demonstrate conclusively that the

must successful magistrates are those who take control as early as possible in the lifecycle of cases assigned to them and who maintain such control until the case is resolved.

Recommendation 6 **Priority: Urgent**	That the Executive Commission proposed in Recommendation 1 request the Institute to work with a small team of international experts in caseflow management to develop a week-long train-the-trainer workshop curriculum for a small cadre of select experienced magistrates on the essentials of modern caseflow management processes and procedures. The workshop should be taught by experts with practical court experience and expertise rather than law professors. The curriculum should be developed utilizing modern adult education practices and processes. On completion of the workshop, the participants will be required to conduct two-day caseflow management workshops for magistrates in their home governorates.

- **Magistrates rather than advocates set the case processing agenda:** Often, advocates are primarily interested in something other than moving the case promptly and efficiently from filing through disposition. Like magistrates, advocates have their own priorities. Myriad research studies in case management have concluded that where magistrates surrender control over case processing to the advocates, the time for moving cases from filing to disposition increases, creating delay and backlogs. Thus, magistrates should proactively control the courtroom and case processing agenda.
- **Successful courts implement standard case-management policies and procedures:** Best practices provide that tribunals and courts should adopt and enforce standard case-processing policies and procedures for all magistrates. Where tribunals and courts have not implemented standard policies and procedures, magistrates often differ, sometimes remarkably, in how effectively they manage and process their caseloads in a timely manner. Advocates must adjust their compliance and cooperation accordingly from one panel of magistrates to another. Most advocates naturally will seek to have their cases handled by the magistrates with a relaxed approach to caseflow management as opposed to those with a rigorous approach. Where the court has established court-wide policies and procedures, by contrast, advocates experience fewer variances among magistrates. Advocates are subject to a consistent set of case management policies and procedures, regardless of which magistrates they appear before in tribunal and court proceedings.

  A useful example of a national policy would be one that establishes the criteria that magistrates should use when reviewing requests from advocates for continuances or extensions. Experienced magistrates are familiar with how such requests can be used by unscrupulous advocates

to delay case progress. Having in place a standard policy implemented in all first-instance courts, for example, would enable all magistrates to easily respond to such requests. Annex D to this Assessment provides a model that might serve as a guide in developing a continuance policy for Tunisia's courts. Once a standard policy has been approved, copies would be provided to advocates when they request continuances or extensions. It would also be included on court system websites to help ensure that parties and their advocates are familiar with and have access to it.

Recommendation 7 **Priority: High**	That the Executive Commission proposed in Recommendation 1 consider convening a small working group of chief judges, chief clerks, a Clerk's Union official, and two international case management experts developing a new series of national policies regarding case management practices and procedures to stimulate magistrates to exercise greater control in the management and processing of cases. The working group also would review existing procedural codes to determine what amendments are required in existing laws and regulations to enable the new policies and procedures.

- **Magistrates and clerks work together in a team relationship:** The notion that team management is the most effective approach to case control and monitoring. Such team management is based on each magistrate having a clerk assigned to him or her to assist with all aspects of case control and monitoring. Working closely together, magistrates and clerks jointly manage the case and function like a team to ensure that cases are promptly processed. Clerks notify magistrates, for example, when a case is languishing and needs judicial attention. Clerks also maintain contact with advocates and notify them when deadlines are approaching and action is required.

Recommendation 8 **Priority: High**	That the Institute consider working with international experts to develop the curriculum for an intensive one- or two-week workshop on team management focusing on efficient caseflow management. Once the curriculum is completed, the proposed Executive Commission might select two pilot first-instance tribunals and invite from each seven teams of magistrates and clerks from the chambers with the heaviest caseloads and largest backlogs to complete the workshop. Three months after the workshop, the Institute might reconvene the participants for a two-day assessment session designed to produce recommendations to the Executive Commission on how to improve caseflow management in the first-instance tribunals.

- **Effective caseflow management requires access to current case information**: Judicial effectiveness in managing cases requires that magistrates and clerks have access to the current case information.

  They need to determine, for example:
  - What is the status of the case?
  - When is the next hearing scheduled?
  - Are any deadlines pending and what action do they require?
  - Have any deadlines passed without the necessary action ordered by the court?
  - What does the magistrate need to do to prepare for the next set of hearing to ensure cases are progressing and not lying dormant?

  Currently, to obtain answers to questions such as these, the magistrate either has to:
  - Consult the case file and thumb through the documents to locate the clerk's summary record of court hearings, or
  - Review one or more court register books for the handwritten entries summarizing previous case activity

  Magistrates and clerks in modern court systems, by contrast, rely on automated case information management systems to provide them with this information. Although the Ministry's Computerization Department is making very modest progress in this regard with the applications it is developing, those applications are primarily designed to store and collate basic case statistical information. Modern court information systems include much more information, including a chronological narrative or summary of case events.

Recommendation 9 **Priority: High**	**That the Executive Commission proposed in Recommendation 1 consider authorizing international community court IT experts to advise and assist the Ministry's Department of Computerization in the design of the new court case information applications currently under development. The intent of the assistance would be to introduce features that assist magistrates in more effectively managing their cases. The Team is aware that the EU is also focusing on enhanced case information applications, and the Team suggests that the experts work in tandem with the relevant EU advisors.**

Section Three – Human Resources Administration and Allocation

Apart from the Court of Cassation, officials in leadership positions at the appeals and first-instance courts have no direct authority in core areas of human resource administration. As is explained in greater detail below, such authority rests with the central administration of the Ministry.

Recruiting and Hiring

Judicial Positions

Discussions with court presidents of appeals and first-instance courts revealed considerable frustration related to documenting the need for filling vacant magistrate positions or creating additional magistrate positions to handle the workload associated with significant and sustained caseload increases either by way of new cases filed or growth of the backlog of pending cases. The level of frustration has been particularly acute since the 2011 Revolution. Over the last four years, all courts reported having lost magistrates to the mandatory retirement age of 60 years or as a consequence of transfer of on-board magistrates to staff newly created courts. In most instances, court leaders reported to the Team that those positions have remained vacant, notwithstanding official requests for replacements having been lodged with Ministry officials who, currently, are responsible for facilitating action on such requests. Although, as shown in Table 1, new magistrate positions have been allocated to the various categories of courts, court leaders interviewed by the Team unanimously agree that the numbers are insufficient and do not reflect positions whose incumbents have retired and not been replaced.

Table 7

Table of Increases in Numbers of Civilian Court Magistrate Positions 2010 – 2014					
Level of Court	**2009-10**	**2010-11**	**2011-12**	**2012-13**	**2013-14**
Cassation Courts	132	133	161	165	178
Courts of Appeals	407	427	429	435	442
First-Instance Courts	939	947	936	886	1,060
District Courts	117	119	119	116	119
TOTAL	**1,595**	**1,626**	**1,645**	**1,602**	**1,799**

Data provided by the General Inspectorate of the Ministry

When queried by the Team as to what specific criteria or statistical formulae Ministry officials relied on to determine whether the number of magistrate positions was sufficient to process the workload of the courts, none were aware of any such formulae. More likely, some noted, is that the Ministry responds to those court leaders who most forcefully express their demands for additional positions.

To date, no weighted caseload or similar statistical-based research appears to have been conducted to determine how much judicial work is entailed in processing the primary categories of cases adjudicated either in the first-instance or appeals courts. The Ministry does not appear to utilize empirically grounded statistical formulae that link the work reflected in court caseloads with the judicial resources required to adjudicate them at a level that meets minimum efficiency and quality standards. Having such formulae would provide the judicial/court system leadership with much more precise analytical tools with which to analyze and respond to requests from the courts for additional judicial positions. Such formulae would provide the New Council, once operational, with key analytical tools once responsibility for overseeing the creation and distribution of judicial positions is transferred from the Ministry to the New Council.

Recommendation 10 **Priority: Urgent**	That the Executive Commission proposed in Recommendation 1 request assistance from the international community to deploy a pair of qualified and experienced international specialists in weighted caseload analysis. This pair would be tasked with: • Conducting a weighted caseload analysis in an adequate sample of the primary case types of the first-instance and intermediate courts of appeals • Developing comparative tables for each primary case type specifying the averaged judicial time required to process the case from filing to final resolution • Utilizing these tables to construct averaged annual magistrate workloads sufficient to process the case types assigned to each court chamber in a timely manner and pursuant to national quality standards The Council should designate two staff court system members with statistical analysis skills and experience to work with the international experts to learn the fundamentals of the weighted caseload analysis process and how to conduct periodic update reviews.

Support Staff Positions

Discussions with court presidents, general and public prosecutors and court administrators/chief clerks in all courts the Team visited revealed that they exercise no authority to recruit or hire permanent court support employees. When vacancies in existing positions occur, or when caseload increases justify the creation of one or more additional court support positions, the court must prepare a formal request for new staff. Those requests are then forwarded to the Ministry. According to those the Team interviewed, the requests may or may not be acknowledged, and even when additional staff positions are authorized, the approval process frequently takes months.

To date, no empirical research, desk audits or other studies appear to have been conducted that calibrate the amount of work required to perform the typical core functions of court support personnel. Thus, there are no statistically derived formulae that can be deployed to determine whether existing staffing levels at any court are sufficient to complete the recurring work of the court at a level that meets minimum efficiency and quality standards. Having such formulae would provide the Council with much more precise analytical tools with which to analyze and respond to requests from the courts for additional support personnel.

Recommendation 11 **Priority: Urgent**	**That the Council or Executive Commission proposed in Recommendation 1 request assistance from the international community to deploy a pair of qualified and experienced international specialists in work measurement analysis. This pair would be tasked with:** • **Conducting a work measurement study in an adequate sample of the primary categories of tasks and functions of the various categories of clerk positions in the first-instance and intermediate courts of appeals** • **Based on the data collected, develop tables for each primary task and function for each position, specifying the averaged time required to complete the task and function** • **Utilizing these tables to construct averaged support staff work measurement formulae for use in determining how many support staff positions are required to complete the work in a timely manner and pursuant to national quality standards** **The Council should designate two staff court system members with statistical analysis skills and experience to work with the international experts to learn the fundamentals of the work measurement analysis process and how to conduct periodic update reviews.**

When the Ministry deems a request from a court sufficiently justified it may authorize a new position. Ministry staff then recruit and vet prospective candidates on the basis of minimum civil service qualifications, and a candidate selected by Ministry officials is then dispatched to report for work at the subject court. Prior to the 2011 Revolution, the qualifications requirements for recruiting candidates and filling clerical positions were organized into three basic categories:

- Deputy Clerks – must have successfully passed the civil service examination; preference given to those with university degrees, but a degree is not required.
- Clerks – must have successfully passed the civil service examination and earned a university degree.
- Chief Clerks/Court Administrators – must have successfully passed the civil service examination and have earned a graduate-level degree, such as an LLM, in law-related studies. These qualifications do not permit substituting post-graduate degrees in management or public administration for legal studies. Moreover, the curriculum at law faculties typically focuses on the theoretical study of law with little to no emphasis on practical skills training. (According to the court president, the University of Tunisia Faculty of Law offers post-graduate degree program designed to train prospective court leaders. However, few of its graduates ascend to chief clerk or other leadership positions because significant emphasis is placed by the Ministry in such appointments on candidates with considerable work experience in the courts.)

These qualifications requirements were generally applied by Ministry officials to all recruiting and hiring decisions during the pre-revolutionary period. Significantly, however, all recruiting and selection is managed centrally by the Ministry; court officials have no choice when it comes to bringing such staff on board. Senior court officials described these candidates as lacking any court experience or understanding; unless they possess a law degree, they also lack working knowledge of the law and legal process and procedure. Neither the Ministry nor the High Judicial Institute, the education and training agency of the judicial/court system, currently provides orientation training for these new employees. (Reportedly, prior to the 2011 Revolution, the High Judicial Institute did train persons selected for certain categories of clerk position.) Neither are there self-study orientation packages, training videos, handbooks or manuals for new clerical employees to use in preparing themselves for court positions. When these new hires report for work, experienced court staff engage them in on-the-job training for two to three months as their time permits before the new employees are assigned specific tasks and commence productive work.

Post-Revolution Political Waivers of Qualifications Requirements for Court Clerk and other Support Positions

Since the 2011 Revolution, this Ministry-controlled staffing protocol for court support positions has been complicated by political considerations over which senior court officials likewise exercise no authority or controls. Those political considerations trump the standards qualifications requirements. With some frequency since the Revolution, those considerations have been invoked to waive those requirements, resulting in the hiring by the Ministry of candidates who may not meet those minimum qualifications standards.

The Nabeul First-Instance Court offers an illustrative case study. Created shortly after the 2011 Revolution as a new trial-level general jurisdiction court, the first priority was staffing the court with magistrate and court support positions. The newly designated court president, public prosecutor and court administrator were informed that in addition to candidates vetted through normal Ministry recruiting protocol, two categories of special preference political candidates would be given hiring priority.

The first category comprised veterans of the 2011 revolution, many of whom are physically and/or mentally impaired as a result of the perils of combat duty. Candidates may lack the basic experience and educational qualifications deployed by the Ministry to vet prospective court clerks, but the new government directed that they deserved hiring priority given their sacrifices for the country.

The second category comprised post-revolution recipients of a general amnesty for political prisoners incarcerated by the previous regime. Here too, qualifications were subordinated to preferred political status. With this group, the handicaps are more likely to be mental or psychological, stemming from the conditions of confinement and mistreatment in Tunisia's prisons under the previous regime. Moreover, the conferred status of political prisoner may not preclude being disposed to criminal activity. The court administrator of the Sfax First-Instance Tribunal reported that of the 80 clerical staff members currently employed, only circa 10% have earned college degrees. The pre-revolution percentages prior to the implementation of the qualifications requirement waivers were always significantly higher.

All courts at all levels are required to take these preferred-status candidates. According to the court president, the Nabeul First-Instance Tribunal received more than others by virtue of its status as a new tribunal with numerous support-staff positions that needed to be filled shortly after the revolution. The overall competence of the court's support staff was also weakened by the Ministry's transfer of support staff to it from a nearby first-instance tribunal whose caseload was projected to drop as the new tribunal in Nabeul commenced operations and absorbed a significant proportion of the nearby tribunal's future caseload. Of those transferred, several were allegedly problem employees known to Ministry officials. Nabeul's first-instance tribunal president noted that rather than disciplining problem employees in the courts brought to its attention, the Ministry simply transfers them to work in another court, a claim confirmed by court presidents and chief clerks in other courts the team visited.

For purposes of illustration, Tables 2 and 3 below reflect the numbers of support staff from the two groups of preferred-status assigned by the Ministry to its own staff, to the Court of Cassation, and to the 12 courts of appeals. Table 4 shows the total number of staff support positions allocated among these units. The Team was not provided with equivalent statistical data reflecting how many from the two protected groups were placed in positions in the first-instance and district courts.

Table 8

Beneficiaries of the Political Prisoner Amnesty	
Ministry and Appellate Courts Clerical Offices	**Number of Staff Hired and Assigned by the Ministry**
Central department and institutions	17
Court of Cassation	01
Tunis Court of Appeals	59
Bizerta Court of Appeals	26
Nabeul Court of Appeals	21
Kef Court of Appeals	19
Kasserine Court of Appeals	08
Sousse Court of Appeals	20
Monastir Court of Appeals	13
Sfax Court of Appeals	10
Gafsa Court of Appeals	36
Sidi Bouzid Court of Appeals	09
Gabes Court of Appeals	38
Medenine Court of Appeals	07
TOTAL	**284**

Data provided by the General Inspectorate of the Ministry

Table 9

Beneficiaries of Revolution Veteran Status	
Appellant circuit/Clerical Office	**Number of staff**
Central department and institutions	07
Court of Cassation	01
Tunis Court of Appeals	35
Bizerta Court of Appeals	06
Nabeul Court of Appeals	15
Kef Court of Appeals	05
Kasserine Court of Appeals	76
Sousse Court of Appeals	09
Monastir Court of Appeals	08
Sfax Court of Appeals	06
Gafsa Court of Appeals	30
Sidi Bouzid Court of Appeals	04
Gabes Court of Appeals	03
Medenine Court of Appeals	–
TOTAL	**205**

Data provided by the General Inspectorate of the Ministry

Table 10

Clerical Staffing Levels in the Higher Courts 2013 – 2014		
Higher Courts 2013 – 2014	**2013**	**2014**
Central department and institutions	577	531
Cassation Court	116	103
Tunis Court of Appeals	1,028	1,209
Bizerta Court of Appeals	312	402
Nabeul Court of Appeals	326	376
Kef Court of Appeals	565	579
Kasserine Court of Appeals	–	316
Sousse Court of Appeals	396	561
Monastir Court of Appeals	299	327
Sfax Court of Appeals	339	403
Gafsa Court of Appeals	393	343
Sidi Bouzid Court of Appeals	***	182
Gabes Court of Appeals	238	390
Medenine Court of Appeals	233	326
TOTAL	**4,822**	**6,048**

Data provided by the General Inspectorate of the Ministry

Court System Leaders Reliance on Unskilled Mechanism 16 Temporaries

Chronic resource constraints in Tunisia's judicial system are reflected in the concerns unanimously expressed to the Team by court presidents, general and public prosecutors and chief clerks in courts it visited. All expressed frustration with staffing shortfalls both in the number of magistrate positions and in the numbers of court support staff allocated to the first-instance and appeals courts. Shortages in support staff positions compel magistrates to engage in clerical functions necessary for the scheduling and conduct of court proceedings, limiting the time they have to attend to processing their caseloads and drafting judgments.

To mitigate these shortages, courts throughout the country rely on local sources of largely untrained individuals available to them via a system known as Mechanism 16, which is managed by the governorates in which the courts are located. The Mechanism 16 process is activated when a governor's office in the governorate contacts the general or public prosecutor to inquire whether the court needs additional unskilled workers. Prosecutors and court administrators/chief clerks often accept these offers because of chronic understaffing.

These unskilled workers often begin as cleaning staff, working a split shift that runs mornings from 6:00 – 10:00 am and afternoons from 1:30 – 4:00 pm. The monthly salary is in the TD 200 – 300, roughly US$110 – 160, substantially below Tunisia's minimum wage, and paid by the governorate. These entry-level workers are hired by the court with the understanding that they may be terminated at will. They are drawn from the ranks of the chronically unemployed and may have problems with dependencies or mental illness. Candidates usually are dispatched to the court administrator in groups of three from which one may be selected.

Given the mixed bag of qualifications and experience in this pool, the courts incur significantly higher risks bringing these persons on board than those hired and dispatched by the Ministry. Having them report to work on a regular schedule is a recurring problem; many simply lack the motivation or incentive to do well, in part because their pay is so low. Courts are required to report their attendance to the municipality, which pays them only for days worked.

The decision to hire them is compelled by the desperate need in some courts to supplement the inadequate human resources provided to address growing caseloads, lest increasing pending case backlogs ultimately lead to organizational paralysis. Some turn out to be productive workers and may be eligible for promotion to higher level duties and, in some instances, permanent staff positions with approval of the Ministry. The court administrator at the Sfax Court of Appeals noted that two such temporary employees have been on her staff for 14 years.

Given these diverse sources of candidates for court support staff positions, many of whom are only marginally qualified for the positions into which they are placed, the Team empathizes with the frustration expressed by senior court officials. More generally, the Team supports their preference for someday achieving greater and more direct organizational control over the process of recruiting, vetting and hiring their own support staff. Exercising such control over organizational human resources is a cardinal principle of achieving excellence in the management and administration of court systems. Mindful of these sentiments expressed repeatedly by court system leaders in all courts visited, the Team recommends the following.

Recommendation 12 **Priority: Long-Term**	That the proposed Executive Commission consider convening a Court Support Staff Working Group chaired by an experienced first-instance court president with members that include other court presidents, court administrators, Ministry personnel and two international experts with expertise in human resources and organizational planning and development. This working group would be directed over a twelve-month time frame to develop a plan for transferring from the Ministry to the Council the responsibility for recruiting and vetting prospective candidates for court support positions. The plan would include proposals for transferring Ministry staff currently responsible for these functions to employment in the judicial system. They would be organized with other administrative specialists in finance, budget, procurement, etc., into a new administrative bureau under the supervision and authority of the Council. The plan also should reference the need for specific amendments to existing laws and regulations necessary to effect the changes. The long-term objective of this plan would be to transfer to individual courts the responsibility for recruiting and hiring court support staff pursuant to general government regulations and under the oversight of the Supreme Judicial Council. A number of court systems in different regions of the world have successfully made this transition, and the consequences include significantly improved efficiency and control by court system leaders in human resources administration Phase One of such a plan might commence with a pilot program whereby this authority and Ministry personnel are transferred to three courts of appeals. Each pilot appeals court would create a small human resources office that would assume responsibility for working with the first-instance courts in its geographic area of responsibility to implement this new human resource authority. The allocation of new support staff positions would be based on the court system's independent budgeting process. Implementation of this plan would solve two major issues for the leadership of the courts. First, courts would be able to recruit and select candidates based on their specific needs. Second, the current delay and uncertainty associated with the central administration in the Ministry of these processes would be largely eliminated, giving the courts significantly more direct control over their human resource planning. At the end of the twelve-months, the working group would submit to the Executive Commission a report including the plan and provisions for how to implement it. Implementation of this plan would entail important changes in the current status of candidates. Under the existing system of centralized hiring by the Ministry, candidates who successfully complete the civil service examinations thereby achieve the status of state functionaries. As such, they are virtually guaranteed employment by the state into entry-level positions, including those in Tunisia's tribunals and courts. They are not required to complete the further steps deemed integral to the recruiting

	process in modern organizational development theory, such as personal interviews with the prospective employer to assess personality, attitude, and other factors that exam results are not designed to measure. In modern court systems, the personal interview is considered an integral source of information about candidates; its results are at least as carefully weighed, if not more so, as other factors such as performance on written examinations. The inability of Tunisian court system managers to personally engage candidates for entry-level positions prior to the selection process places them at a considerable disadvantage vis-à-vis their counterparts in other countries.

