

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED
BY TUNISIA**

ARTICLE 9, PARAGRAPH 1 UNCAC

PUBLIC PROCUREMENT

TUNISIA (THIRD MEETING)

In application of the provisions of article 9 of the Convention, Decree No. 3158 of 2002, dated 17 December 2002, concerning the revised public procurement system, completed by Decree No. 3018 of 2009, dated 19 October 2009, [contains] provisions concerning prohibition of conflicts of interest.

Paragraph 2, of Section 13, stipulates as follows: “Contracts may not be concluded with suppliers or representatives of manufacturers in Tunisia or abroad who are public servants in the same department or public institution or establishment that will conclude the contract for goods or services or who have ceased to work for it within the last five years”.

The legislator strengthened this principle, giving it penal force by criminalizing acts involving conflict of interest. In this framework, Section 97 bis of the Criminal Code provides as follows: “A prison sentence of three years and a fine of three thousand dinars shall be imposed on any public servant who undertakes directly or indirectly or as an associate to participate himself or through an intermediary in the form of work or capital in running a private establishment that is by virtue of his duties subject to his control or who was responsible for the conclusion of the contract with it or was an active element in the conclusion of that contract. The penalty shall be reduced to two years’ imprisonment and a fine of one thousand dinars if the public servant has taken advantage of his former position and entered into such participation within five years of ceasing to exercise his duties and did so in order to obtain benefit for himself or another person or in order to harm the department”.

Section 97, 2, of the Criminal Code provides as follows: “A prison sentence of two years and a fine of one thousand dinars shall be imposed on any civil servant who directly or indirectly or as an associate embarks upon a paid private activity that has a direct connection with his duties without having obtained permission to do so. The conditions and procedures for obtaining permission from the department shall be regulated by decree. The same penalty shall be imposed on any civil servant who commits such an act within five years of ceasing to exercise his duties and has not been legally permitted to do so”.