Promotions and Discipline

The authority of both the appeals courts' general prosecutors and the first-instance courts' public prosecutors for managing and supervising court staff is largely conditional. Any proposals for the promotion or discipline of court staff must be submitted for review to officials at the Ministry with appropriate justification and support documentation. After reviewing the paperwork, Ministry officials then determine whether and under what circumstances to grant or deny the request.

Where, for example, a court employee is charged with recurring chronic misbehavior and/or failure to meet minimal performance expectations, neither the court president nor the public prosecutor nor the court administrator is authorized to take any direct disciplinary action other than to counsel with the employee. Instead, they must follow the burdensome report preparation and justification process set forth in the Ministry's regulations, transmit the completed paperwork to the Ministry, and await a response. When queried about the time entailed in receiving a response from the Ministry, the general consensus among court presidents, was from one to three months; on occasion there was no response.

In an example provided to the Team by the president of a large metropolitan first-instance tribunal, she noted that for at least a year, she had been compelled to tolerate a mid-level male clerical employee who routinely reported for work around 10:00 am and exited the courthouse around 2:00 pm where official working hours were from 8:00 am to 5:00 pm. The employee simply ignored oral warnings from her, the general prosecutor and the chief clerk. The necessary paperwork establishing the case for disciplinary action had been dispatched to the Ministry months earlier, but there had been no response. When the Team discussed the case with the public prosecutor, he acknowledged being familiar with the case and noted that very recently there had been discussions with Ministry officials. He acknowledged that the Ministry might simply transfer the problem employee to another court. When asked whether the Ministry had a formal protocol of progressively more severe disciplinary measures for demonstrated failure to perform and/or comply with the conditions of employment, he responded that he was not familiar with such a protocol.

In other tribunals and courts visited by the team, court presidents and chief clerks confirmed that the Ministry's response to serious and repetitive performance deficiencies and/or prohibited behavior was to simply transfer the problem employee to another court. Some had been on the receiving end of such transfers and expressed deep frustration that they (i) were inheriting problem employees without their consent, and (ii) had no authority to impose a disciplinary regimen. All were critical of the Ministry for simply transferring the problem employees from one court to another, effectively refusing to directly address the issues. Clearly, transfers in the absence of other disciplinary sanctions simply relocate

problem employees in a new environment where the performance problems are likely to reemerge, create tension and morale issues, and waste the time of the leadership in the receiving tribunal. The assumption appears to be that the burdens associated with being transferred will either cure or compel the problem employee to improve his or her performance and/or conduct deficiencies. Unfortunately, successive transfers often aggravate and reinforce rather than arrest the performance and/or conduct problems. Moreover, transfers often turn out to be a greater punishment for management officials in the tribunals to which the problem employees are reassigned than for the transferred employee. They are burdened with receiving, integrating, and dealing with the problem employee.

The direct consequence of the Ministry's default approach has a negative impact on morale and motivation among court presidents, general and public prosecutors, court administrators, and lower-level supervisory personnel. Moreover, it creates a culture of leniency that downplays the seriousness of the misconduct and encourages the problem employee to persist in ignoring and violating court behavior and conduct norms.

Recommendation 13 **Priority: Urgent**	That the Executive Commission proposed in Recommendation 1 direct Ministry officials, with assistance and guidance from international community human resource experts, to (i) draft amendments to existing laws and regulations, and (ii) develop a comprehensive new policy to transfer human resource authority for addressing employee performance deficiencies and misconduct from the Ministry to the level of individual courts. A draft report outlining these proposed amendments and policy should be prepared and submitted to the Executive Commission within nine months. These changes to the law and the new policy should empower court administrators with the authority to exercise a range of disciplinary sanctions that progress through several stages: • Stage 1: oral counseling and warnings; • Stage 2: written warnings with stated conditions, deadlines and consequences; • Stage 3: temporary suspension with or without compensation; and • Stage 4: termination. Employees on whom the more serious sanctions are imposed would have the option for one appeal for final review to the court president or his or her designee. Under this policy, Ministry officials would no longer be involved in disciplinary matters relating to support staff employed in any level and type of tribunal or court. This new policy could be implemented on a pilot basis in select first-instance tribunals and intermediate appeals courts.

The Team also inquired about the formal process for promoting employees whose performance and/or contributions consistently exceed the productivity standards or norms considered as satisfactory for court employees. In response, the Team

was informed that there are six formal levels of progressive responsibility and salary within the court support employee framework. Each of level has a title, educational qualifications and years of service attached to it.

General and public prosecutors may request either on their own initiative or at the suggestion of the court president or chief clerk that an employee be promoted from one level to the next, but the decision-making authority and responsibility to do so remain with Ministry officials. Although court managers can reassign high performers from one chamber to another where, for example, the workload may entail greater complexity and responsibility, there are no meaningful incentive programs to reward outstanding performers. Court leaders can request the Ministry to reward outstanding court employees with modest bonuses, but they have no direct authority to create meaningful incentive programs to which financial or other enticements could be attached. Moreover, the very modest budgetary framework within which Ministry and court operations are financed leave very small budgets for incentive payments or bonuses. Such constraints on resources increase the difficulty of developing incentives for superior performers, but there are a variety of other ways in which managers and supervisors can formally recognize those performers and acknowledge their important contributions.

Recommendation 14 **Priority: High**	That the Executive Commission proposed in Recommendation 1 consider creating a Human Resources Working Group of select court system leaders and local and international community human resource experts to serve several important functions, as follows: • To conduct a thorough review of all existing laws, regulations and policies that govern human resource administration in the judicial and court systems • To prepare within 12 months, based on this review, recommendations for the Executive Commission on what amendments to these laws, regulations, and policies are necessary to (i) improve the efficiency and the processes of human resource administration and (ii) facilitate the transfer of key human resource functions from the Ministry to individual courts. • To work with the Institute to develop and deliver a curriculum for an intensive one-week training workshop based on adult-education principles and practices for teams of court presidents and court administrators to prepare them to competently administer the proposed decentralized human resource functions in their courts • To prepare and coordinate publication of a comprehensive judicial system human resources manual/handbook for court presidents and court administrators based on the new framework of human resource policies and procedures. • To brainstorm and devise low-budget performance incentive and recognition programs for court support staff that can be implemented in the courts with minimal administrative burdens.

Code of Conduct for Court Support Staff

The Action Plan developed by the Ministry with its international partners includes an objective to develop of a code of conduct for magistrates with the assistance of the EU. It also lists an objective to develop a code of conduct for court support staff for which no partner is designated. That no partner is identified reflects the situation in many court systems where high priority is attached to developing and implementing a conduct code for judicial officers, but low to developing the equivalent for court support staff. This is unfortunate because to the extent that judicial and court systems or individual courts are open to charges of engaging in ethical or other forms of misconduct that spawn corrupt practices, investigations frequently discover collusion between judges and court staff. When queried by the Team as to conduct and ethics issues relating to court support staff, several court presidents indicated there were serious and ongoing problems. One president who has served in all three levels of Tunisian courts noted that support staff occasionally engage in criminal activity. As examples, she cited the following:

- Modifying criminal sentences in the register books and case file documents
- Removing and destroying critical evidentiary documents from court case files
- Removing and destroying entire case files on occasion which then are presumed to be lost or misplaced
- Exacting small favors such as cash payments, purchase of coffee, or other favors in exchange for providing routine court customer service

One court president noted that the chief representative of the Clerks Union for the region in which the court was located is under criminal investigation and may be subject to prosecution. She went on to note that these examples are a consequence of (i) an ongoing tradition in the courts of leniency on the part of the Ministry and of court system leaders vis-à-vis employee conduct, and (ii) a reduction since the 2011 Revolution in the number and frequency of education and training programs offered by the Institute for the various categories of clerks. Another president confirmed the absence of meaningful codes of conduct both for judges and staff.

Recommendation 15 **Priority: High**	That the Executive Commission proposed in Recommendation 1 consider convening a Working Group on a Code of Conduct for Court Clerical Personnel. Members of this working group should include an experienced court president as chair, a representative from either the Anti- Corruption Agency or the new Good Governance and Anti- Corruption Commission, a senior practicing advocate, several chief clerks, a representative from the Clerk's Union, and an international expert with experience in drafting staff codes of conduct. This working group should be given a nine-month deadline to prepare and submit to the Executive Commission a draft code of conduct for court clerks. It is of critical importance that the code be enforceable rather than aspirational and that it include specific sanctions linked to violations of its provisions. Persons charged with violations should be accorded due process protections and have the right to appear before an established board of magistrates and court administrators. Prior to its implementation, all court clerical staff should be required to attend a half-day briefing by representatives of the working group or the New Council on the new code of conduct and how violations of it will be enforced. Given the Ministry's lackluster record in disciplining court staff when notified by court leaders, enforcement of the provisions of the staff code of conduct should fall to a disciplinary board of magistrates. Ideally, to relieve the burden on the New Council for this enforcement function, disciplinary boards of three to five magistrates might be established at each of the 12 courts of appeals.

Use of Judicial Resources

The Team reviewed with court presidents in the first-instance tribunals and intermediate appeals courts how their limited judicial resources are deployed to facilitate case processing. Pursuant to these reviews, the Team identified four specific areas in which the current deployment of magistrates might be modified pursuant to best practices in modern court systems to achieve greater efficiencies without negatively impacting the effective administration of justice. Those four areas are as follows:

- Use of multiple magistrates on both first-instance and appeals levels to adjudicate relatively simple misdemeanor and petty offense cases
- Use of multiple magistrates in both first-instance and appeals levels to adjudicate routine civil and felony-level criminal cases
- Use of multiple magistrates on the appellate levels to review the entire record of any case that is appealed

- Requiring magistrates, when preparing judgments at the conclusion of the hearing process, to include a comprehensive summary of all the evidence presented and all arguments made by the litigants in their written submissions and oral arguments presented to the court

Modern court system leaders in most countries recognize that they have an obligation to conduct court business in a manner that maximizes court efficiency without compromising the quality of justice. They acknowledge that where resources are limited, it is important to allocate and target those resources selectively to achieve the maximum overall return in the administration of justice. Where the comparative social value for citizens of achieving a carefully analyzed and repetitively reviewed outcome in an important case is high, sufficient resources are committed to ensure that outcome. Conversely, where the comparative value for the citizens of achieving a carefully reviewed and repetitively analyzed outcome in a minor case is low, such as one involving a minor traffic infraction, the resource commitment is much more modest.

In a perfect world with unlimited time and resources, one might argue that every case, regardless of its importance and the comparative value at stake, should be accorded equal judicial review, scrutiny and analysis in a court of law. However, in an imperfect world where resources are limited and require careful allocation, differentiating between types of cases for purposes of their relative value and the level of resources they deserve is a widely accepted practice in modern court systems. With that principle in mind, the Team analyzed how the Tunisian judicial system allocates its limited judicial resources.

Routine Minor Cases

Litigants in contraventions and other comparatively minor and insignificant penal and civil matters, the lowest level of routine cases handled by the courts of law, appear before a single district tribunal magistrate. Depending on the outcome, either party may appeal to a first-instance tribunal where the case will be tried again by a panel of three magistrates.

The next level, the first-instance tribunals, handle civil and criminal cases ranging from minor to major. Minor criminal cases include petty or small offenses and misdemeanors, all of which require three-magistrate panels. Depending on the outcome, either party may appeal to the respective court of appeals where the case will be reviewed from start to finish by a panel of three magistrates, virtually a trial de novo. Parties may not introduce new evidence but are entitled to more fully elaborate on evidence submitted during the first-instance tribunal proceedings. If either party can demonstrate legal error on the part of the first-instance court, an appeal can be lodged directly to the Court of Cassation, bypassing the appeals court.

Most modern court systems in highly developed countries have adopted more efficient judicial resource commitment and distribution models. Some have taken the step of relegating the resolution of very minor matters to administrative forums managed by the relevant ministries in order to (i) relieve the adjudicative burdens of the courts of law and (ii) allow the magistrates in the law courts to focus on matters in which, politically and socially, the state has a greater investment in assuring the effective administration of justice. Moreover, many modern court systems are much more efficient in their use of judicial resources, particularly at the trial or first-instance level. In their first-instance courts, virtually all cases – civil and criminal – are heard by a single magistrate or judge. Some will utilize three-magistrate panels in exceptionally serious criminal cases for which the punishment may involve lengthy terms of incarceration or death.

In the interests of improving the efficient use of judicial resources, the provisions of law that authorize appeals (i) to three-magistrate first-instance panels for the most minor cases adjudicated in the district courts, and (ii) to three-magistrate appeals court panels for petty offenses and misdemeanors that include traffic citations, should be modified. Best practices also call for reductions in the numbers of magistrates per case required in the first-instance courts and the intermediate courts of appeals. Best practices also would dictate amendments to current law to provide that the jurisdiction for many petty or minor offenses and misdemeanors punishable by small fines, periods of detention up to six months or probation under the jurisdiction of the first-instance courts:

- Be transferred to the jurisdiction of the magistrates in the district tribunals;
- Require only a single district tribunal magistrate to hear them rather than a corrections chamber *(chamber correctionelle)*; and
- No longer be required to be referred to an investigative magistrate; responsibility for such investigations should be transferred to prosecutors working with the police. Such cases simply are not sufficiently serious to warrant committing limited judicial resources in their investigation.

Best practices among modern court systems provide that minor infractions punishable by modest fines or short periods of detention fall within the jurisdiction of the lowest reasonable court level. Review of district court judgments in such petty offense cases would be limited to a single appeal to the first-instance tribunal whose judgment would be final. Such first-instance tribunal appeals would be heard by a single magistrate rather than panels of three magistrates. Best practices in modern court systems call for implementation of such modifications to avoid squandering limited public resources on cases of minor legal and financial significance.

The provisions of the law that require the use of three-magistrate panels for all but the most complex and difficult civil cases should be amended to provide for their adjudication instead by single magistrate on both the first-instance tribunal and appeals court levels. Many civil cases can be classified as mundanely routine with minor consequences and should not require an adjudicative audience of three magistrates.

Recommendation 16 **Priority: High**	That the Executive Commission proposed in Recommendation 1 undertake a review of current laws authorizing multiple appeals in petty offense, misdemeanor and routine minor civil cases with the intent of amending those laws to restrict such appeals to the next higher court whose decision would be final in the absence of serious and demonstrable legal error. The findings should be prepared in the form of a draft report within nine months for submission to the New Council.
Recommendation 17 **Priority: High**	That the Executive Commission also consider and act upon the following: • That the current law providing for first-instance tribunal jurisdiction in petty offense and misdemeanor cases punishable by small fines or short periods of detention or probation up to six months be modified to transfer that jurisdiction to the district court and that any existing requirement that such cases be initiated by indictment and referred to an investigative magistrate be vacated • That the current law providing for appeals from petty offense case judgments to be heard by a three-magistrate panel be amended to provide that they be heard by a single magistrate • That a thorough review be conducted to determine whether the current threshold of TDN 7,000 in dispute in civil cases under the jurisdiction of the district courts should be increased to TDN 25,000, thereby relieving the first-instance courts of jurisdiction in such comparatively minor cases. The amendments to the law should include a provision that calls for adjustments to this threshold every three to five years based on Tunisia's inflation rates

Numbers of Magistrates Required for Court Hearings

Tunisia's laws pertaining to the numbers of magistrates required for various types of court proceedings are liberal by international standards. For example, the law requires that all penal, minor criminal and general civil proceedings be presided over by panels of three magistrates. Appeals of civil cases by the appellate courts also require three- magistrate panels. In serious criminal matters where prosecutors have issued an indictment and the case has been referred to an investigative judge, the law requires panels of five first-instance magistrates to hear the case. If the judgment of the five magistrates is appealed, the law also requires that all hearings

at the appeals court level include a five-magistrate panel. Best practices would advocate that the routine use of five magistrates in serious criminal matters on both the first-instance tribunal and the appeals court levels is an inefficient use of judicial resources and that the provisions of law requiring those numbers should be amended to reduce the required numbers either to three magistrates or to one.

As noted above, court systems in highly developed countries as a rule are much more conservative in the number of judges their judicial/court systems consider necessary to administer justice in civil and criminal cases. The U.S. federal courts and the courts of Singapore, among others, utilize single-judge courts in all civil and criminal matters at the trial level. Court systems in a number of developing countries with limited operating resources have carefully reviewed the need to have panels of judges hear all or most cases at the trial level. Many have concluded that for routine and recurring categories of civil and criminal cases where established law is clear and the factual and legal analyses relatively uncomplicated, the use of single-magistrate tribunals is appropriate. Moreover, experience has shown that where magistrates embark on their careers with some experience and receive adequate training and mentoring, reductions in the number of magistrates required to hear cases has resulted neither in explosive growth in appeals nor an adverse impact on the administration of justice.

When the Team raised this issue in its meetings with Tunisian magistrates and advocates, some maintained that the numbers of magistrates should not be reduced. They argue that because (i) new judges receive only six months of post-university training at the Institute, and (ii) opportunities for continuing professional education and training for sitting judges are restricted due to resource constraints, relying on single- magistrate courts will diminish the level of judicial expertise and experience that multiple-magistrate panels offer. Indeed, some practicing advocates maintain that a primary reason for the high percentage of appeals of first-instance court case judgments is that even in panels, newer magistrates with limited experience frequently make serious mistakes in their factual assessments and/or legal analyses as reflected in the judgments they produce.

These arguments have merit, but it must be emphasized that a judicial system cannot meaningfully and efficiently address deficiencies in judicial preparation and competence by adopting a group approach. The quality, accuracy and integrity of court judgments issued by a single magistrate with inadequate training and experience is unlikely to be improved if those judgments are issued by panels or three or five magistrates with inadequate training and experience engaging in group-think. If the existing population of magistrates is inadequately trained and inexperienced, simply multiplying the number assigned to hear cases is a highly questionable solution to the core issue of judicial competence.

If the judicial competence of Tunisia's magistrates is a serious issue, then more resources must be committed to the Institute to restore basic judicial training from six months to two or three years, and the frequency of continuing judicial education and training programs must be increased. From the perspective of efficient utilization of judicial resources, it will cost the Tunisian judicial system less, and provide a greater return on investment, if it (i) reduces the numbers of magistrates deployed for case proceedings and (ii) develops an intensive three-year basic training and practical skills- building curriculum, complete with mock trials, rather than continuing to limit basic judicial training to six months and to require new judges to serve as first-instance chamber panelists for a minimum of five years as on-the-job trainees. Diminishing the numbers of magistrates required to conduct court proceedings will, over time, enable the New Council to divert resources now required for salaries and benefits to improvements in how new magistrates are prepared and what opportunities are made available to sitting magistrates to improve their skills and expertise.

Recommendation 18 **Priority: Urgent**	That the New Council direct the Executive Commission proposed in Recommendation 1 within 12 months to: • Review the provisions in the law that require three- magistrate panels in routine civil and minor criminal matters and five-magistrate panels in serious criminal matters. For example: – Should the current law requiring routine civil cases in first-instance tribunals to be adjudicated by panels of three magistrates be modified to require they be adjudicated by single magistrates – Should the current law requiring routine criminal felony cases in first-instance tribunals be adjudicated by panels of five magistrates be modified to require that they be adjudicated either by panels of three magistrates or, alternatively, by a single magistrate – Should the current law requiring routine criminal felony appeals in the appeals courts be adjudicated by panels of five magistrates be modified to require that they be adjudicated by panels of three magistrates • Develop, with the assistance of experts from other court systems, a strategic plan for reducing those requirements for routine and uncomplicated civil and criminal cases in the first-instance tribunals and the courts of appeals. • In connection with this recommendation, direct the leaders of the Institute to develop a plan for (i) increasing education and training opportunities for all new and sitting magistrates based on what is being done in leading civil law judicial systems, such as Germany, and (ii) consider focusing its curricula more intensively on building practical judicial skills and less on theoretical lectures both for new and sitting magistrates

Cont. **Recommendation 18** **Priority: Urgent**	• **In connection with this recommendation, consider the option of an experimenting with alternative recruiting strategy in addition to the existing recruitment of graduates of law faculties. The alternative would be to accept applications for judicial positions from experienced advocates with a minimum of ten years experience litigating cases in Tunisia's tribunals and courts. Other civil law systems have engaged in such experimentation and have generally determined that the experience factor typically results in more seasoned and capable judges or magistrates. There is much to be said in favor of recruiting judges who bring to their function not only significant experience as practicing advocates but, in addition, greater general life experience and maturity than the typical university-level graduate.**

Preparation of Judgments

In the Indonesian judicial system, as in the Tunisian, the law provides that first-instance judges must include in their judgments or verdicts a narrative summary of the evidence submitted in the course of the evidentiary hearings and of the arguments the parties offered in pleadings and oral presentations. This requirement includes all civil and criminal cases; only contraventions, minor offenses and misdemeanor cases are excepted.

This requirement adds significantly to the time and energy Tunisian magistrates expend on the preparation of judgments, and several court presidents questioned openly whether doing so should continue to be required in all cases. They view it as another antiquated tradition whose functionality needs to be carefully reviewed from a cost- benefit perspective.

The law already requires the filing of evidentiary documents, hence to some the need to also summarize the evidence submitted during the trial phase of the case in the judgment is unnecessary. Presumably appeals-levels magistrates might find the summary somewhat helpful, but in reviewing a case that is on appeal, the magistrates are likely to review on their own the evidence submitted rather than rely on the summary narrative of the lower court judge.

Another critical issue that flows from this requirement to prepare extensive summaries as a part of the judgment is how it delays criminal case resolution. The general prosecutor in Tunisia's largest court of appeals observed that the preparation of summaries requirement adds unnecessary time to criminal case processing. Pursuant to law, the processing of criminal matters initiated by indictments issued by investigative judges shall not exceed 14 months. The purpose of that deadline is to protect defendants who are languishing in detention while

they and their families anxiously await the court's decision, raising potential human rights issues. Removing this summary requirement would ease the time pressures on magistrates in criminal cases, enabling them to focus more time on analyzing the evidence and applying the relevant provisions of the law and less time on the narrative.

Where criminal case processing already is delayed as a consequence of growing caseloads and largely static numbers of magistrates, the judicial system should engage in a campaign to reduce delay wherever possible; eliminating the summary preparation requirement is an obvious starting point. Given the thousands of judgments the court system collectively produces each year, amending existing law to eliminate – or at least to reduce the types of cases that require – judgment summaries has the potential to substantially increase judicial and court efficiency and reduce time spent in prejudgment detention. One option suggested by a first-instance court president is to modify the law to require judges to prepare exhaustive summaries only if one of the parties submits a written request and adequately justifies the need for the narrative. To preclude such requests from being automatically filed, payment of a fee for preparation of the summary might be made payable at the time the request is filed.

Recommendation 19 **Priority: Urgent**	That the Executive Commission proposed in Recommendation 1 consider designating a Judgment Review Working Group chaired by a court of appeals president and include other court presidents, a general prosecutor, senior advocates, and one international expert advisor. The working group would review the original purposes for imposing the requirement that court judgments include summaries and whether those purposes continue to merit the time, effort, cost and delay it entails. At the conclusion of the review period, the working group would prepare a report with its recommendations for submission to the New Council.

Section Four – Court Case File Administration and Security

Court presidents in the large courts that process enormous numbers of cases with limited resources indicated their administrations are routinely plagued by the problems of lost or misplaced case files and lost or misplaced case file documents. The Team's inspection of case files revealed the following:

- All case file folders are made of the equivalent of thick durable paper;
- Folders contain no internal pockets, and case documents simply aggregate over time into an assortment of papers in different colors, shapes and size
- The contents of the case file are not secured to the case file cover; they simply are placed inside of the cover as they are filed. This suggests that because various authorized parties access the file, there is no intelligible order to how the documents in the file are organized unless court personnel are required to reorder them each time someone rifles through them, a labor-intensive process even if it turns out that only one document is out of place.
- Although some of the case file folders the Team inspected include a series of pre-printed lines on which to record a brief description of each document filed, none of the courts the Team visited currently log document descriptions in this designated space. This leaves the courts without an internal record to verify what documents have been filed, making it easy for unscrupulous persons, whether magistrates, clerks, case litigants, parties or advocates to remove and destroy key documents. Without such a record of all documents filed, claims about missing documents have no evidentiary basis. The court administrator of a Tunis first-instance tribunal did note one exception; in serious criminal cases that are examined by investigative magistrates chamber, a record of the evidentiary filings is included in the minutes of the investigative court's proceedings.
- Case file folders in active cases, based on the random sample the Team inspected and the average size of case files the Team noted in its visits to the archives in both first-instance and appeals courts, range from roughly half an inch to one and one-half inches in thickness, reflecting significant numbers of documents of varying sizes.
- In one large metropolitan courthouse, the Team noticed large caches of case files that appeared to have been discarded in low-traffic stairwells and had not been disturbed for some time
- On a tour of the public space in a large metropolitan courthouse, the Team passed a court clerk moving a large quantity – perhaps between

50 and 75 – case files, using an aging desk chair equipped with casters and arm rests. He was struggling to keep them from slipping off the chair as he negotiated the crowded public corridors and eased the overloaded chair into a small court elevator. When asked, the clerk indicated he was transporting them to a courtroom where a panel of magistrates was preparing to conduct a lengthy proceeding in which each case is allocated a short hearing time. The Team followed the clerk to the large courtroom that already was teeming with approximately 100 litigants whose cases were scheduled for review during the course of the extended proceeding. If the chair happened to tip over or one of the arm rests snapped off and the case files tumbled onto the floor, the task of reconstituting each case file with the appropriate documents would be extremely time consuming and difficult.

Court presidents and court administrators in the largest courts with enormous caseloads acknowledged the borderline chaotic conditions that attend case file administration, attributing it to (i) shortfalls in the numbers of court support staff necessary to operate and administer a more ordered and accountable process, and (ii) a lack of the necessary training and experience on the part of court staff. Because the first priority of the courts is to processing the growing caseloads with largely static numbers of court support staff, some of whom are marginally qualified, little time remains for senior management and supervisory staff to train those younger and less experienced. The issues associated with staff training will be reviewed later in this Assessment.

Organizing the Contents of Case Files

One of the solutions the Supreme Judicial Council might consider implementing on an experimental or pilot basis is utilizing case file jackets with a means of affixing the case documents into the file. This can entail something as simple as a prong fastener attached to the case file folder.

As new documents are received, staff simply punch two holes in the top of the document then slide it through the two holes onto the prong. The prongs are then folded flat until the next document needs to be added. This simple device keeps the documents secured inside the case file in reverse chronological order.

Such folders can be purchased in a variety of colors. Some court systems utilize a separate color for each calendar year to simplify the organizing of case files. For one year, the files might be dark red for civil cases and medium red for criminal cases. For the next year, the files might be dark blue for civil cases and medium blue for criminal cases.

Case Docketing Systems

A fairly simple case information system common in many modern court systems is based on individual case dockets, a summary of case events. These case dockets are prepared by court clerks. As a new case is filed, the assigned chamber clerk begins a summary log or narrative. The first entry might be "Complaint filed" with the court along with the date, the names and contact information for the parties/advocates. The second entry might be, "Response to the complaint filed" with the date. Each time a case-related event occurs, whether a filed document, court hearing, or other, a chronological entry is added to the docket or narrative.

Each time a document is filed, it is assigned a document number that is recorded on the docket next to the entry describing what the document is. Modern courts frequently require that docket entries be posted within 24 hours of the event. By the end of the case, the docket reflects a chronological summary of all case events, documents filed, and document numbers. When appeals court magistrates review cases from the first- instances courts, they find these dockets very useful as a short summary narrative of the life of the case and a numerical reference to each document in the file, effectively putting the case into perspective. In modern courts, this process of creating case dockets is fully automated and available online to magistrates and court clerks. Online access to dockets or hard copies can be made available to the parties and advocates in the case. If the New Council decides to explore this option, international experts with experience in docket systems can prepare a presentation and develop proposals.

Some may be inclined to claim that the existing system of court register books serves as adequate case information administration and control systems. Although that may have been the case 50 years ago, in today's electronic world case register books are widely viewed by court system leaders – even in developing countries – as inefficient relics of 19th and 20th Century court systems, the maintenance of which through handwritten entries, often repetitious from one type of register book to another, requires significant time and labor that can be much more effectively deployed in more efficient information systems.

Another practice that has the potential to result in lost or misplaced cases has to do with administering the appeals process. Roughly 70 % of all first-instance court civil and criminal verdicts are appealed to the regional courts of intermediate appeals. There is no protocol whereby the appeals court designates what portions of the lower court's record it needs, which the lower court then scans or photocopies and transmits to the higher court. Instead, in every case the complete original case file is transmitted to the court of appeals with no record of the contents except in the investigative magistrate's minutes in serious criminal cases. As noted earlier, there is no means for securing the documents in the case file to help ensure against loss or wanton removal while the file is in the custody of the higher court.

Recommendation 20 **Priority: Long Term**	That the Executive Commission proposed in Recommendation 1 consider creating a Court Administrators Working Group to address what new procedures and/or protocols should be established to improve the security of court case files and the documents they contain. Such a group might be advised by international experts from modern court systems to stimulate discussions and offer ideas. Its membership should include a Clerks' Union representative. Options include but are not limited to:
	• Enforcing existing procedures for recording on the case file a brief description of each document filed with the court and the filing date • Deploy a barcoding system to track the locations of case files; files removed from a central filing repository would be recorded along with the identity and office of the person removing it • Implementing the use of prong devices to secure and organize the case documents inside the case file • Implementing a case docketing system
	The Team also recommends the option of seeking international community support to schedule a study visit by a small group of experienced court presidents, chief clerks and possibly Ministry officials to visit first-instance and appeals courts in one or more highly developed court systems in foreign countries such as Germany, the U.S., Singapore or Dubai for the purposes of exposure to alternative approaches to court management and administration and for discussions with their counterparts.

Section Five – Computerization of Case Information

Utilizing limited resources available to it over the past three decades, the Ministry's Department for Computerization (Department) has achieved only modest progress toward automating the entry and processing of case information. Ministry-supported court automation support was initiated first in 1983 with simple applications that remained in use through 1999 when enhanced new applications with modestly improved functionality were released. For example, the Department developed and released in 1999 a relatively simple networked application to collect, archive and reproduce in various report formats basic statistical information. This information included judgment summaries in misdemeanor cases originating in the district tribunals that is accessible to the first-instance tribunals and the intermediate appeals courts, enabling them to include summaries of the judgment issues by the reviewing judges on both levels. That progress notwithstanding, courts and tribunals continue to remain burdened by the inefficiencies of manual case information management systems that are onerous, require repetitious entries, and entail significant investment of staff time preparing voluminous monthly statistical reports.

The Ministry has also developed a first-instance tribunal criminal case registration application into which basic case data but no judgments are entered. The application is primarily used to collect statistical data that are used, among other purposes, for preparing the monthly statistical reports. The application does not include the functionality to create a searchable database of criminal judgments.

Two of the IT generalists the Team interviewed noted that the Department is in the final stages of developing a new first-instance court civil case information tracking application tentatively scheduled for final testing and release to the courts within the next 12 – 18 months. It will replace an existing civil case registration application that some courts have deployed. The court administrator of the Sfax First-Instance Court confided to the team that her court has not yet implemented the civil application because it lacks both the personnel and the necessary hardware to do so. One of the IT generalists also noted that the Department is developing a judgment data base application tentatively scheduled to be released during calendar year 2015. The application will include decisions of the Cassation Court accessible remotely online to anyone including the media and the public. It also will include judgments or decisions of the lower courts. Whether it will include the full-text version or short summaries of judgments remains to be seen. This database will be accessible only to magistrates and

authorized court support staff commensurate with traditional civil law system privacy provisions that case files and judgments are accessible, without special permission from the court president, only to the parties and their advocates.

According to the Tunis Court of Appeals General Prosecutor, the only functional Department application released to the appeals courts covers misdemeanors/small offense cases appealed from the first-instance courts. The application provides appeals court magistrates and staff with a database of those appeals that includes summaries of the lower court judgments.

Locally Developed Applications

The Department's slow progress in developing and releasing new applications serves as an unintended incentive for innovative court leaders to develop simple in-house programs utilizing the Microsoft Office applications to take advantage of the powerful computing solutions they offer. For example, prior to retiring, the court administrator in the Sfax Court of Appeals developed an MSWord-based program to prepare templates for court-issued notices, summons, appeals to the Court of Cassation, etc. Such applications are relatively easy to develop and implement, and they offer enormous time and labor efficiencies once they are deployed. Clerks pull up the forms templates on their computer screens, key in the relevant information, and then print out the completed documents, all in a matter of minutes. To date, the court has shared the program with the Nabeul Court of Appeals. In all likelihood, similarly innovative local efforts exist in other courts while awaiting the release of new or enhanced applications by the Ministry.

As a number of modern court systems have learned, encouraging and facilitating communication and collaboration between court IT staff almost always results in the development of functionally useful applications that, with modifications, can be deployed nationally to improve automated information processing and reporting. Court systems that fail to do so often end up with a series of locally developed applications in different courts that address the same information management issues but in different and technologically incompatible ways.

Recommendation 21 **Priority: Urgent**	**That the Executive Commission proposed in Recommendation 1 consider creating a working/advisory group of innovative and experienced court and Ministry IT officers with the guidance of an international court system IT expert and with international community grants to meet together quarterly to brainstorm and collaborate on what measures should be taken to assist the courts to more rapidly take advantage of IT's enormous potential to improve Tunisian court efficiency and productivity. This group could advise the Council on options for creating accelerated momentum to automate how courts manage and process case information.** **The historically slow pace of IT development under the control of the Ministry's Department continues to delay progress and gains in court productivity and efficiency. Such efforts must be enhanced with dynamic and innovative IT leaders who, with international community expertise and grants, can develop a court-automation strategy that catapults Tunisia's courts into a new era of rapid progress. Clearly, maintaining the current pace of very slow progress will guarantee that the Tunisian courts will continue to fall behind.**

It Staffing

Each larger court, regardless of size, usually has one IT generalist assigned to perform the broad gamut of automation-related functions, ranging from setting up and installing equipment, network infrastructure and software applications; maintaining and repairing the court's inventory of IT equipment and local-area networks; responding to end-user requests for assistance and training; monitoring the functionality of Ministry applications and the secured national data communications network; ensuring the automatic backups of case information databases, etc. The multiple IT service requirements of two of the largest courts in the country, the Tunis First-Instance Court and the Tunis Court of Appeals, which jointly handle a significant proportion of the country's trial and intermediate appellate litigation, appear to be handled by a single IT generalist to whom the Team was introduced.

Recommendation 22 **Priority: High**	Mindful of the severe resource constraints under which the Tunisian courts operate, the Supreme Judicial Council might consider seeking the assistance of the international community to develop a strategic plan to increase the number of IT generalists in the country's largest courts. The plan should include a schedule for recruiting and hiring additional IT experts that is linked to the (i) the Ministry's timetable for releasing new and enhanced applications, and (ii) the EU's PARJ II timetable for assisting targeted pilot courts with additional computing resources and services in criminal case processing. The court system cannot successfully transition to increased dependence on IT if the number of in-house experts remains as small as it currently is.

Access to and Quality of IT Hardware

In most locations visited, the court administrator conducted Team tours through the court facilities. Aging desktop computers were visible, connected and being used to enter case data. However, in the absence of comprehensive case information processing and management applications, court administrators observed that most computing hardware is used primarily for typing using Microsoft's suite of office automation applications such as Word, Excel, etc. The hardware appears to be of 1990s vintage. Because it is older, IT personnel are not always able to find parts for repairs, and one first-instance court president estimated that at any time, roughly 20 % – 40 % of the court's hardware was not in working order. These percentages will only increase as the aging machines become increasingly vulnerable to malfunction and system crashes unless an aggressive cyclical hardware replacement program is implemented. The commercial software applications that run on these aging court PCs, as is elaborated below, are also several generations removed from their current versions, thereby introducing additional instability and risk. The inability of the Ministry to implement a PC cyclical replacement program to ensure the courts are provided with functional equipment eventually will result in broad incapacitation of hardware as it outlives its prescribed service life, wears out and falls into permanent disrepair. The EU anticipates in 2015 commencing its three-year PARJ II Project with funding estimated at circa €50 million. The project will focus in part on improving the efficiency of criminal case processing and is likely to include some investment in hardware for the Tunisian courts. Clearly, any funding for hardware will be welcome; otherwise court automation faces a risky future.

Age and Sustainability of DBMS, Operating System and Office Automation Software

Central court servers utilize a relational database management system (RDBMS) developed by Oracle, a US-based developer and vendor of powerful business information management systems. Oracle Version 8 is currently installed on those servers; Version 8 was released in 1997, some 18 years ago which, for business DBMS, is the equivalent of several lifetimes. Oracle discontinued technical support for Version 8 more than ten years ago; currently, it is marketing Version 13. The longer the court system continues to rely on Version 8, the greater the risk the courts incur of system crashes from which, depending on the severity, recovery options vary from difficult to impossible.

Court servers also rely on Microsoft's Windows XP operating system (OS). Microsoft support for XP was discontinued in mid-2014 with the expectation that all users would by then, if not before, have migrated to subsequent releases Windows 7, 8 or recently released 9. Here again, the courts are risking the security of their automated user-support applications by continuing to utilize older versions of the software that the manufacturer no longer supports. Where software support has been discontinued, users incur increased risk because software glitches and internal virus protection and other security safeguards are no longer updated. It is essential, for the stability of court automation, that these aging platforms be renewed with more current and supported versions. In contemplating the acquisition of newer versions either of Oracle RDBMS or Windows OS, the Ministry and/or Supreme Judicial Council should avoid procuring pirated upgrades, which both companies will refuse to maintain and service and which would be in violation of international law that prohibits the pirating of intellectual property. Team members have encountered pirated software being used in court automation platforms in other countries; exposure of such illegal activity risks undermining the credibility of judicial/court systems ostensibly engaged in promoting the rule of law.

Finally, the courts also utilize Microsoft Office Version 2003, a suite of business office applications that includes Word, Excel, PowerPoint and Outlook. Version 3 was released in August 2003 and has since been succeeded by Versions 2007 and, more recently, Version 2013. Although Microsoft continues to market Version 2003, it discontinued support for it some time ago. The version currently for sale omits key features:

- Assisted support
- Online content updates
- Software updates from Microsoft Update
- Security updates to protect computers from harmful viruses, spyware, and other malicious software that, undetected, can extract stored confidential data

Here again, continuing to run unsupported and aging software poses risks to the security and stability of the court's automated resources and the data entered into them.

Court computer systems and local area networks within the courts are protected against viruses and hacking by Kaspersky Labs software. However, the Team was unable to discern which version the courts utilize or whether the subscription is current. Kaspersky is headquartered in Russia, and its security software ranks among the world's most effective in protecting computer systems when subscriptions are current. The court IT generalist in a first-instance tribunal noted that although no court's or tribunal's system had to date been hacked, the Ministry's system had been successfully hacked.

Recommendation 23 **Priority: Urgent**	**To the extent that the Ministry in conjunction with the EU or on its own contemplates adding new applications for large and searchable court decision databases and enhanced criminal case information tracking systems in the 2015 – 2016 time frame, the Ministry and New Council should explore international donor community funding options to procure current versions of Oracle RDBMS, the Windows operating system and Microsoft Office. This would minimize the likelihood of system crashes or malfunctions from which it may be impossible to recover full or even partial functionality. Moreover, if the courts' Kaspersky Labs anti-virus software subscription is not current, the Council should seek funding assistance to ensure that it is updated.**

Use of Automated Systems to Improve Judicial Productivity

Tunisia's magistrates have not been provided with personal desktop or laptop computers to assist them in their work, another consequence of resource constraints. Some have purchased their own equipment and use it for research and for drafting their opinions, although they represent a small minority. The majority of magistrates manually draft their judgments by hand, then pass them on to court clerks to enter as MSWord documents using tribunal or court desktops.

Notwithstanding the fairly widespread use of MSWord to enter the text of civil and criminal judgments into court desktops, the Team was surprised to learn from IT officers that no effort has been undertaken to save these MSWord judgment files and integrate them into searchable court judgment databases.

Recommendation 24 **Priority: High**	**That the Department of Computerization create a small working group of Ministry and court IT personnel to develop and implement in all first-instance tribunals and appeals courts an application that enables court users to integrate the text of judgments entered into MSWord on court PCs into a secured read-only and searchable database. The database should enable the judgment files to be sorted by general category of case type. As the content of the court databases grows, the files should be uploaded into a secured read-only and searchable national database accessible to all judges. When the new searchable court judgment database applications under development at the Ministry are ready to be released, the contents of existing court databases of decisions already keyed can then be copied over into these new applications.**

The CoE/EU is in the final stages of PARJ I, a three-year pilot project that encompasses four courts and focuses on improving the efficiency with which civil chamber cases are processed. When new cases are filed in the pilot courts, the first step is for the assigned panel to informally pursue settlement with the parties. Where that is unsuccessful, court staff set the dates and prepare the paperwork necessary for the initial hearing. The automated application developed by EU contractors and being tested in the pilot courts logs all hearing dates, a key function of an automated case docketing system. Whether the EU and the New Council will proceed with implementing these efficiency protocols and the case information application in additional courts remains to be seen.

The CoE/EU project is also installing large flat screen monitors in the public reception area of the pilot courts that will be used to display times and locations for scheduled hearings to facilitate traffic flow in the courthouse. It also is funding the installation of a secured fiber-optic network to securely link the Ministry and all courts of appeals. The project also is supporting the scanning/digitization of select categories of documents in case files in the court archives in its pilot courts. In the Tunis First-Instance Tribunal, the EU has provided a contract service that already has completed scanning of all notarial documents in the archives and is currently focusing on scanning all judgments in closed cases. The scanned documents will be accessible to authorized users via searchable databases. These various pilot efforts are helping to advance the use of IT in Tunisia's courts.

Automation, Register Books and the Perils of Dual Processing

During the Team's visits to various tribunals and courts, a variety of register books were visible on public counters, in all chamber's administrative workspaces, in the courts' archives and elsewhere. Register books are preprinted, bound compilations of uniform forms designed by the Ministry to collect a variety of types of case-related information and activity. In the larger courts with multiple

separate chambers, each of which handles a specific case type, the total number of separate registers is significant. For example, the Tunis Court of Appeals Chief Clerk noted that staff maintain 84 separate register books; all case data items are entered in handwriting.

Tunisian courts and tribunals at all levels are mandated by law to maintain these register books and to ensure that the data collected in them is current and accurate. Some of the key data elements, such as the case name and/or number, are separately recorded in multiple register books as core identifying data to bridge from one register type to another, thus entailing laborious repetitious work, particularly in the largest tribunals and courts with significant filings. Court administrators/chief clerks extract these data from the registers to prepare lengthy monthly statistical reports. These reports are submitted in bound paper format to the Ministry's Inspectorate, the National Institute of Statistics and the General Prosecutor of the relevant appeals court.

The introduction of automated case information applications in 1983 commenced an effort to minimize the repetitious manual recording of case information. As explained above, in the intervening three decades, modest progress has been achieved by enhancing those applications to manage larger inventories of case data. However, as the Ministry has released new or upgraded versions of existing applications, officials have been reluctant to authorize courts to discontinue maintaining the register books that contain the same case information elements being entered into those new or improved applications. As a consequence, courts enter many of the same data elements into their automated systems that they enter into the register books.

This activity of entering the same data elements simultaneously into both an automated system and a manual system is referred to as dual processing in management terminology. Dual processing is considered both important and necessary as a temporary measure when an organization is transitioning from manual to automated systems. Once the new automated systems are installed and active, experienced managers will require staff to enter the data into both systems for a limited period to ensure that the data entered into the automated system is accurate and secure. The limited dual-processing phase also takes into account the errors that staff may make as they transition from the manual system to an automated system.

Managers will make every effort to minimize the length of the dual-processing phase because staff must perform the additional work involved in entering the data into two systems. Depending on the complexity of the new automated system and the difficulty of mastering it, a typical dual processing phase may take anywhere from one to three months. Requiring staff to simultaneously maintain the two separate data management systems for longer periods of time, for example from six months to a year or longer, gradually erodes staff motivation and morale

because of the additional work and tension entailed. The objective during such organizational transitions is to secure the new system, ensure that training is complete and that staff have mastered it, then complete the transition by setting a deadline for concluding maintenance of the manual system.

The Team interviewed court administrators in every tribunal and court they visited about (i) the types of automated case information applications they were actively using, and (ii) what court case information register books the court continued to maintain. In all except one, Ministry computer applications were being used to record basic case information while the same information was being entered by hand into the register books required by law. Chief clerks indicated that to date, the Ministry had issued only one notice directing courts to discontinue maintaining two register books. The court administrator of the Tunis Court of Appeals, when queried, noted that she had recently inventoried all of the register books being maintained in the various chambers and other offices of the court. The total number was 84.

The court administrator in the Tunis First-Instance Tribunal I, by contrast, indicated that her office on its own initiative had analyzed some time ago which register books duplicate the case information being entered into the automated Ministry applications or are otherwise largely duplicative of others. Once the analysis was complete, court leaders determined they would discontinue those that were duplicative; they first ensured that their computer databases were replicated nightly to create sufficient redundancies to minimize any difficulty restoring the court's data if any application suddenly failed or if the court's primary server crashed. According to the chief clerk, who has 35 years of experience in the court, discontinuing maintenance of the repetitive register books was essential. Growth in pending case backlogs and reduced clerical staffing because the Ministry was not filling positions vacated through retirements and transfers mandated drastic action on the court's part to reduce redundant workload requirements. The analysis resulted in the court reducing the number of maintained register books to approximately 20. That reduction enabled the court to redirect thousands of hours of productive work each year to other functions more essential to ongoing court operations.

Ministry officials have never conducted an analysis of the cumulative number of calendar year work hours invested by court staff to maintain the library of register books required by law. Because all entries must be made by hand, the time and labor commitment in all of Tunisia's courts over the past decade would likely exceed 1,000,000 work hours. Moreover, because many civil law systems required magistrates rather than court staff to make certain register book entries, eliminating obsolete or duplicative registers would have the potential to conserve significant judicial time as well.

Recommendation 25 **Priority: Urgent**	That the Executive Commission proposed in Recommendation 1 create an review task force to conduct a comprehensive review of all general jurisdiction tribunal and court registers currently maintained pursuant to existing law to: • Determine levels of duplication and overlap in the case information data recorded; • Compare those data with the data being entered into the automated case information databases. The analysis would include measurement of the time invested in maintaining the register books; • Prepare for the New Council a list of register books deemed obsolete and/or repetitive, maintenance of which should be discontinued, in each case explaining why; • Identify which existing laws need to be amended to enable the New Council to determine as a matter of policy which registers are necessary and which are not. The Team also recommends the option of seeking international community support to schedule a study visit by a small group of experienced court presidents, chief clerks and possibly Ministry officials to visit first-instance and appeals courts in one or more highly developed court systems in foreign countries such as Germany, the U.S., Singapore or Dubai for the purposes of exposure to alternative approaches to court management and administration and for discussions with their counterparts.

Judicial Access to and Use of Email Systems

The Tunisian court system does not have a dedicated email system for use by its magistrates, clerks and other personnel. A small minority of magistrates, chief clerks, managers and clerks has registered for and uses unsecured email addresses and services provided at no cost by firms such as Yahoo, Hotmail, Gmail, etc. Occasionally some use those private email boxes for work-related communications.

The Ministry has in place limited data communications networks that enable first-instance tribunal servers to automatically backup their databases on a regular schedule on servers located in the courts of appeals. Moreover, the Team understands that the EU is planning to fund the installation of a secured and private fiber-optic network for the judiciary that will enable electronic communications between all appeals courts and the Ministry. Whether the plans for that network will include an email system and the capacity to process email communications for magistrates and clerks is unclear.

This lack of access to secured modern written electronic communications means that court presidents, general prosecutors, public prosecutors, and court administrators/chief clerks, in addition to telephones, rely largely on paper-based

mail and memoranda, meetings, and facsimile transmission for their extensive internal and external communications. Having access to secured email would give them greater flexibility and improve their efficiency and productivity. Having such access would entail, however, significant investment in hardware because (i) most magistrates and clerks do not have court provided PCs, and (ii) most court desktops are not linked to data communications networks that provide access either to internet-based email or a secured wide-area court-system network.

Automation of Statistical Data Reporting

The Team inspected the monthly statistical reports produced by the general jurisdiction appeals courts and the first-instance and district tribunals; court presidents graciously provided the Team with bound paper copies. Each month, as noted above, multiple copies of these bound reports are prepared and sent by mail to the Ministry's Inspectorate, to the General Prosecutor of the Appeals Court, and to the Tunisian Government's National Institute of Statistics. Below is a summary of the content of the reports the Team received.

- **District Tribunal Report for December 2014:**
  Total length of the report was 84 pages
  The report contained 71 separate statistical reports, most comprising a single page; a small number were lengthy and included multiple pages
  Of the 71 reports:
    Fifty-four (54) were each rubber-stamped with one court seal and signed (original signatures) by the chief clerk and the court president Seventeen (17) were neither stamped nor signed

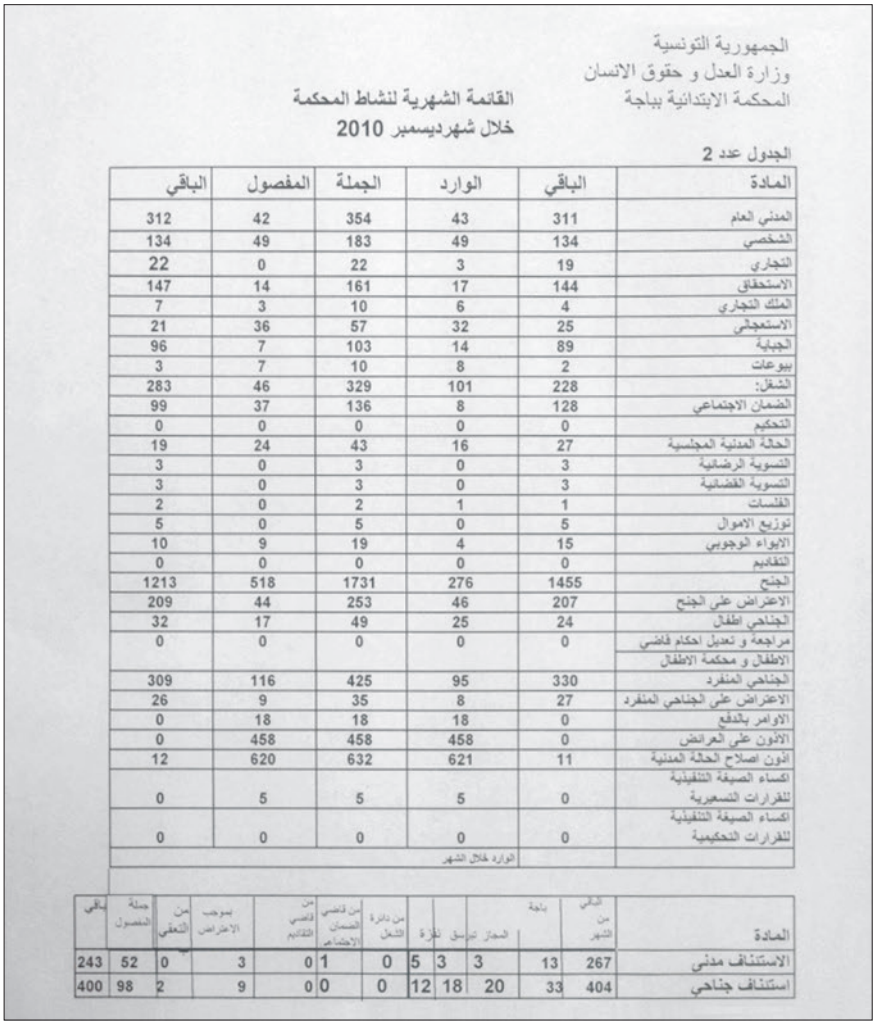
- **First-Instance Tribunal Report for December 2014:**
  Total length of the report was 157 pages
  The report contained 121 separate statistical reports, most comprising a single page; a small number were lengthy and included multiple pages
  Of the 121 reports:
    Fifty-four (54) were each rubber-stamped with two court seals and signed (original signatures) by the chief clerk and the public prosecutor
    Thirty-four (34) were each rubber-stamped with three court seals and signed (original signatures) by the chief clerk, the public prosecutor, and an investigative judge
    Twenty (20) were neither stamped nor signed

- **Court Of Appeals Report for December 2014:**
  Total length of the report was 178 pages
  The report contained 143 separate statistical reports, most comprising a single page; a small number were lengthy and included multiple pages
  Of the 143 reports:
    One-hundred seventeen (117) were each rubber-stamped with a court seal and signed (original signatures) by two of the following:
      Chief clerk
      General prosecutor
      Court president
      Court deputy- or vice-president
    Twenty- six (26) were neither stamped nor signed

The Team's review and inspection of the sample reports raised a number of issues, including the following:

- The total number of reports submitted each month to both the Ministry's Inspectorate and the National Institute for Statistics from 12 appeals courts, 28 first-instance tribunals, and 84 district tribunals, is 124. Assuming an average of 150 pages per first-instance tribunal report, 170 pages per appeals court, and 30 for the district tribunals, many of which are small one-magistrate rural courts, the combined total estimated number of pages of statistical reports submitted monthly to the Ministry Inspectorate and the National Institute of Statistics is 8,700 of which circa 2,040 are from the courts of appeals, 4,200 from the first-instance courts, and 2,460 from the district courts.
- The professional and clerical staff at the Ministry's General Inspectorate, as in the courts, has been downsized as a consequence of severe resource constraints. The professional staff currently numbers only ten inspectors and deputy inspectors along with the General Inspector. The Inspectorate is tasked with visiting and reviewing Tunisia's 124 general jurisdiction tribunals and courts on both a regular schedule and an unannounced surprise visit schedule when it is made aware of serious issues that need to be investigated. This number does not include the specialized administrative or audit tribunals and courts that also fall within the Inspectorate's scope of review. The obvious question then is who in the Inspectorate is in a position to set aside time to review 8,700 pages of district and first-instance tribunals and appeals courts statistical reports every month?

Interestingly, the sample reports reviewed by the Team included virtually no explanatory text, suggesting that court leaders are not required to include explanations for aberration(s from normal statistical averages. An illustrative sample of a single report is reproduced below. (Technical issues prevented the Team from including the stamps and signatures at the bottom of the sample page.)



الجمهورية التونسية
وزارة العدل و حقوق الانسان
المحكمة الابتدائية بباجة

القائمة الشهرية لنشاط المحكمة
خلال شهر ديسمبر 2010

الجدول عدد 2

المادة	الباقي	الوارد	الجملة	المفصول	الباقي
المدني العام	311	43	354	42	312
الشخصي	134	49	183	49	134
التجاري	19	3	22	0	22
الاستحقاق	144	17	161	14	147
المالك التجاري	4	6	10	3	7
الاستعجالي	25	32	57	36	21
الجبائية	89	14	103	7	96
بيوعات	2	8	10	7	3
الشغل:	228	101	329	46	283
الضمان الاجتماعي	128	8	136	37	99
التحكيم	0	0	0	0	0
الحالة المدنية المجلسية	27	16	43	24	19
التسوية الرضائية	3	0	3	0	3
التسوية القضائية	3	0	3	0	3
القسمات	1	1	2	0	2
توزيع الاموال	5	0	5	0	5
الايواء الوجوبي	15	4	19	9	10
التقادم	0	0	0	0	0
الجنح	1455	276	1731	518	1213
الاعتراض على الجنح	207	46	253	44	209
الجناحي اطفال	24	25	49	17	32
مراجعة و تعديل احكام قاضي الاطفال و محكمة الاطفال	0	0	0	0	0
الجناحي المنفرد	330	95	425	116	309
الاعتراض على الجناحي المنفرد	27	8	35	9	26
الاوامر بالدفع	0	18	18	18	0
الاذون على العرائض	0	458	458	458	0
اذون اصلاح الحالة المدنية	11	621	632	620	12
اكساء الصيغة التنفيذية للقرارات التسعيرية	0	5	5	5	0
اكساء الصيغة التنفيذية للقرارات التحكيمية	0	0	0	0	0

الوارد خلال الشهر

المادة	الباقي من الشهر	باجة	السمار تبرسق	نفزة	من دائرة الشغل	من قاضي الضمان الاجتماعي	من قاضي التقادم	بموجب الاعتراض	من التنفيذ	جملة المفصول	الباقي
الاستئناف مدني	267	13	3	5	0	1	0	3	0	52	243
استئناف جناحي	404	33	20	12	0	0	0	9	2	98	400

- Responsibility for preparation of these monthly reports rests with the chief clerks of the district and first-instance tribunals and the appeals courts. All interviewed by the Team reported that coordinating the preparation of these reports on a monthly basis entails significant time commitments that prevent them from attending to more important and critical functions and management and coordination issues. Quite apart from monthly preparation burden in individual tribunals and courts of up to hundreds of separate reports is the additional time- consuming responsibility of securing original signatures from extremely busy senior tribunal, court, and prosecution leaders and ensuring that most reports also are individually stamped.
- The individual reports appear to be produced from computer-generated templates. However, when the Team inquired as to whether the computer file versions of the reports could be compiled and transmitted electronically rather than on paper to the Ministry and National Institute of Statistics, thereby conserving the material costs of reams of paper and labor costs associated with producing, collating and binding hard copies, tribunal and court officials indicated that the Ministry requires their submission in paper format.

Recommendation 26 **Priority: Urgent**	That the Executive Commission proposed in Recommendation 1 convene a working group of select senior magistrates, senior chief clerks and senior court IT generalists to (i) review the current requirements for the production of the monthly and other recurring statistical reports and (ii) draft recommendations for: • Simplifying the requirements • Reducing their size to a maximum of ten double-sided pages • Developing an MSWord template to enable completing it on line • Reviewing and amending the applicable law to eliminate or reduce the numbers of signatures and stamps required to a single monthly report cover page. • Enabling the courts to submit the reports in electronic format either online or via CD or thumb drive in lieu of assembling, binding, and mailing bound paper copies.

Section Six – Court Facilities and Access to Courtrooms

The Team toured courthouses for first-instance tribunals in Tunis, Nabeul, Sfax and Beja. It also toured courthouses for the courts of appeals in Tunis and Sfax.

Facilities in Tunis

The court facilities in Tunis for the first-instance tribunal and the appeals court comprise two enormous buildings located adjacent to each other in the old city center. Both buildings were designed and constructed by the French colonial administration in the early 20th Century. In the interim, both buildings have seen miscellaneous renovations and additions to accommodate substantial growth in the number of magistrates, support staff, litigants and members of the public. Both buildings now enjoy protected historical status, thus securing approval for projects to modify or expand existing space configurations is increasingly difficult.

Tunis First-Instance Courthouse

On a typical business day, an average of 5,000 persons visit the first-instance courthouse, most during the morning hours. By mid-morning, the huge main entrance hall is teeming with visitors, many of whom are scheduled to appear in one of several large courtrooms for case-related hearings. The volume of the court's caseload results in the production of circa 6,000 judgments per month, yet the courthouse is equipped with only three large courtrooms. As is typical of European-influenced civil law systems, judicial panels will schedule numerous cases for brief hearings culminating in marathon sessions that go on for hours. As each scheduled case is referenced, the litigants appear before the panel for relatively short hearings in rapid succession. Once a case is integrated into this cycle, advocates and parties can expect to attend such hearings every four to six weeks, depending on the chamber to which the case has been assigned and the number of pending cases on that chamber's docket. If during this cycle, the advocates or parties request and are granted a continuance, they typically miss the next stage in the cycle and end up waiting for two to three months before their next appearance for a short hearing that advances the case.

In many civil law system courthouses, judges have individual offices in which they can schedule hearings to relieve the tension of trying to schedule all hearings

on a timely basis in a limited number of courtrooms. Tunisia's First-Instance I Tribunal does not have that luxury. The number of individual offices is insufficient to provide most of the 200 magistrates with their own offices. Because they share crowded offices that have insufficient space to accommodate case hearings with panels of magistrates, court clerks, and the parties, and because there are no conference rooms available, all hearings must be conducted in one of the existing courtrooms. As a consequence, crowded dockets are a chronic problem due to the demand for courtroom time. Although the facility is equipped with ten courtrooms of varying sizes, access to them must be rationed among the 200 first-instance judicial magistrates, the 31 investigative magistrates, and magistrates of the Central Tunis District Tribunal. Individual chambers have no choice but to conduct grueling court proceedings that successively handle 50 or more case hearings in courtrooms crowded with litigants. Efforts by the Team to attend randomly selected court proceedings were not always successful because even standing room was very limited, and Team interpreters were compelled to speak above the din, risking judicial reprimand. These space constraints adversely impact the ability of the magistrates to handle the enormous judicial workload of tribunal, making it difficult for them to effectively administer justice.

The chronic shortage of support staff extends to the facility's cleaning and maintenance personnel. Notwithstanding the enormous size of both the Tunis First-Instance I and the Tunis Appeals courthouses, relatively few positions exist to clean and maintain them. As a consequence, both buildings suffer from neglect and insufficient maintenance. The neglect was evident in the public areas, including the toilet facilities which Team members were precluded from using at the insistence of court leaders who, instead, directed them to use the personal facilities attached to their offices.

The shortage of workspace also adversely affects the capacity of the court to service the public. Tunisian courts are organized into specialized chambers on the basis of the categories and quantities of the caseload. The number of chambers in a particular court is a function both of the total caseload and the diversity of that caseload. A very small first- instance tribunal with a modest caseload might have two or three chambers – one for minor offenses, one for civil cases and one for criminal cases. Tunis First-Instance I, by contrast, is the largest trial court in the country and processes roughly 50 % of the country's entire first-instance caseload. It is organized into multiple instances of multiple chambers. Each chamber consists of a panel of either three (civil or penal) or five (felony criminal) judges. Numbers of chambers include, but are not limited to, the following:

- Five criminal (felony) chambers
- Six penal (small-offenses) chambers
- Six general civil chambers
- Four labor chambers
- Two contracts chambers

- Two commercial chambers
- Two family law chambers
- Two vehicle accidents chambers

Continuous growth and increasing complexity of the court's caseload over time periodically result in the creation of additional chambers, within particular legal specialties, as well as new chambers. For example, in January 2015, the court created two new vehicle accidents chambers and assigned to them relevant cases previous handled by the general criminal chambers.

On a typical business day, the scheduling of a large courtroom can accommodate several chambers in succession. For example, the business day may commence with one of the vehicle accidents chambers conducting several hours of hearings followed by a minor offenses chamber conducting several hours of hearings. In the early afternoon, one of the civil chambers would utilize the courtroom for another several hours of hearings.

In the public space of the courthouse, each type of chamber has counter space assigned to it with one or more open windows. Behind these windows, clerical staff assigned to each chamber type are usually available to respond to questions, provide access to case files and register books, and otherwise assist members of the bar and the public. For example, a person involved in a commercial case who needs assistance would appear at the commercial chamber counter where staff assigned to that chamber could help him or her. However, with finite space available to it, the introduction of new categories of chambers requires allocating counter space to accommodate it, thereby further aggravating the already crowded counter space. Moreover, when a particular chamber is conducting hearings, staff shortages often require the court clerk for that chamber to leave the chamber's public service counter and assist with the hearings in the courtroom, leaving that counter unattended for duration of the chamber's court proceedings.

According to the court president, overcrowding of the limited space in the courthouse set aside for court clerks and other support staff has reached chronic proportions such that when all staff are present, there is insufficient workspace to accommodate all of them. Court leaders have experimented with various alternatives such as staggered work hours, but none of them adequately addresses the problem.

Tunis Court of Appeals Courthouse

Conditions are similar in the court facility utilized by the Tunis Court of Appeals to which approximately 70 % of cases resolved by the first-instance court are appealed. Courts of appeals in Tunisia are organized similarly to the first-instance

tribunals. Cases are distributed according to type to the various specialized chambers. Virtually all cases that are appealed are entitled to one or more formal hearings before panels of three magistrates in civil and misdemeanor cases and panels of five magistrates in felony-level criminal cases. Under existing law, litigants are entitled to the equivalent of a somewhat expedited trial *de novo*. With hundreds of cases scheduled for appeals hearings each day and given the comparatively small number of available courtrooms, appeals court chamber proceedings generally are also scheduled as marathon sessions, similar to those in the first-instance tribunal, involving numerous hearings scheduled in fairly rapid succession in crowded courtrooms. Each hearing references a different case.

Because felony-level cases are subject to investigative judge proceedings, when on appeal, they are adjudicated more quickly than civil cases on appeal, requiring fewer hearings. However, as the Assessment's earlier review of pending case backlogs illustrated, the case processing in the larger appeals courts congested, in part because of facility constraints. Here, as in Tunis First-Instance Tribunal I, achieving relief from these difficult operating circumstances linked to insufficient space is a critical priority. Located in the center of the old city of historic Tunis, both courts are surrounded by narrow streets with significantly limited access to parking, even when sidewalks in front of the courthouses are utilized.

Courthouse Facilities in Other Cities

The conditions and issues relating to the Tunis courthouse facilities described above apply as well to the first-instance and appeals courthouses in Sfax where, among other indicia of neglect, paint is peeling off the walls of the main reception hall. The Nabeul First-Instance Tribunal, having been established in 2012, is located in a newer five-story facility that is in better condition. However, the design of the facility was not intended to serve a large public clientele. A single and relatively narrow staircase provides access to and egress from the four upper floors. When ascending the stairs, Team members encountered several court clerks on their way downstairs, each clutching a large stack of case files and utilizing their chins to hold the stack in place. Ascending the stairs in front of the Team, a policeman was escorting a handcuffed criminal defendant, creating potentially risky security conditions. Although the building is equipped with a single elevator, the court president, when asked, noted that during her tenure which spans the life of the court, she could recall only one period of several weeks over two years ago when the elevator was functional. Since then, it has been out of working order. Although repeated requests for service the lift have been lodged with the regional and central offices of the Ministry, there has been to date no response. Persons physically handicapped are left to their own devices when summoned to appear in court.

Strategies for Addressing Facilities Issues

The leadership of the courts and the Ministry are aware of the myriad issues regarding courthouse facilities and the urgency of the mandate to address them. The primary constraint, as in other areas of need, is the lack of resources. In its interviews with court leaders, the Team discerned a sense of resignation that current circumstances are unlikely to change in the immediate future and that they should do their best to adapt to those circumstances while ensuring that the work of the courts must be given priority. Court system leaders reported to the Team that existing committees were addressing options, although clearly, concerns about resources lurked constantly in the background.

One solution proposed by the Tunis First-Instance Tribunal President called for dividing her court, the largest in the country. That is a distinct possibility and can be negotiated in several ways. One option would be separating it into two smaller metropolitan trial courts, one focused on civil case processing, the other on criminal case processing. A number of court systems globally have done so; they span the economic spectrum of wealthier, developed countries to poorer, developing countries. One country whose current economic status is roughly akin to Tunisia is Macedonia where that option was implemented a number of years ago with relative success.

Another option is to spin off the chambers that handle commercial cases. Presumably, the business community at all levels – local, regional and multi-national – would welcome a separate business/commercial/economic court where complex financial and business-related disputes could be litigated in a calmer and less-chaotic setting. A number of court systems have opted for separate commercial courts with business-savvy specialized magistrates to improve the comfort level of foreign litigants with in-country business interests. Such courts attract more regional and international investment, other factors being equal. Such courts are particularly successful when they offer (i) a menu of dispute resolution options that includes, in addition to formal adjudication, mediation, arbitration, and court-assisted settlement proceedings and (ii) the option of proceedings conducted in more than one language, preferably English.

Recommendation 27 **Priority: Urgent**	That representatives of the international rule of law community consider organizing and funding a two-week assessment visit by a small group of justice facilities experts from leading court systems, including one or two experts from the American Institute of Architects Academy of Architecture for Justice. The group's itinerary would include visits to the country's largest and most congested court facilities, meet with government facilities and finance officials, and produce a strategic plan focused on practical options for addressing the short- and long-range priorities necessary to facilitate greater efficiencies and functionality in those facilities. The options would be framed in the context of available resources and potential supplemental funding or loans from the international development bank sector focused on assisting and stabilizing core government institutions in developing countries. Addressing space-related problems in Tunis in particular is a matter of the most urgent priority. Although possible solutions have been under consideration for some time according to Tunis First-Instance Tribunal I leaders, nothing concrete has been planned. Major court facility construction and renovation projects require an absolute minimum of five years for planning, completing numerous design stages, and constructing and outfitting the building. Hence it is imperative that the process commence as soon as possible.

Section Seven – Addressing Resource Issues

Many of the serious challenges facing the Tunisian judicial/court systems have their origin in chronic resource constraints that have worsened in the aftermath of the 2011 Revolution. The magnitude of those constraints is enormous. Budgetary allocations for the court system are insufficient, for example, to:

- Address acute shortages in operating space;
- Hire replacements for vacant court support positions with fully qualified and compensated candidates;
- Deploy the enormous potential of modern IT and communications systems to restructure court administration and management operations into a much leaner and productive framework of highly functional courts; and
- Provide adequate basic and continuing education and training for magistrates and court clerks.

The counterproductive impact of these chronic resource constraints were identified by every official the Team interviewed, including the Bar Association President.

The Team has no quick-fix solutions to propose to the judicial/court system leadership for addressing the very challenging funding shortfalls. The relatively recent internal turmoil created by the 2011 Revolution negatively impacted the economic benefit of the thriving tourism industry that was on the road to recovery until the very recent terrorist attack in Tunis. Moreover, as the country has transitioned to a democratic form of government, the efficiency of established bureaucratic systems and services has diminished, including revenue collections and administration.

Revising the Existing Schedule of Court Fees and Services

Virtually all modern court systems have established fee schedules for the various categories of services they offer, including the filing of civil cases. Most typically charge filing fees that are geared both to (i) generate operating revenue for government and/or the courts, and (ii) discourage prospective litigants from filing frivolous or trivial matters that serve primarily to clog court calendars and squander judicial and support staff resources. Claims that such fees inhibit access to justice are unconfirmed except in systems in which filing fees are onerously high and financially burdensome on the general citizenry. Moreover, most systems provide fee waiver policies for legitimate filers who may be financially challenged and cannot afford even modest fees. Legislative action in many of

these countries has enabled their court systems to retain the fee payment receipts, either in part or in whole, to help finance court operations and services.

The Team strongly urges the New Council to consider revising the current fee schedule for the use of court services. In a previous era when Tunisia's economic health and stability was more robust, modest charges were attached to the filing of all civil cases in the district and first-instance tribunals and the appeals courts. In that era, Ministry officials, in a gesture to broaden access to justice, eliminated the filing fees for all categories of civil cases in the first-instance courts.

In the intervening years, first-instance courts civil caseloads have grown significantly as has the proportion of frivolous civil cases filed. Moreover, all courts are currently suffering from chronic resource constraints. Because filing a civil case entails no court-imposed fees, litigants are indirectly encouraged to seek court-based relief not only in legitimate disputes but, in addition, in disputes whose basis in law may be either very weak or non-existent.

In an era in which Tunisia's first-instance courts are operating with insufficient resources, crowded dockets and large inventories of pending case backlogs, the imposition of modest fees for filing civil cases will result at least in the partial achievement of two important objectives.

- The fees are likely to prompt many prospective litigants to at least pause before pursuing litigation in the first-instance courts, particularly if the dispute verges on the frivolous and has little or no basis in law. Even only a slight reduction in first-instance civil court caseloads would offer some relief.
- Assuming the legislative power in Tunisia authorizes the judicial power to retain either all or a proportion of the receipts generated by such fees and does not otherwise further reduce funding allocations for the court system, the additional funds generated by the fees would be deployed to respond to long- standing funding shortfalls that could be addressed on the basis of priorities established by the New Council.

When the Team interviewed the President of the Tunisian Bar Association, his response to the question of what constituted the most significant challenge to the judicial/court system was the need to increase funding allocations. When the Team asked whether the Bar Association would support a proposal to impose fees for the filing of civil cases, however, he responded negatively, noting that doing so would likely have an adverse impact on the income of practicing advocates because of reductions in cases filed. He went on to propose that instead of filing fees, the government instead should divert funds from other national allocations, for example, national defense spending.

The Team also strongly urges the New Council to consider increasing the existing fee of TD40 required to file appeals of first-instance tribunal judgments. Court system leaders informed the team that the rate of appeals of first-instance civil cases to the courts of appeals is approximately 70 %, a figure the Team was unable to verify with the Ministry's General Inspectorate. They also suggested that the high rate of appeals results from advocates urging their clients to appeal, even if the likelihood of winning on appeal is very small, because doing so (i) postpones execution of the first-instance court's judgment while the case is being reviewed, and (ii) extends the time advocates can bill their clients. As a result, court leaders indicated, the appeals courts also end up wasting their time handling many frivolous or trivial appeals that have little or no basis in law. Again, increasing the filing fee to TD60 or TD80 per appeal may give prospective filers of frivolous cases pause and end up reducing the total appellate caseload. Fee waiver applications could be made available to impoverished litigants.

Create a New Framework of Specialized Commercial/Business Courts with a Formula-Based Fee Schedule

Finally, the Team urges the New Council to consider adopting a strategy already deployed in a number of court systems, both in more- and less-developed countries. That strategy entails, as noted earlier, relocating the processing of private-sector commercial and financial institution cases into a framework of special commercial/business court facilities. Such cases frequently involve complex legal and technical issues, multiple litigants, multi-national corporations or financial institutions, and high stakes. Relocating the processing of such cases into facilities not encumbered by the crowded, noisy and occasionally chaotic environments of large metropolitan tribunals creates more favorable settings for the sometimes lengthy presentation and rebuttal of complex claims and explanations of voluminous documents introduced into evidence. Such settings also are more conducive to careful judicial analysis and review.

Such specialized courts are staffed by experienced magistrates who have successfully completed advanced coursework in commercial contracts and transactions, business economics, regional and international conventions regarding banking and financial transactions – including e-banking and e-finance, and related topics that qualify them to hear and adjudicate complex claims and counter-claims in the universe of multi-national business processes. Their competence inspires confidence on the part of international advocates and the multinational businesses, financial institutions and investment communities they represent in the capacity of the country's judicial and court systems to fairly and objectively adjudicate cases in which they may be involved.

Because the processing of such cases almost always entails significant commitments of time on the parts of judges and court support staff, these judicial/court systems, either on their own or with legislative authorization, create special commercial case fee schedules. Typically, such schedules are based on a sliding scale or formula linked to the total value of the plaintiff's claims. Case filing fees are calculated separately for each case; the amount imposed as a filing fee is a percentage of the amount or value of damages or related claims sought by the plaintiff. For example, if the damages claims made by the plaintiff total TD3,000,000 or three million Tunisian Dinars, and the percentage specified in the commercial/business court fee schedule is 2 % or two percent of the damage claims, then the filing fee payable by the plaintiff would be computed as TD60,000. If the plaintiff prevails in the case, the defendant must not only pay the damages awarded by the court but, in addition, reimburse the plaintiff for the TD60,000 filing fee. Although such fees might strike some as high, they are relatively modest compared to the fees charged, for example, by reputable international arbitration firms to conduct proceedings and issue an arbitration judgment.

Recommendation 28 **Priority: Urgent**	That the New Council authorize the Executive Commission proposed in Recommendation 1 to create a small Court Fee Schedule Working Group comprising senior-level judges, representatives from the Chamber of Deputies charged with overseeing the judicial/court system, a senior court administrator/chief clerk, Clerks' Union official, and an international expert in court system funding matters to undertake a study and develop specific proposals to: • Revise the existing national schedule of fees for court services • Establish fees for the filing of civil cases in the first-instance • Increase existing fees for the filing of appeals from first- instance court judgments • Create a separate national framework of commercial/ business courts with their own formula-based fee schedule • Modify existing laws to enable the judicial/court system to retain all or a portion of the filing fee receipts for use in addressing chronic funding shortfalls, improving court services, and implementing IT solutions.

Section Eight – Education and Training for Court Administration and Management

The Team met with the three top officials of the Institute to discuss the education and training programs and services it has developed and delivers to the judicial and court support staff communities. Although the enabling legislation establishing the Institute provides for its independence, it has been subject for decades at the micro-management-level to the review and approval by the Ministry of its activities. The controls exercised by the Ministry include:

- Specific approval for Institute officials to attend:
  - Relevant regional and international meetings and conferences with colleagues from other countries;
  - Study visits to countries with advanced court systems; and
  - Invitations for consultations with other judicial system education and training officials, etc.
- Prior approval of all faculty – whether university professors, senior magistrates or other experts – providing instruction at Institute programs;
- Prior approval of all curricula, courses and programs developed by the Institute before they can be taught;
- Prior approval of all candidates proposed as students or participants in Institute programs;
- Prior approval of outstanding judicial system candidates who have achieved the highest ranks to attend training programs offered in France through its judicial system professional development institutes, even though the authority to send them is set forth in the law;
- Prior approval of any new initiatives developed by the Institute to improve programs and services and how they are delivered; and
- Creation by incoming ministers of commissions of various types, only to have them disbanded and their work abandoned when new ministers with their own agenda succeed them.

This level of control by the Ministry is unprecedented, even for a civil law system.

Recommendation 29 **Priority: Urgent**	That the New Council, pursuant to its authority under Article 114 of Title V of the 2104 Constitution, consider implementing the following: • Draft amendments to existing laws and regulations to vacate all authority and controls currently exercised by the Ministry over the Institute, including oversight of the Institute's budget; • Assign to itself or a designee specific authority to generally oversee the Institute; • Delegate to the Institute maximum independence and autonomy necessary to enable it to perform its functions without micromanaging its decision-making capacity; • Encourage the Institute leadership to seek the assistance and advice of international experts as to current best practices in assessing training needs, developing and conducting training that specifically targets those needs, and implementing post-training evaluative standards and measurements to determine whether those needs have been successfully addressed; • Encourage the Institute to develop a long-range strategic plan to carefully examine its current education and training related policies, procedures, philosophy and practices in light of best practices deployed by modern court systems; and • Provide the Institute with its own budget and authorize it to deploy its budgetary resources as best determined by the results of the Institute's own research of evolving trends in law, procedure, and judicial and court administration as well as by its ongoing assessment of judicial and support staff training needs.

When queried by the Team as to the extent to which Institute curricula deliver practical skills training on modern court administration and management, the leaders responded that although management-related topics are covered in some programs for clerical professionals in the courts, they are not included in the curricula for magistrate programs. They hope to incorporate them at some future time.

Instructional Programming at the Institute

The Institute's leadership generally divides its education and training mission into two broad components: Basic Training and Continuing Training. Currently, the Institute provides Basic Training to magistrates, bailiffs and notaries, and Continuous Training to magistrates and court clerks who fall within the six-position hierarchy of court clerk positions.

The Team's discussions with the Institute's leadership revealed that instructional programming is frequently although not always based on lengthy curricula that deliver training at the Institute's headquarters over a period of several months – often ranging from three to six months. Prior to the 2011 Revolution, for example, all prospective new judges who passed the required entrance examinations were

required to spend a year in Basic Training which entailed enrollment in advanced training courses in law, procedure and related topics whose requirements included preparing papers and completing examinations. They then were required to spend an additional year engaged in internships or the equivalent in courts and related justice organizations handling practical responsibilities structured to prepare them for their service as judges.

This two-year basic-training curriculum was dramatically reduced from two years to six months following the 2011 Revolution due to factors including budgetary constraints. As of the first quarter of calendar year 2015, the six-month curriculum remains in effect, notwithstanding widespread concern expressed by court leaders, Bar representatives, and the leadership of the Institute itself which is anxious to restore the full two-year basic training curriculum. No dates have been set as to when that two-year curriculum might be restored. The Institute also used to offer Basic Training for certain categories of newly appointed court clerks, but all such training was discontinued some time ago. Although the Institute's leadership is anxious to restore a Basic Training curriculum for some court clerk positions, no dates have been set as to when that might occur. The Institute also piloted continuing education programs for court clerks on the local level based on memoranda of understanding with various international organizations such as the UNHCHR.

The Team takes no issue with a preparatory two-year new magistrate curriculum that merges classroom instruction with practical skills-building internships or similarly structured arrangements in courts and justice system organizations. The Team however is concerned that when the two-year curriculum is restored, that the content of the initial year of classroom instruction focus more on practical judicial skill- building and less on theoretical lectures delivered by law professors.

Recommendation 30 **Priority: High**	That as the Institute leadership contemplates restoring the Basic Training for magistrates to a two-year curriculum, those leaders consult with representatives from judicial training organizations in countries such as Germany and Jordan, which have in place comprehensive judicial preparation education programs. Any expansion of the Basic Training curriculum for magistrates should focus less on theoretical lectures delivered by law professors and more on specific categories of practical judicial skills such as: • Participation in mock trials; • Review of best practices in case-flow management; • Hands-on training in computer literacy and utilizing IT tools to maximize judicial efficiency; • Managing the pace of litigation; • Maintaining judicial demeanor and control of court proceedings; • Maximizing the productivity of court hearings; and • Effective utilization of court clerks and support staff. There are numerous international community sources of assistance for developing judicial training curricula based on best practices. For example, the International Consortium for Court Excellence (ICCE) (www.courtexcellence.com) represents the cooperative efforts of a number of judicial systems in different countries and offers various resources. The ICCE's brochure summarizing its approach is available in Arabic, François and English on its website.

The Institute also offers each year a variety of continuous training programs for magistrates. Each may entail a commitment of up to several months of onsite training at the Institute; participants take up temporary residence in Tunis for the duration of the training, leaving their families where applicable and their assigned courts. For some, the extended absences that enrollment in such programs entails create personal hardships. On occasion, magistrates invited to participate in them decline because they are unwilling to leave their families or burden their colleagues with handling their work while they are away for extended periods.

To assist magistrates in updating their knowledge and understanding of the law, the Ministry's Center for Legal and Judicial Studies prepares a monthly bound review of recent developments in jurisprudence and legislation which is published in both Arabic and French versions. The Center also regularly publishes two versions of a Cassation Court Bulletin, one focused on recent key civil judgments and the other on recent key criminal judgments issued by the court of final appeal. Although Tunisia is a civil law country, magistrates must remain abreast of how civil and criminal laws are being interpreted and applied by the country's highest court. According to court leaders in Sfax, these publications are distributed to all Tunisian magistrates.

With regard to training for various positions in the six-level hierarchy of court clerk positions, the Institute offers various continuing education programs. Although the Institute at one point did offer a basic education curriculum for

certain categories of newly appointed court clerks, they were discontinued after the 2011 Revolution, possibly earlier, to the chagrin of court leadership teams already struggling with insufficient numbers of court clerks, many of whom lack sufficient training. The Institute hopes to reintroduce basic education for court clerks at some future time, but as of January 2015, no specific plans were in the works. As with the magistrate-focused continuing education programs, in-service programs for court clerks also may extend for three to six months, depending on the topic. As with the magistrates, such extended absences from home and from work create hardships for some and may result in their declining the invitation to participate. It should be noted that the CoE has recently sponsored some short-term pilot training programs for clerks and that the EU anticipates doing so during its PARJ 2 interventions.

Modern court systems rely on a variety of resources and program models to deliver continuing education to their judges and court support personnel. Although civil law systems with career judiciaries continue to rely on intensive extended training curricula for their new judges and magistrates, the trend in continuing professional education programs for magistrates as well as for court clerks is to structure shorter programs of one, two or three weeks' duration that target topics selected to:

- Address specific deficiencies in knowledge/understanding/application of specialized areas of law and procedure
- Introduce specialized topics in new professional areas of expertise for the purpose of building knowledge and understanding
- Develop practical judicial skills through a combination of proven adult- education techniques that focus on small-group exercises, simulations, mock trials, and other interactive and participatory activities designed to facilitate team-based approaches to management, administration and institutional problem-solving

Recommendation 31 **Priority: Urgent**	**That the Institute leadership consider undertaking a fundamental revision of its programming model for continuing education programs for magistrates and court clerks with the assistance of experts and specialists from the international community.** **This programming model revision would focus on two primary objectives.** • **First, to shorten the length of its continuing education programs for magistrates and court clerks from several months to several weeks to minimize the hardship elements posed by the longer sessions** • **Second, to shift further away from an archaic university- based content-delivery model that focuses on one-way lectures and presentations to an adult-education model that emphasizes interactive learning based on active participation in a variety of learning activities**

The Institute's Residential Education Model

As noted above, the Institute's operating model for the provision of education and training content to its judicial and clerical audiences throughout the Tunisian court system is almost completely centralized. Program curricula are determined by the Institute's Scientific Council comprising six members chaired by the Institute's Director General and including the Director of Basic Education, the Director of Continuing Education, and three others appointed by the Ministry on the recommendation of the Director General. The Scientific Council frequently invites experienced Institute faculty members, including judges from various specialties, to participate in its meetings where curriculum content is deliberated. The functions of the Scientific Council are as follows:

- Determine the content of the curriculum for all Institute programs, basic and continuing
- Evaluate all programs to determine the extent to which their objectives were met and the content is applicable to their position responsibilities
- Determine how to improve and enhance services and programs
- Determine the number of hours of instruction required to adequately cover the content

The Institute also relies on other groups/commissions that are tasked with responsibility for developing/administering examinations, evaluating program faculty, removing obstacles to effective programming, etc.

Nearly all programs are centrally delivered, as noted, entailing logistical costs and time spent engaged in planning and arranging the logistics. The Team expressed its concern to the Institute leadership about the relatively effectiveness of the Institute's efforts to publicize its programs. The Team's concerns were based on the widely divergent views among court presidents and chief clerks on the type and frequency of basic and continuing education programs targeting court clerks. Several expressed the view that since the 2011 Revolution, the Institute had discontinued providing any training for clerks, although some international agencies have worked and continue to work with the Institute to pilot short-term local continuing education programs. Others thought the offerings were very limited and were unaware of their clerks having participated in recent years. Only one chief clerk in a large first-instance court outside of Tunis had a reasonably accurate understanding of what continuing training programs were available for clerks and what the qualification threshold was for participating in them. These and other indicators suggest to the Team that the Institute needs to carefully re-examine the effectiveness of the efforts it makes to publicize its programs. Where such publicity efforts are largely limited to sending out occasional fax transmissions, they will be ineffective.

Recommendation 32 **Priority: High**	That the Institute's leadership, with the assistance of international community experts, conduct an informal survey among randomly selected courts throughout the country to determine: • Whether information on its programs is reaching magistrates and court clerks in the various chambers • How that information is provided to them • Whether the information is accurate and lets them know of programs for which they may be eligible • Whether they have ever had opportunity to provide input on what they need in terms of continuing education and training programs To the extent that the information either is not reaching the rank and file members of the judiciary and/or the support staff or turns out to be inaccurate, the Institute should reassess how it transmits information on its programs and services. To the extent that a significant proportion of magistrates and clerks do not have opportunity to provide input, the Institute should reassess the effectiveness of its feedback loop processes and instruments.

The contributing roles played by court leaders, magistrates, prosecutors, chief clerks and various categories of clerks in defining actual Institute program content falls into three types:

- Serving as program faculty; the statistical probability of being selected as a faculty instructor is small
- Serving as a member of the Scientific Council or some other Institute-related group; here again, the statistical probability of being selected as a member is small
- Responding to needs assessments conducted by the Institute on an annual basis. The Team did not have time to examine how this needs assessment process is conducted. Because the Institute handles much of its official communications with the courts outside of Tunis by facsimile transmission or by mail to court presidents and general or public prosecutors, it is unclear whether:
  - The requests for input are not widely distributed among magistrates and court employees
  - Court presidents and chief clerks in Tunisia's busy courts either have or take the time to review the requests for input and thoughtfully respond to them
  - The needs assessment input request simply asks for suggestions as to what program content should be included in the next year's schedule of courses. The Team shared with the Institute leadership a multi-page comprehensive needs assessment questionnaire prepared in Arabic for use in the Abu Dhabi commercial court system to assess court clerk training needs as an example of an effective needs assessment instrument. A copy of that assessment instrument is included in Annex E to this Assessment.

As noted, the Institute's educational model is based largely on the residential approach where students or participants travel to and reside in a central location for up to several months at a time. It is a costly model that requires the Institute to pay for travel, lodging, and per diem for meals and other incidental expenses. Where the judicial system's financial resources are limited, reliance on this costly model limits the number of magistrates and clerks to whom the benefits of education and training programs can be extended. Innovative experimentation with alternative, less-costly education and training models offers the benefits of (i) lower per-person costs and (ii) capacity for broadening program outreach.

Regional and Local In-court Educational Programs

One alternative to complement national programs based at the Institute is to shorten and decentralize numerous training programs to the provinces or governorates in which the 12 courts of appeals are located. Following this model, each appeals court assumes the function of working with Institute officials to deliver continuing education programs to the magistrates and the court clerks employed in the appeals, first instance and district courts that lie within the geographical boundaries of the governorate. Institute leaders indicated, when asked by the Team, that they earlier offered both regional and centralized programs but eventually abandoned the former, in part because of the administrative work and logistics required of Institute staff to set up recurring series of regional programs.

Regional programs have the potential to reduce costs by reducing the distance traveled, the number traveling, and the number requiring overnight accommodation and meals. Some participants traveling from nearby locations return home in the late afternoon and return the following morning.

Another alternative to complement national programs based at the Institute and regional programs based in the courts of appeals is to further decentralize training programs to the local in-court level. Such programs focus on magistrates and/or court clerks employed at the court. Because all participants are local, there are no costs associated with travel, overnight accommodations, or meals. The dilemma for the Institute, were it to expand its services to include more regional and, especially, individual court training programs, is lack of adequate staffing to design, support and facilitate such an effort.

Designation of Regional and/or Local Training Officers

Innovative court systems with limited resources pursue various creative and low-budget alternatives to ensure that judges and staff are not deprived of

continuing education and training opportunities. One alternative that may have application in the Tunisian courts is to designate a capable and experienced magistrate or higher-level court clerk to function part-time as the court training officer. These individuals are selected on the basis of their education, their intellect, experience, interest in promoting excellence in their courts, and perhaps most important, their attitude, creativity and enthusiasm.

Although the functions and responsibilities of a court training officer vary from one system to another, the core functions are often quite similar and include the following:

- Serve as the court's primary liaison with the agency statutorily responsible for providing education and training services to judicial and court clerks
- Disseminate information on all programs and services offered through the agency
- Administering needs-assessment and other survey instruments designed to collect information on what the education and training priorities are of the clientele the agency is mandated to serve; training officers then collate and organize this information and transmit it to the agency
- Organize and administer a variety of local training programs and services utilizing resources, where required, made available by the agency:
  - Guest speakers who are experts in legal, administrative, management or other topics
  - Self-study training packages that enable interested magistrates and clerks to advance their own knowledge and understanding through self-paced programmed learning modules available in a variety of formats ranging from paper to interactive CD/DVD, to interactive online
  - Focus groups to address specific challenges confronting their courts such as the need to:
    - Improve/restructure customer service
    - Improve accuracy in case information records keeping
    - Decrease the incidence of lost case files or case-file documents
    - Improve working relations between magistrates and clerks
    - Develop self-help packets for litigants who do not have legal representation but need to file a case – such packets include forms and instructions on how to prepare the documents necessary to initiate a case

  - Collaborate with other training officers in the region and nationally to exchange ideas and practices
  - Advise the agency leaders on how to improve and expand the variety of education and training services they offer to the courts
- Work collectively with other court training officers to design and produce an online monthly Tunisian Courts Training Newsletter that serves as a forum for the exchange of ideas and advise on what works well and what does not

A key element in building a competent and productive corps of court training officers is to ensure that they are professionally trained. That does not mean that all training officers need to earn a university degree in education. It does require, however, that the Institute draw on the resources of international community experts to help them design and conduct an intensive three-week interactive training program. The success of such programs requires that the number of participants not exceed 15–20 per program to ensure a highly collaborative process with lots of individual and small-group learning activities. It also requires that the programs focus on spawning and developing ideas and concepts that expand and diversify the Institute's traditional approach to the design, development and delivery of training programs and services.

Recommendation 33 **Priority: High**	**That the Institute consider initiating a pilot effort, with assistance from international community training experts, to experiment with the development of a corps of court training officers to expand and diversity the development and delivery of education and training programs and services for magistrates and clerks.**

The Team is aware that UNODC is working with the Institute to design and implement a magistrate train-the-trainer program designed to prepare select magistrates to train their colleagues. The Team believes that creating a corps of court training officers dovetails nicely into this effort. The more the Institute can do to develop training resources to develop and conduct programs on the governorate and individual court levels, the greater its capacity will be to coordinate and stimulate the creation of a proactive learning community within Tunisia's courts.

Development of an Online Library of Learning Resources

The saturation level of IT and communications hardware in the Tunisian courts is limited both in numbers of accessible units per magistrate and clerks and in the computing capacity of those units, many of which either have reached or are approaching their manufacturers' specified lifecycle. There are some preliminary indicators that the EU may be able to supplement the current hardware inventory

with limited quantities of new equipment. The Team would also encourage the Ministry and the New Council to explore prospective funding and grant support from the regional and international communities to enhance its capacity to take advantage of the many benefits available through information and communications technology to improve not only case information management and general institutional administration but also continuing education/training and collaboration.

Similar deficiencies inhere in the court system's IT and communications infrastructure and wide-area network (WAN) capacity. Internet access in the courts themselves appears to be very limited. Here again, there are some preliminary indicators that the EU may the resources to assist the Ministry with deploying a national highly secured fiber-optic data communications network with all twelve courts of appeals. Here again, the Ministry and New Council are encourage to explore prospective funding and grant support from the regional and international communities to assist with the creation of a secured fiber-optic WAN.

Once in place, such a network can be utilized for streaming instructional audio and video to all connected courts. Such capacity would enable the Institute, for example, to simultaneously reach audiences of magistrates, clerks, or mixed groups assembled in courts throughout the country with webinars on any number of specialized topics in law, procedure, national policy matters, management, administration, etc. The instruction could be displayed either on individual desktop PCs or on the large public information displays being installed by the EU in select pilot courts and in other courts once they are similarly equipped. Dispensing instruction in electronic media format is highly economical because it (i) dispenses with most of the costs associated with the Institute's Tunis-based programs such as travel, lodging, meals, and incidental expenses, (ii) enables many more participants to take advantage of the instruction, and has the capacity for interactive activities.

Recommendation 34 **Priority: Long-Term**	That the Institute convene a Long-range Planning Work Group comprising a small number of forward thinking magistrates and chief clerks with one international expert in distance-learning. The Working Group would commence developing a practically-oriented long-range plan for incorporating distance-based learning programs into the Institute's overall education and training curriculum, engaging in consultations with partner education and training organizations in judicial systems in other countries that already rely on distance learning technologies. The Team can suggest trusted international vendors on request.

Eliminate the Testing Preconditions for Enrollment in Clerks' Training Programs

Team discussions with the Institute's leadership inquired into how many court clerks at various levels annually participate in Institute programs. The numbers were not impressive when compared against the total population of court clerks. The Director General explained that the comparatively low numbers were less a function of limited Institute resources and more a function of the qualifications requirements that clerks in various positions must meet before they can be enrolled in Institute programs. The primary and most onerous requirement is that a clerk interested in pursuing government-provided job-related training must first successfully complete a battery of 12 examinations. Only after meeting that requirement are clerks eligible for consideration for enrollment. The Institute provides some study materials for the examinations, but court clerks must exercise the initiative to prepare for each exam, a time consuming exercise

In the Team's collective judgment, this requirement sends precisely the wrong message to clerks at all levels interested in improving their job performance and ability to succeed. Instituting a requirement to achieve a passing grade on a basic examination to ensure that applicants have the core skills in reading, writing, computation, reasoning, etc., may be appropriate. But imposing a burden of twelve examinations is clearly unreasonable. Indeed, a primary concern expressed by all of the court system leaders the Team interviewed was the chronic lack of well-trained court clerks which impeded productivity and required those leaders to spend their time instructing and training support staff and correcting their errors. Moreover, based on the current workloads in the courts the team visited, many magistrates and clerks already voluntarily contribute their own time and effort beyond what is required to help ensure that the courts do not drown, given their typically heavy case processing burdens. Presumably, many employees also have families with children that require their attention. Moreover, the salary levels for the various categories of court clerks are comparatively low. It strikes the Team as counterproductive to punish hard-working employees who earn modest salaries by restricting their access to job-related training that will render them more productive and competent.

It is unclear whether the requirement to successfully pass this battery of exams is specified in a law or administrative regulation or whether it is a matter of Institute policy. Regardless of the source, the requirement should be drastically scaled back or eliminated. Clearly it is not in the interests of a well-functioning court system to create difficult obstructions to impede or even preclude education and training opportunities for either magistrates or court clerks. Quite to the contrary, modern best practices strongly and consistently advocate continuous training and development opportunities for staff at all levels to maximize their competence and capacity to contribute to the realization of organizational goals and objectives.

Recommendation 35 **Priority: Urgent**	That the leadership of the High Judicial Institute immediately undertake whatever action is necessary to vacate the current requirement that court clerks successfully complete the battery of 12 examinations as a condition of eligibility for participation in Institute continuing education programs.

Section Nine – Reducing the Constraints of Archaic Law and Administrative Regulations

In its discussions with leaders in various court system, ministry and other related agencies of the Tunisian government, Team members occasionally inquired about the extent to which those leaders are able to deviate from established practices, to experiment with new ways of doing things, to implement a culture based on flexible and creative approaches to solving institutional challenges faced by the judicial and court systems. The largely uniform response was that number of bureaucratic laws and administrative regulations govern nearly all practices and procedures, sometimes down to the micro level, leaving relatively little wiggle room either to develop discretionary policies or to experiment and deviate from traditional practices with innovative alternatives.

This preoccupation with instituting laws and administrative regulations to prescribe and direct even relatively minor and banal decision making to the point of micro-managing senior leaders characterizes many civil-law based systems with which

Team members have come into direct contact over the past 23 years. Although that model may have been functionally useful half a century ago, in today's world judicial system leaders typically are highly educated and capable of exercising discretionary authority in consultation with their colleagues, subject matter experts, and finance and budget specialists. In such operating environments and in the more fast-paced world of the 21st Century, the restrictive function of over-reaching and archaic government laws and administrative regulations serve only to micro-manage and constrain the flexibility leaders need to respond to multiple changing priorities and exigencies.

The constraining effect of such laws and regulations was particularly obvious to the Team in its discussions with Institute leaders who, in the course of their responses to inquiries, frequently cited their inability to deploy more flexible approaches to the delivery of programmatic training because so much is contingent on the Ministry review process. As the Tunisian judicial power embarks on a new and important chapter pursuant to the increased autonomy and accountability specified in the 2014 Constitution, it is critically important that it not be unduly constrained by aging law and administrative regulations that constrain its ability to innovate and flourish in its sacred mission to administer justice.

Recommendation 36 **Priority: Urgent**	That the proposed Executive Commission consider establishing a Review Commission with the responsibility for reviewing all existing laws and administrative regulations governing the management and administration of the judicial and court systems and their affiliates such as the High Judicial Institute. The purpose of the review would be to identify in those laws and regulations all provisions that: • Prescribe procedures and processes that have outgrown their usefulness and hinder efficiency and productivity • Constrain the discretion of the judicial system's leadership to chart a vision and courses of action designed to create more responsive and businesslike research, analysis, decision making and strategic planning functions Once these archaic and constraining provisions have been identified and agreed upon by the Supreme Judicial Council, Council representatives or designees should; • Draft proposed amendments to those laws and regulations • Engage legislative leaders with oversight of the judicial power in discussions to review and pass the amendments pursuant to Article 114 of Title V of the 2014 Constitution

A much more flexible approach to establishing guidance where the force of law is not required is to implement a framework of organizational policies and procedures and to grant the leadership of the affected institutional organs the discretion to interpret, apply, and amend those policies within specified guidelines. Doing so avoids the cumbersome process of having to invoke the cumbersome and time-consuming law-making and law-amending processes for changes whose import and significance do not require the force of law and, indeed, are adversely affected by it.

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Annexes to the Assessment – Annex A

Historical Overview of the Evolution of Court-based Justice in Tunisia

With a coastline that extends more than 1,300 kilometers along the southern Mediterranean, Tunisia has attracted curiosity and relationships throughout its history based on commerce, military strategy, agriculture, tourism, culture and piracy. This history of assorted relationships spans centuries, beginning with the indigenous Berber tribes and including Phoenicians, Romans, Byzantine Christians, Ottoman Turks, and Europeans. Each of these contributed to Tunisia's gradually evolving framework of government institutions, including functional dispute resolution and criminal justice forums.

The relentless spread of Islam into North Africa gradually introduced justice administered by Islamic forums in which disputes were adjudicated by clerics schooled in the application of the evolving corpus of Sharia law based on the Hadith or teachings of the Prophet Muhammad. Predating even these was the jurisprudence of customary law administered by Tunisia's tribal elder forums. To the extent that the substance of customary law diversified from exposure to foreign influences, this occurred more in the coastal communities subject to invasion and intrusion than in the deep interior in which the intruders typically had less interest.

Consistent with the Islamic principle of doctrinal superiority graced by tolerance, the conquering Ottoman sultans in the 16th Century permitted Tunisia's Jewish communities to continue to dispense Jewish community justice via the rabbinical courts or *Biet Din*. When the Husainid Family Dynasty commenced its rule in Tunisia, beginning in 1705, it instituted the rule of the Tunisian Beys who functioned, within the framework of Ottoman rule, as semi-autonomous monarchs of the province. Successive beys built and strengthened government frameworks through which they could rule and administer the province and maintain order.

A critical framework was justice, and the *wizara* or precursor of today's Ministry that functioned as the secular court and justice-administration mechanism for the province of Tunisia. State and local officials in cities and towns known as *kadhi* exercised civic jurisdiction in roles that combined police, investigative, prosecution, dispute resolution, mediation, and adjudication functions relying on varying mixtures of evolving state law, local customary law and Sharia law.

Appointed by authority of the bey, the *kadhi kudah* or chief *kadhi*, their judgments could be appealed to the bey's Court of Justice located in the Bardo, then on the outskirts of Tunis. The authority of the court derived from the bey's right and duty to resolve civil disputes and adjudicate criminal matters. The Bardo was designed as a fortified beylical city complex comprising the Bey's Palace, a mosque, a *hammam* or Turkish bath, a *suq* or bazaar, and military barracks. These various layers of intersecting court and legal systems co-existed in pre-colonial Tunisia, giving this semi-autonomous Ottoman province a functional pluralistic legal environment.

In the 19th Century, successive waves of migrations of tens of thousands of Europeans and Mediterranean islanders, seeking improved economic opportunity, adventure, travel or more agreeable political and social circumstances, left their homes to resettle in North Africa, Egypt, and the Levant. Although Tunisia's coastal ports had served for centuries as migratory way stations, this swollen flow of humanity, soared in the Napoleonic era and continued to the World War I. The attendant growth in commerce transformed many sleepy coastal towns and ports into bustling mercantile centers where the numerous migrants established new roots.

Facilitating the administration of this commercial growth were knowledgeable locals serving as intermediaries and agents who, dating back to the 16th Century, served as liaisons between local purchasers and foreign suppliers in the merchant community. Foreign merchants and their local representatives were granted special legal, commercial, fiscal and religious privileges intended to stimulate commerce. These privileges were set forth in treaty-like agreements referred to as capitulations, derived from the Turkish *imtiyazat*. In the six centuries from 1270 to 1881, Ottoman Empire officials, including Tunisia's beys, negotiated 114 treaties with various foreign powers.

Commencing with the Husained Dynasty, negotiating these capitulations for residents of Tunisia increasingly fell to the beys.

The growth in migrants supplemented existing populations of European nationals, prompting their home governments to establish diplomatic consular offices charged with providing extraterritorial legal and diplomatic protections of various types for their citizens. Their growth was such that by 1830, 114 consulates had been established, representing an assortment of foreign powers, European and other. In Tunisia and its neighboring states, newly assigned consular officials promptly set about negotiating diplomatic benefits and exclusions for their nationals through a process of securing more aggressive versions of capitulations. These new protections transferred legal jurisdiction over foreign nationals, including civil/commercial dispute resolution and criminal justice, from provincial bey officials and *kadhis* to consular officers.

As noted above, the benefits that accrued to foreign nationals under the system of capitulations, originally limited to immunity from Tunisia's provincial law, expanded to include reductions in tariffs on imported goods. Their cumulative negative economic impact on the competitiveness of Tunisia's indigenous merchant community was largely ignored by successive beys, a consequence in part of the gradually eroding unity and strength of the Ottoman Empire. It also was, in part, a result of Tunisia's growing national debt generated by loans negotiated by the beys and payable to various western European powers. By 1869, Tunisia's increasingly precarious fiscal position compelled the bey to declare the equivalent of government bankruptcy, prompting its creditors to create an international financial oversight commission to manage the Tunisian economy.

In 1878, the Berlin Congress was convened by the major European powers, including Russia, to reorganize the Balkan countries and address a variety of territorial tensions and ambitions throughout the greater European theater. Among the few reluctant participants were Ottoman leaders whose Empire was increasingly characterized as "the sick man of Europe." A conference byproduct was a significant deterioration of Ottoman authority across its vast empire, whetting the appetites of western European powers anxious to expand their colonial empires.

Championed by Prussia's Bismarck as a diversion, France was granted implicit approval to intervene in Tunisia over the vehement objections of Italy, which had its own designs and a significantly larger population than France of its nationals residing in Tunisia. Within three years, in 1881, French military forces had entered the small country to armed resistance, negotiated significant transfers of power while retaining the provincial bey in a marionette role as leader, and engineered a gradual but inexorable take-over of the institutional framework of government. Notwithstanding a comparatively small population of French nationals, Tunisia's sovereign and quasi-independent status as a province of the Ottoman Empire was reduced to the status of a French protectorate.

The implications for Tunisia's traditional pluralistic and decentralized justice system were significant. Initially, French colonial administrators left in place the existing networks of state and local kadhi officials and the religious courts to adjudicate matters involving Tunisians. Indigenous litigants continued to utilize those forums based on their faith for justiciable matters that did not involve (i) persons of other religious groups, or (ii) capitol offenses or threats to public order. The French colonists also initially deferred to the authority of the various consular courts exercising legal jurisdiction over non-French foreign nationals.

Leaving Tunisian justice untouched turned out to be a transitory gesture. French officials soon initiated a series of systematic steps to superimpose on Tunisian justice a new and unfamiliar framework of courts. This new system, modeled on

those of the justice system in France, would process all justiciable matters involving French expatriates, including those with Tunisian litigants. This new courts framework exacerbated and confounded Tunisia's legal pluralism, imposing an unfamiliar system and granting it sovereign appellate jurisdiction over the country's indigenous justice framework. Proceedings were conducted in French by magistrates schooled in French law and procedure, all to the disadvantage of indigenous litigants accustomed to Arabic proceedings and the homegrown legal framework. As occurred in other European colonies, such dual-court systems, colonial and indigenous, served to reinforce the legal supremacy of the occupying colonial power.

Dealing with the complex assortment of jurisdictional exceptions available to non-French foreign nationals through their consular courts soon manifested itself to be a difficult and time-consuming administrative burden. In response, the French colonial administration commenced a painstaking process of negotiating individual capitulation agreements with consular diplomats from each foreign country with representatives in the protectorate. The objective was to consolidate the authority of this new framework of French colonial courts to exercise jurisdiction over all foreign nationals resident in Tunisia, thereby systematically eliminating the consular courts. Not all foreign governments were willing to do so without concessions, including foremost the Italians. Some insisted that French magistrates adjudicate matters involving their nationals utilizing their own law and procedure codes in place of the French versions. French officials temporarily countenanced these demands.

Notwithstanding these constraints, the new French courts gradually but methodically implemented French justice in Arab Tunisia. Colonial administrators progressively diminished the authority and status of the *wizera*, Tunisia's indigenous secular courts. In 1896, they created a new French administrative oversight service, the Directorate of Judicial Services (Directorate), and appointed a French magistrate to direct and manage it. They then notified *wizara* officials that their forums were henceforth under the control of the new Directorate. Within the next few years, Directorate officials organized six new regional tribunals in Tunisia's larger cities. By the end of the next decade, this incursion of French judicial administration into Tunisia's judicial sector progressed to a point at which the directorate appointed *commissaires du gouvernement* to each of Tunisia's secular courts.

Although the official language of court proceedings, both written and oral, was Arabic, neither fluency in the language nor formal legal training in Arabic legal terminology were required for these positions. Capacity in both local language and the law was sporadic among these court commissioners, yet they served in an inspectorate capacity that called for observing proceedings, assessing judicial capacity and passing judgment on judicial competence.

The Directorate also embarked on an effort to draft civil procedure, contracts and penal codes, relying on the collaboration of *wizara* officials and French advocates. The ensuing source documents were largely framed by drawing on existing French law and procedure.

As the French colonial courts solidified their jurisdiction and authority in cases with foreign and indigenous litigants, application of these new law and procedure codes, steeped in the French legal and judicial systems, gradually eclipsed Tunisia's established multifarious state, religious, and customary legal system. French colonial courts were staffed by French-trained magistrates who, unfamiliar with Tunisia's pluralist jurisprudence and local interpretation of Sharia law, relied on their training in French law, procedure and jurisprudence.

Judgments issued by *kadhis* affecting Europeans were subject to review by colonial magistrates, and all criminal cases were progressively reserved for French courts. Decisions of the religious-based courts and the first-instance French courts in Tunisia were appealable initially to the French Court of Appeal in Algiers and ultimately to the Court of Cassation in Paris.

The launch of the French regional courts and creation of the new Directorate introduced a new organizational framework in Tunisia for managing and administering courts. In time, the Directorate would transition into a justice ministry within the government's cabinet of ministries. This framework, patterned after the model in France's court system, introduced more rational but bureaucratic systems for maintaining and archiving case documents and recording case statistical data. Over time, these systems have evolved both in their complexity and in their control mechanisms into time-consuming administrative practices and procedures.

The French colonial regime persisted, encountering increasing resistance by indigenous Tunisians discouraged by a foreign occupier. Battling armed resistance in Tunisia, Algeria, Morocco and its other African and Southeast Asian colonies took an increasing toll on French resources in a world politic growing disenchanted with colonialism and inclining toward independence and self-government. In June 1954, the new French Prime Minister, Pierre Mendès France, initiated a policy of withdrawal policy from Tunisia. By late 1955, France started to forfeit its claims to Morocco as a protectorate and granted it independence the following year. In 1956, under the leadership of Habib Bourguiba who would rule the country for the next 31 years, Tunisia declared its independence and achieved the status of a sovereign state.

Clearly a leader with a clear sense of mission for Tunisian justice, by August 1956 Bourguiba abolished the provincial Sharia courts. He then issued an extraordinarily progressive decree promulgating a new Code of Personal Status that dramatically

enhanced the rights and equality of women, the first of the MENA and Near East countries to do so. The following year, in October 1957, Justice Ahmed Mestri, Tunisian Secretary of State, announced that the rabbinical courts had been abolished; disputes falling within the jurisdictional framework of Tunisian law would henceforth be adjudicated in the state courts of law. Two years later, in 1959, the Republic of Tunisia promulgated its first post-colonial constitution that established the positions of president of the republic, prime minister and the president and members of the legislative Chamber of Deputies.
This new constitution replaced the Constitution of the Fourth French Republic in force when the independence was declared. The new constitution was subsequently amended in 1988, 2002, and 2005. Significant departures from its French antecedent included provisions that strengthened the role of the executive power, declared Islam as the state religion, and reconfirmed Arabic as the state language. The preamble committed the newly independent state "…to remain faithful to the teachings of Islam, to the unity of the Greater Maghreb, to its membership of the Arab community, and to cooperation with the peoples who struggle to achieve justice and liberty…" Article V states that the republic "shall be founded on the principles of the rule of law and pluralism…" The 1959 Constitution also created a unified judicial system but one steeped in the substance, procedure and organization of the French system that it succeeded.

Annex B

Assessment Team Members

The four members of the Assessment Team with brief biographical statements are as follows:

Markus B. Zimmer advises government officials on institutional rule of law-based reform, development, and modernization. Since 1992, he has counseled leaders in 30 countries. In the past eight years, projects have taken him to Liberia, Emirate of Abu Dhabi, Georgia, Ukraine, Rwanda, Saudi Arabia, Iraq, Cambodia, Macedonia and Indonesia. Zimmer served for 19 years as Administrator of a federal trial court in the U.S. and for ten years in various management positions at Federal Judicial Center in Washington D.C. Zimmer holds B.A. and M.A. degrees from the University of Utah, Ed.M. and Ed.D. degrees from Harvard University. In 1994 he was a recipient of the national Director's Award for Outstanding Leadership from the Administrative Office of the U.S. Courts. Zimmer is a member of the *Utrecht Law Review* Scientific Council. He is the International Association for Court Administration's founding President and currently chairs its Advisory Council. He also is the Executive Editor of the *International Journal for Court Administration.*

Rhodri C. Williams is the Rule of Law Programme Manager for the International Legal Assistance Consortium (ILAC). Based in ILAC's headquarters in Stockholm, Sweden, Williams is tasked with coordinating a large, integrated set of rule of law programs supporting partners in seven countries of the Middle East and North Africa region. Prior to working for ILAC, Mr. Williams worked for ten years as a consultant on humanitarian, human rights, rule of law and transitional justice issues in fragile and post-conflict settings such as Bosnia, Cambodia, Colombia, Cyprus, Georgia, Kosovo, Lebanon, Liberia, Libya, Serbia and Turkey. Williams earned an M.A. in Geography from Syracuse University (USA), a Juris Doctorate from New York University and is admitted to the New York State Bar.

LeilaDachraoui is ILAC Representative in Tunisia since 2012. She has a bachelor of Law from Tunis 1 Faculty of Law, a master of law degree in International Private Law and European Law from *L'Université des*

Sciences Sociales of Toulouse, a Post-Graduate Master Degree in International Private law and International Comparative Law from Uppsala Faculty of Law. She is registered at the Tunisian Bar since 2000 and has 14 years of experience as a practicing advocate in all levels of Tunisia's courts. Ms. Dachroaui is also an Assistant Professor in Private Law at the Carthage High Institute of Commercial Studies and is currently preparing a thesis on competition law.

Ismael Benkhalifa serves as the Administrative, Finance and Reporting officer at ILAC's Tunisia Office. He has assisted with the organization and conduct of ILAC's national initiative to deliver training on "How to Judge in a Democratic Society" to judges at all levels of the Tunisian judiciary. He also assists in facilitating ILAC's regional MENA programme. Benkhalifa holds a Bachelor's degree, a masters I degree in Public International and European Law from Paris University (Paris XI, Orsay), and a master II degree in Maritime and Transportation law from Aix en Provence University (Aix-Marseille III). After being in charge of the import in an international transportation company, he held HR manager positions in IT and services companies. He also worked as a consultant for more than six years for the French Agency for the promotion of higher education and international mobility.

Annex C

Table of NCSC/ILAC Tunisian Assessment Team Meetings/Interviews and Contacts

19 – 31 January 2015

Date	Name	Title	Affiliation
19/01/15	Samir Annabi	Président	Tunisian Anti-Corruption Agency
19/01/15	William Massolin	Chef du Bureau	Council of Europe in Tunisia
20/01/15	Inès Maâtar	Chargée de Mission	Cabinet du Ministre de la Justice
20/01/15	Raja Chaouachi	Presiding Magistrate /Court President	Tunis First-Instance Tribunal I
20/01/15	Kamel Derouiche	Public Prosecutor	Tunis First-Instance Tribunal I
20/01/15	Dimiter Chalev Mazen Shaqoura	Chef du Bureau Adjoint Chef du Bureau	Office of the High Commissioner of Human Rights in Tunisia
21/01/15	Faouzi Ben Abdel Kader Fatma Khelil	General Prosecutor First Deputy General Prosecutor	Tunis Court of Appeals
21/01/15	Latifa Khemiri	Court Administrator /Chief Clerk	Tunis Court of Appeals
21/01/15	Thierry Rostan Tom Piroux Badr El Banna	Chef de Bureau Consultant Criminal Justice Officer, Corruption and Economic Crime Section, Division for Treaty Affairs	United Nations Office of Drugs and Crime in Tunisia
22/01/15	Raoudha El Mabrouk Yassine Khazri	Court Administrator/ Chief Clerk IT Administrator	Tunis First-Instance Tribunal I
22/01/15	Mohammed Fadhel Mahfoudh	President	National Bar Association of Tunisia
22/01/15	Filippo di Carpegna	Conseiller Technique Principal	United Nations Development Programme
23/01/15	Soraya El Jezi Ismahene Habib Fethi Mejri Hela Souissi Najed Nawara	Presiding Magistrate /Court President Judge and Vice-President, Family and Personal Affairs Chamber Public Prosecutor Chief Clerk (Acting) IT Administrator	Nabeul First-Instance Tribunal

Date	Name	Title	Affiliation
26/01/15	Kaaovich Mourad	Presiding Magistrate/Court President	Sfax First-Instance Tribunal
	Ramzi Jaoua	Public Prosecutor	
	Nabil J'mel	Court Administrator /Chief Clerk	
	Ahlem Koubaa	Deputy Clerk	
	Slim Masmoudi	Deputy Clerk	
	Lotfi Ben	Deputy Clerk	
	Abdallah	Deputy Clerk	
	Wahbi Du Jabon	Deputy Clerk	
	Klaii Bouzaiene	Deputy Clerk	
	Asma Koubran	Deputy Clerk	
27/01/15	Mounir Sudi	Presiding Magistrate /Court President	Sfax Court of Appeals
	Salem Fetoui	First-Deputy Presiding Magistrate/Presiding Judge	
	Mohamed Abid	General Prosecutor	
	Abdelaziz Feki	First Deputy General Prosecutor	
	Hekma Châari	Court Administrator /Chief Clerk	
28/01/15	Imed Derouiche	Director General /Magistrate	High Judicial Institute
	Abdessatar Ben Ammar	Director of Basic Training /Magistrate	
	Thouraya Fribi	Director of Continuing Training/Magistrate	
28/01/15	Khaled Ayari	Chief Magistrate /Justice of Tunisia	Interim Supreme Judicial Council of Tunisia
	Leila Ezzine	Member	
	Walid Mekki	Member	
	Radhouane El Ourthi	Member	
	Moufida Mahjoub	Member	
	Yossra Hamdi	Member	
	Mahmoud Kaabech	Member	
29/01/15	Ali El Hammemi	Presiding Magistrate /Court President	First-Instance Court of Bèja
	Ridha El Moussi	Court Administrator /Chief Clerk	
30/01/15	Catherine Durieux	Coordinatrice des Projects Pilotes	Technical Support and Reform Assistance Programme (PARJ) Delegation of the European Union in Tunisia
	Patrice de Charette	Chef de Mission/Expert en Réforme Légale	
	Marie-Hélène Enderlin	Chargée de Programmes Justice, Pénitentiaire et Bonne Gouvernance	

Date	Name	Title	Affiliation
30/01/15	Mahmoud Kaabache Ibrahim Weslati Omar Yahyaoui	General Inspector First Deputy General Inspector Inspector	Office of the General Inspectorate, Ministry of Justice
30/01/15	Richard C. Hinman	Directeur du Bureau	Bureau of International Law Enforcement and Justice, Embassy of the United States of America in Tunisia
31/01/15	Tahar Humdi and members	Chairman	Commission to Prepare Law on the New Supreme Judicial Council

Annex D

Overview of Caseload in all Tunisian Courts – 2010 – 2014

For statistical purposes, the 12-month period in Tunisia begins on 1 August and concludes on 31 July. The numbers in the tables below were provided to the Team by the General Inspectorate of the Ministry of Justice. As a careful analysis will reveal, the numbers from one statistical year to the next are imprecise. What is unclear is whether the inaccuracies are in the numbers provided by the individual courts in their statistical reports or whether the Ministry's statistical analysts somehow erred in their computations. Notwithstanding the errors, the numbers do permit some very general conclusions about relative caseload growth from one statistical year to the next. *Please note: The analysis does not include the two recently created new courts of appeals.*

Courts of Appeals

2009 – 2010				
Courts of Appeals	**Initial Pending**	**Incoming**	**Disposed**	**Final Pending**
Tunis	15,819	52,719	51,837	16,701
El Kef	1,617	14,579	13,661	3,255
Sousse	2,978	18,626	18,400	3,204
Monastir	2,745	14,823	13,693	3,875
Sfax	5,800	18,205	17,296	6,709
Gabes	1,392	5,804	6,204	992
Gafsa	3,310	9,421	10,412	2,319
Medenine	3,868	9,131	9,440	3,559
Nabeul	4,527	14,595	14,907	4,215
Bizerta	2,488	11,231	10,816	2,903
TOTAL	**45,264**	**169,134**	**166,666**	**47,732**

2010 – 2011				
Courts of Appeals	**Initial Pending**	**Incoming**	**Disposed**	**Final Pending**
Tunis	17,759	43,337	48,270	12,821
El Kef	3,205	11,368	12,037	2,536
Sousse	3,204	18,133	16,844	4,493
Monastir	3,875	12,027	13172	2,730
Sfax	6,673	13,614	17112	3,175
Gabes	1,176	4,257	4668	765
Gafsa	2,324	8,732	8994	2,062
Medenine	3,559	6,276	7628	2,207
Nabeul	4,813	10,045	10778	3,450
Bizerta	2,975	9,249	10010	2,214
TOTAL	**48,828**	**137,138**	**149513**	**36,453**

2011 – 2012				
Courts of Appeals	**Initial Pending**	**Incoming**	**Disposed**	**Final Pending**
Tunis	12,608	37,852	35,956	14,504
El Kef	2,536	10,008	8,864	3,680
Sousse	4,466	17,285	14,968	7,683
Monastir	2962	10,345	9,945	3,362
Sfax	3,626	9,179	9,514	3,291
Gabes	759	3,672	3,164	1,267
Gafsa	1,679	6,011	5,567	2,123
Medenine	1,926	5,566	5,361	2,131
Nabeul	3,185	9,714	8,333	4,556
Bizerta	2,229	8,147	7,980	2,396
TOTAL	**35,966**	**117779**	**109,652**	**44,093**

2012 – 2013				
Courts of Appeals	**Initial Pending**	**Incoming**	**Disposed**	**Final Pending**
Tunis	14,682	38,677	36,713	16,646
El Kef	3,602	11,551	9,658	5,495
Sousse	6,326	16,076	16,205	6,197
Monastir	3,330	9,487	9,391	3,426
Sfax	2,961	11,170	10,073	4,058
Gabes	1,250	4,202	3,795	1,657
Gafsa	2,003	6,334	5,443	2,896
Medenine	2,207	4,674	4,512	2,369
Nabeul	3,780	8,882	8,742	4,018
Bizerta	2,366	8,614	7,443	3,537
TOTAL	**42,605**	**119,667**	**111,975**	**50,297**

2013 – 2014				
Courts of Appeals	**Initial Pending**	**Incoming**	**Disposed**	**Final Pending**
Tunis	14,310	37,179	36,165	15,324
El Kef	17,438	12,735	11,970	5,468
Sousse	6,146	18,470	17,184	7,432
Monastir	3,531	10,541	10,532	3,540
Sfax	4,147	12,565	11,112	5,600
Gabes	1,531	4,997	4,620	1,908
Gafsa	2,796	7,326	5,979	4,143
Medenine	2,379	5,930	6,180	2,129
Nabeul	4,043	11,098	9,956	5,185
Bizerta	3,298	10,192	9,420	4,070
TOTAL	**46,884**	**131,033**	**123,118**	**54,799**

Initial Pending: Cases in process at the beginning of the statistical year.

Incoming: Number of new cases filed during the statistical year.

Disposed: Number of cases resolved during the statistical year.

Final Pending: Number of cases in process at the end of the statistical year.

First Instance and District Tribunals

The numbers in the five tables below reflect total numbers of cases for all of the first-instance tribunals and the district tribunals grouped by the ten appeals courts that oversee them.

2009 – 2010					
Governorats with Appeals Courts	**Types of Courts**	**Initial Pending**	**Incoming**	**Disposed**	**Final Pending**
Tunis	First-Instance	293,150	569,328	510,344	352,134
	District	7,008	126,285	124,319	8,974
Nabeul	First-Instance	47,999	228,219	223,326	52,892
	District	5,771	52,514	52,478	5,807
Bizerta	First-Instance	23,522	171,185	155,045	39,662
	District	4,807	50,168	51,000	3,975
El Kef	First-Instance	29,693	230,923	2296,84*	30,932
	District	9,303	97,056	96,849	9,510
Sousse	First-Instance	35,403	297,988	297,015	36,376
	District	6,045	107,094	106,550	6,589
Monastir	First-Instance	18,861	206,779	203,347	22,293
	District	5,886	106,353	107,786	4,553
Sfax	First-Instance	68,106	293,052	301,654	59,504
	District	9,461	93,628	89,410	13,679
Gabes	First-Instance	13,224	99,716	101,634	11,306
	District	4,611	37,156	36,981	4,786
Gafsa	First-Instance	20,567	141,172	138,808	22,931
	District	5,588	55,607	56,281	4,914
Medinine	First-Instance	36,143	111,837	130,731	17,246
	District	11,859	48,021	51,837	8,043

2010 – 2011					
Governorats with Appeals Courts	**Types of Courts**	**Initial Pending**	**Incoming**	**Disposed**	**Final Pending**
Tunis	First-Instance	223,233	436,570	385,206	274,597
	District	8,047	81,052	78,887	10,212
Nabeul	First-Instance	51,272	180,372	170,943	60,701
	District	5,790	34,195	32,208	7,777
Bizerta	First-Instance	39,425	106,326	107,933	37,801
	District	3,912	39,298	38,738	4,472
El Kef	First-Instance	29,768	158,127	140,081	47,814
	District	9,140	61,359	60,372	10,127
Sousse	First-Instance	38,524	217,856	206,740	49,640
	District	5,645	81,972	81,149	6,468
Monastir	First-Instance	21,193	147,664	140,256	28,581
	District	4,667	61,179	60,124	5,722
Sfax	First-Instance	59,822	177,870	172,866	64,826
	District	16,687	65,620	70,726	11,581
Gabes	First-Instance	10,656	57,159	52,132	15,683
	District	32,285	27,562	29,279	3,006
Gafsa	First-Instance	21,215	121,750	105,263	37,702
	District	4,855	35,712	35,500	5,067
Medinine	First-Instance	16,365	65,034	68,003	13,396
	District	7,834	33,164	33,649	7,349

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2011 – 2012					
Governorats with Appeals Courts	**Types of Courts**	**Initia Pending**	**Incoming**	**Disposed**	**Final Pending**
Tunis	First-Instance	265,346	409,345	372,390	302,301
	District	9,036	68,860	67,908	9,988
Nabeul	First-Instance	60,093	148,860	114,133	94,820
	District	7,484	30,731	29,109	9,106
Bizerta	First-Instance	37,790	88,052	76,853	48,989
	District	3,549	28,542	27,863	4,228
El Kef	First-Instance	47,980	135,543	126,838	56,685
	District	9,243	56,351	56,735	8,859
Sousse	First-Instance	50,671	190,041	172,692	68,020
	District	6,366	68,498	66,113	8,751
Monastir	First-Instance	28,398	129,989	114,689	43,698
	District	5,321	42,000	42,062	5,259
Sfax	First-Instance	65,290	152,121	146,015	71,396
	District	8,516	36,982	38,956	6,542
Gabes	First-Instance	15,094	41,188	37,506	18,776
	District	3,010	31,756	22,736	12,030
Gafsa	First-Instance	36,896	101,193	76,878	61,211
	District	4,937	37,094	36,301	5,730
Medinine	First-Instance	12,471	55,020	46,053	21,438
	District	5,465	20,214	20,856	4,823

2012 – 2013					
Governorats with Appeals Courts	**Types of Courts**	**Initial Pending**	**Incoming**	**Disposed**	**Final Pending**
Tunis	First-Instance	276,893	425,231	364,984	337,140
	District	9,525	66,799	63,202	13,122
Nabeul	First-Instance	92,073	114,427	90,729	115,771
	District	8,401	21,939	21,733	8,607
Bizerta	First-Instance	49,694	87,721	69,744	67,671
	District	4,250	23,993	23,162	5,081
El Kef	First-Instance	54,557	136,647	14,138	57,066
	District	8,585	51,699	50,207	100,177
Sousse	First-Instance	62,978	207,189	205,350	64,817
	District	7,959	53,175	53,504	7,630
Monastir	First-Instance	41,638	120,070	116,972	44,736
	District	5,304	41,581	41,106	5,779
Sfax	First-Instance	64,453	156,617	170,070	51,000
	District	9,077	25,804	28,918	5,963
Gabes	First-Instance	18,417	49,491	43,724	24,184
	District	11,291	24,951	21,357	14,885
Gafsa	First-Instance	48,689	110,152	95,096	63,745
	District	4,905	33,827	33,106	5,626
Medinine	First-Instance	19,525	56,602	48,624	27,503
	District	4,857	17,498	17,472	4,883

2013 – 2014					
Governorats with Appeals Courts	**Types of Courts**	**Initial-pending**	**Incoming**	**Disposed**	**Finalpend-ing**
Tunis	First-Instance	338,567	420,286	338,865	419,988
	District	11,264	78,080	76,344	13,000
Nabeul	First-Instance	102,172	140,557	141,772	100,957
	District	8,555	28,960	28,000	9,515
Bizerta	First-Instance	62,645	94,925	95,518	62,052
	District	4,275	28,532	27,388	5,419
El Kef	First-Instance	55,170	154,147	145,781	63,536
	District	10,303	57,011	56,415	10,899
Sousse	First-Instance	61,363	218,466	199,475	80,354
	District	8,550	58,879	57,379	10,050
Monastir	First-Instance	40,327	124,301	124,370	40,258
	District	6,049	52,016	51,715	6,350
Sfax	First-Instance	66,851	170,676	163,298	74,229
	District	5,494	30,421	30,350	5,565
Gabes	First-Instance	23,048	46,344	47,085	22,307
	District	3,679	10,442	10,626	3,495
Gafsa	First-Instance	63,409	130,781	127,235	66,955
	District	5,492	37,170	35,810	6,852
Medinine	First-Instance	26,572	63,814	62,602	27,784
	District	4,853	23,264	21,684	6,433

Regions	Types of Courts	Pending Cases 2010	Pending Cases 2011	Pending Cases 2012	Pending Cases 2013	Pending Cases 2014
Tunis	First-Instance	352,134	274,597	302,301	337,140	419,988
	District	8,974	10,212	9,988	13,122	13,000
Nabeul	First-Instance	52,892	60,701	94,820	115,771	100,957
	District	5,807	7,777	9,106	8,607	9,515
Bizerta	First-Instance	39,662	37,801	48,989	67,671	62,052
	District	3,975	4,472	4,228	5,081	5,419
El Kef	First-Instance	30,932	47,814	56,685	57,066	63,536
	District	9,510	10,127	8,859	100,177	10,899
Sousse	First-Instance	36,376	49,640	68,020	64,817	80,354
	District	6,589	6,468	8,751	7,630	10,050
Monastir	First-Instance	22,293	28,581	43,698	44,736	40,258
	District	4,553	5,722	5,259	5,779	6,350
Sfax	First-Instance	59,504	64,826	71,396	51,000	74,229
	District	13,679	11,581	6,542	5,963	5,565
Gabes	First-Instance	11,306	15,683	18,776	24,184	22,307
	District	4,786	3,006	12,030	14,885	3,495
Gafsa	First-Instance	22,931	37,702	61,211	63,745	66,955
	District	4,914	5,067	5,730	5,626	6,852
Medinine	First-Instance	17,246	13,396	21,438	27,503	27,784
	District	8,043	7,349	4,823	4,883	6,433

Regions	Types of Courts	New Cases 2010	New Cases 2011	New Cases 2012	New Cases 2013	New Cases 2014
Tunis	First-Instance	569,328	436,570	409,345	425,231	420,286
	District	126,285	81,052	68,860	66,799	78,080
Nabeul	First-Instance	228,219	180,372	148,860	114,427	140,557
	District	52,514	34,195	30,731	21,939	28,960
Bizerta	First-Instance	171,185	106,326	88,052	87,721	94,925
	District	50,168	39,298	28,542	23,993	28,532
El Kef	First-Instance	230,923	158,127	135,543	136,647	154,147
	District	97,056	61,359	56,351	51,699	57,011
Sousse	First-Instance	297,988	217,856	190,041	207,189	218,466
	District	107,094	81,972	68,498	53,175	58,879
Monastir	First-Instance	206,779	147,664	129,989	120,070	124,301
	District	106,353	61,179	42,000	41,581	52,016
Sfax	First-Instance	293,052	177,870	152,121	156,617	170,676
	District	93,628	65,620	36,982	25,804	30,421
Gabes	First-Instance	99,716	57,159	41,188	49,491	46,344
	District	37,156	27,562	31,756	24,951	10,442
Gafsa	First-Instance	141,172	121,750	101,193	110,152	130,781
	District	55,607	35,712	37,094	33,827	37,170
Medinine	First-Instance	111,837	65,034	55,020	56,602	63,814
	District	48,021	33,164	20,214	17,498	23,264

Annex E

Model Continuancepolicy

It is the policy of the Tunisian Courts to provide justice for citizens without unnecessary delay and without undue waste of the time and other resources of the Tunisian Courts, the litigants, and other case participants. For all of its case types and dockets, and in all of its courtrooms, the Tunisian Courts look with strong disfavor on motions or requests to continue court events. To protect the credibility of scheduled trial dates, trial-date continuances are especially disfavored.

Except in unusual circumstances, any continuance motion or request must be in writing and filed not later than forty-eight (48) hours before the court event for which rescheduling is requested. Each continuance motion or request must state reasons and be signed by both the advocate and the party making the request.

Courts will grant a continuance only for good cause shown. On a case-by-case basis, the presiding magistrate will evaluate whether sufficient cause justifies granting a continuance.

The following will generally not be considered sufficient causetogrant acontinuance:

- Advocates or the parties agree to a continuance
- The case has not previously been continued
- The case is likely to settle if a continuance is granted
- Discovery has not been completed
- A new advocate has been retained in the case or a party wants to retain new a new advocate
- Unavailability of a witness who has not been subpoenaed
- Plaintiff has not yet fully recovered from injuries when there is no competent evidence available as to when plaintiff will fully recover
- A party or advocate is unprepared to try the case for reasons including, but not limited to, the party's failure to maintain necessary contact with counsel
- A police officer or other witness is either in training or is scheduled to be on vacation unless the presiding magistrate is advised of the conflict soon after the case is scheduled and sufficiently in advance of the trial date
- Any continuance of trial beyond a second trial date setting

The following will generally be considered sufficient cause to grant a continuance:

- Sudden medical emergency (not elective medical care) or death of a party, counsel or material witness who has been subpoenaed
- A party did not receive notice of the setting of a hearing date through no fault of that party or that party's advocate
- Facts or circumstances arising or becoming apparent too late in the proceedings to be fully corrected and which, in the view of the presiding magistrate, would likely cause undue hardship or possibly miscarriage of justice if the trial is required to proceed as scheduled
- Unanticipated absence of a material witness for either party • Illness or family emergency of the advocate

Any grant of a continuance motion or request by the presiding magistrate shall be made on the record, with an indication of who requested it and the reasons for granting it. Whenever possible, the presiding magistrate shall reschedule the hearing not later than seven (7) days after the date from which it was continued.

Information about the source of each continuance motion or request in a case and the reason for any continuance granted by the presiding magistrate shall be entered for that case in the court's computerized case management information system. At least once a quarter, the court president and other magistrates of the court shall promote the consistent application of this continuance policy by reviewing and discussing a computer report by major case type on the number of continuances requested and granted during the previous period, especially as they relate to the incidence and duration of trial-date continuances. As necessary, the courts shall work with bar representatives and court-related agencies to seek resolution of any organizational or systemic problems that cause cases to be rescheduled, but which go beyond the unique circumstances of individual cases.

Credits: The original version of this Model Continuance Policy was developed by David Steelman, Principal Court Consultant, National Center for State Courts, USA

Annex F

Abu Dhabi Commercial Courts
Court Staff and Management Training Needs Survey

The Abu Dhabi Commercial Courts Project plan includes a series of training programs for court managers and staff. As these programs are developed, it will be useful to know what subject areas or topics court staff and managers prefer be covered in the training. Please respond to the questions listed below and return this form as the directions provide. We appreciate your cooperation.

Value	Description
1	Most challenging/most difficult/little or no knowledge
2	More challenging/more difficult/limited knowledge
3	Moderately challenging/moderately difficult/some knowledge
4	Less challenging/less difficult/basic knowledge
5	Least challenging/least difficult/extensive knowledge

1. For all court employees:
In what aspects of your position in the court do you experience the most difficulties or challenges? Please circle the response that most clearly represents your assessment using the scale described above.

a. Case Procedure:	**Circle Response**
How well do you understand/explain:	
i. Basic civil case procedure and requirements	1 2 3 4 5
ii. Basic criminal case procedure and requirements	1 2 3 4 5
iii. Basic administrative case procedure and requirements	1 2 3 4 5
iv. Basic commercial case procedure and requirements	1 2 3 4 5
v. Basic family law case procedure and requirements	1 2 3 4 5
vi. Basic legal terms and concepts	1 2 3 4 5
vii. Advanced legal terms and concepts	1 2 3 4 5

Please add any comments

b. Case Processing:		**Circle Response**				
How well do you understand/explain:						
i.	What is required for filing a case with a first-instance court	1	2	3	4	5
ii.	What is required for filing a case with a second-instance court	1	2	3	4	5
iii.	Under what conditions a case filing should be rejected	1	2	3	4	5
iv.	How to register new first-instance cases	1	2	3	4	5
v.	How to register second-instance cases	1	2	3	4	5
vi.	How new cases are assigned to first-instance judges	1	2	3	4	5
vii.	How new cases are assigned to second-instance judges	1	2	3	4	5
viii.	How to provide service of process/party notification	1	2	3	4	5
ix.	How to prepare and organize documents in the case file	1	2	3	4	5
x.	What documents belong or do not belong in the case file	1	2	3	4	5
xi.	How to prepare/transmit a case file to a second-instance court	1	2	3	4	5
xii.	How to organize/process evidence documents/objects	1	2	3	4	5
xiii.	When the case file is complete	1	2	3	4	5
xiv.	How to assist judges with scheduling hearings	1	2	3	4	5
xv.	How to assist judges with case management	1	2	3	4	5
xvi.	When the case is ready for trial	1	2	3	4	5
xvii.	How to deal with case witnesses	1	2	3	4	5
xviii.	How to deal with case experts	1	2	3	4	5
xix.	How to determine when the case file can be archived	1	2	3	4	5

Please add any comments

c. Laws /Regulations:		**Circle Response**				
How well do you understand/explain:						
i.	UAE Constitution sections on judges & courts	1	2	3	4	5
ii.	Code of Civil Procedure	1	2	3	4	5
iii.	Concerning Passing the Penal Procedures Law for the UAE	1	2	3	4	5
iv.	Laws/regulations on Abu Dhabi government employment	1	2	3	4	5

Please add any comments

d. Access To Case Documents:	**Circle Response**
How well do you understand:	
i. Who is authorized to review active court case files	1 2 3 4 5
ii. Who is authorized to obtain copies of case file documents	1 2 3 4 5
iii. Who is authorized to review closed court case files	1 2 3 4 5
iv. Who is authorized to obtain copies of court decisions	1 2 3 4 5
v. Who is authorized to review confidential case files	1 2 3 4 5

Please add any comments

e. Computer Systems:	**Circle Response**
Do you understand/know:	
i. How to turn on a computer	1 2 3 4 5
ii. How to use basic Windows tools	1 2 3 4 5
iii. How to set up and prepare documents on a computer	1 2 3 4 5
iv. How to save and retrieve documents on a computer	1 2 3 4 5
v. How to format and edit documents on a computer	1 2 3 4 5
vi. What the Internet is and how it works	1 2 3 4 5
vii. How to search the Internet	1 2 3 4 5
viii. How to use a computer for e-mail	1 2 3 4 5
ix. How to attach documents to e-mail messages	1 2 3 4 5
x. How to open documents attached to e-mail messages	1 2 3 4 5
xi. How to prepare an electronic spreadsheet on a computer	1 2 3 4 5
xii. How to create a simple computer database	1 2 3 4 5

Please add any comments

f. Workng With People: **Circle Response**

How effectively do you deal with:

i.	Advocates representing parties	1 2 3 4 5
ii.	Parties who represent themselves	1 2 3 4 5
iii.	Prosecutors	1 2 3 4 5
iv.	Members of the public	1 2 3 4 5
v.	Other court employees	1 2 3 4 5
vi.	Your supervisors and managers	1 2 3 4 5
vii.	Judges	1 2 3 4 5

Please add any comments

g. Other Topics:

Please add any other topics you would like to have covered in the court staff training programs

Name of Topic	Brief Description of Topic

2. For Court Managers and Supervisors:

In what aspects of your position in the court do you experience the most difficulties or challenges? Please circle the response that most clearly represents your assessment using the scale described at beginning of this questionnaire.

a. Communication: **Circle Response**

How effectively do you communicate with:

i.	Your chief judge/court president	1 2 3 4 5
ii.	Other judges in your court	1 2 3 4 5
iii.	Court staff under your supervision	1 2 3 4 5
iv.	Advocates representing parties	1 2 3 4 5
v.	Prosecutors	1 2 3 4 5
vi.	Parties without representation	1 2 3 4 5
vii.	Judicial Department officials and staff	1 2 3 4 5
viii.	Members of the public	1 2 3 4 5

Please add any comments

b. Motivation:	**Circle Response**
How effectively are you able to motivate:	
i. Yourself	1 2 3 4 5
ii. Your chief judge/court president	1 2 3 4 5
iii. Other judges in your court	1 2 3 4 5
iv. Court staff under your supervision	1 2 3 4 5
v. Advocates who practice in your court	1 2 3 4 5

Please add any comments

c. Discipline:	**Circle Response**
How effectively are you able to:	
i. Determine when discipline should be administered	1 2 3 4 5
ii. Determine what level of discipline is appropriate	1 2 3 4 5
iii. Take disciplinary action promptly rather than postponing it	1 2 3 4 5
iv. Discipline staff in a fair and objective manner	1 2 3 4 5
v. Avoid becoming personally involved when disciplining staff	1 2 3 4 5
vi. Avoid carrying grudges against staff who have been disciplined	1 2 3 4 5

Please add any comments

d. Organizational Change And Development	**Circle Response**
i. Create an organizational environment that embraces change	1 2 3 4 5
ii. Prepare employees to deal with and accept organizational change	1 2 3 4 5
iii. Actively involve employees in introducing change	1 2 3 4 5
iv. Successfully implement major organizational change	1 2 3 4 5
v. Deal effectively with employees who resist or fear change	1 2 3 4 5
vi. Encourage and reward innovative and progressive employees	1 2 3 4 5
vii. Regularly provide staff training and development opportunities	1 2 3 4 5

viii. Encourage suggestions for more efficient work processes 1 2 3 4 5

Please add any comments

e. Problem Solving: **Circle Response**

How effectively are you able to:

i. Assess and solve administrative problems/issues 1 2 3 4 5

ii. Assess and solve staff interpersonal problems/issues 1 2 3 4 5

iii. Assess and solve legal procedure problems/issues 1 2 3 4 5

iv. Assess and solve non-legal problems/issues involving parties 1 2 3 4 5

Please add any comments

f. Other Topics:

Please add any other topics you would like to have covered in the court staff training programs

Name of Topic	Brief Description of Topic


Bizerte
Tunis
Mateur
Tabarka
Pont du Fahs
Enfidaville
Kairouan
Algeria
Sbeitla
Kasserine
Sfax
Gafsa
Gabès
Mareth
Medenine
Tunisia
Libya

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ILAC Head Office
Hantverkargatan 21, 4th floor
SE-112 21 Stockholm
Sweden
Phone +46 8-545 714 20

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www.ilacnet.org

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NCSC International Programs Office
2425 Wilson Boulevard
Suite 350
Arlington VA 22201
U.S.A.
Phone: +1 703 841 6900

www.ncsc.org

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