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RÉSEAU EURO-MÉDITERRANÉEN DES DROITS DE L'HOMME
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des Droits de l'Homme



Copenhagen, Geneva, London, Paris - 3 November 2010

At the attention of:

M. José Maria Bento Company, Président

Mme Fatoumata Diakite, première Vice-présidente et Présidente du Groupe régional africain

M. Antonio Mura, Secrétaire-général

M. Giacomo Oberto, Secrétaire-général adjoint, Délégué aux Affaires africaines

M. Raffaele Gargiulo, Secrétaire-général adjoint, Délégué aux Affaires africaines

Union Internationale des Magistrats, Palazzo di Giustizia, Piazza Cavour, 00193 Rome - Italie

cc : Associations nationales et groupements représentatifs nationaux membres de l'UIM

Reference: Situation of the Association of Tunisian Judges (Association des Magistrats Tunisiens, AMT)

Mr President,
Madam Vice-President,
Mr Secretary General,
Honourable Representatives,

On the occasion of the forthcoming meeting of the International Association of Judges (IAJ), taking place in Dakar from 6 to 11 November 2010, we, the undersigned organisations, wish to bring to your attention the constant harassment to which the ousted members of the Executive Bureau of the Association of Tunisian Judges (AMT) are subjected.

Because of their dedication to defending the interests of judges, protecting the independence of their profession and applying the fundamental principles associated with the independence of the judiciary, the democratically elected members of the AMT Executive Bureau have been the target of arbitrary measures since 2005 and have been ousted from their positions.¹

The Tunisian authorities intensified their pressure against the AMT officers after the latter called for greater independence for the judiciary and criticised the shortcomings of the High Council of the Magistracy, which is responsible for nominations, promotions, transfers and disciplinary actions – and which, among other things, has the power to remove judges. The government is said to have put pressure on the members of the Association to disavow its leaders. In August 2005, the President of the AMT was asked to surrender the keys to the AMT office to the Public Prosecutor, apparently on orders from the Ministry of Justice and Human Rights. He refused to follow this order since it was not a judicial decision, but the locks were changed to prevent AMT members from gaining access to the premises. The telephone and facsimile lines, as well as the Internet connection, were increasingly tampered with and ultimately terminated.

Following the closure of the Association's headquarters by force and its subsequent transfer to a provisional committee appointed by the government, the members of the AMT's Executive Bureau were replaced, at a special congress convened in December 2005, by new elected members who, according to some sources, are close to the government. Several judges who were active in the Association's Executive Bureau were arbitrarily transferred to positions located hundreds of kilometres from their families, in violation of international standards guaranteeing the principle of permanency of employment. In 2006, the AMT bylaws were amended to prevent these judges from running for office on the Association's Executive Committee. The AMT meetings organised by the Ministry of Justice and Human Rights in 2006 and 2008 made it possible to replace the ousted leadership by a subservient committee in an attempt to silence the Association's legitimate bodies.

The Tunisian authorities have also instituted a deliberate strategy of harassment targeting the ousted leaders of the AMT, including abusively withholding part of their salaries; blocking promotions; appointing the leaders to remote areas of Tunisia for reasons that do not appear to be related to the needs of the justice system, but to be more closely associated with punitive measures, thus subverting the principle of permanency of employment of judges; and regularly preventing the unseated AMT leaders from leaving the country to take part in meetings and conferences linked to their professional activities. The ousted judges have appealed their transfers and other measures taken against them to the administrative tribunal, but at the time of writing, no decision had been rendered in the appeal procedure.

It must be pointed out that the current AMT leadership, which will make up the Tunisian delegation at the Dakar conference, have consistently denied that the Association's ousted leaders have been unfairly treated,² in utter denial of the very *raison d'être* of such an organisation – namely, to defend the interests of the profession and the rights of their colleagues. The current leadership have, in effect, displayed an attitude of total submission to the government, which is contrary to the need for the Association to remain neutral.³

¹ See, in particular the following documents enclosed with this letter: International Freedom of Expression exchange, Tunisia Monitoring Group (IFEX-TMG), *Judges who call for independent judiciary targeted for speaking out*, September 2010; and Amnesty International, *Independent voices stifled in Tunisia*, July 2010.

² Adnene El Heni, President of the AMT Bureau, made the following statement to the daily *Assabah* on 15 August 2010: 'There were no abusive transfers... the rate of positive responses to transfer requests is in excess of 70 per cent, more than 120 judges have received promotions, and all requests aimed at bringing spouses closer together have been met'. See the press release published on 19 August 2010 by the ousted leadership of the AMT.

³ See the motion submitted by the National Council of AMT on 18 October 2010 (appended).

Mr President,
Madam Vice-President,
Mr Secretary General,
Honourable Representatives,

Every day, the judges Kalthoum Kennou, Wassila Kaabi, Ahmed Rahmouni and his wife Leila Abid, Raoudha Karafi, Leila Bahria, Hamadi Rahmani, Noura Hamdi, Mohktar Yahyaoui, and their families, are paying the price for their courageous commitment to the independence of the judicial profession in Tunisia.

Bearing in mind the basic principles underlying the independence of the judiciary and, at a more general level, the international standards associated with the independence of the profession, the undersigned organisations call upon the Central Council of the IAJ to request the Tunisian authorities to bring to an end the harassment to which independent judges are subjected in Tunisia, as well as all forms of interference in the affairs of the AMT.

Our organisations also call upon the IAJ to demand that a delegation representing the aforementioned judges be summoned to its secretariat to report on the harassment targeted at them, unless representatives of the IAJ can visit them in Tunisia.

Enclosed with this letter, for your information, are documents and reports in which our organisations have reported their findings regarding the situation of the Association of Tunisian Judges.

We thank you in advance for giving your kind attention and consideration to this letter.

Respectfully yours,

Malcolm SMART, Middle East and North Africa Programme Director, Amnesty International



Wilder TAYLER, Secretary General of the International Commission of Jurists - ICJ



Souhayr BELHASSEN, President of the international federation for human rights - FIDH



Kamel JENDOUBI, President of the Euro-Mediterranean human rights network -EMHRN



Rohan JAYASEKERA, IFEX-TMG Chair and Deputy Chief Executive of Index on Censorship - IFEX



Eric SOTTAS, President of the World Organisation against torture - OMCT



Annexes :

- Amnesty International, « *Independent voices stifled in Tunisia* », July 2010
- International Freedom of Expression Exchange Tunisia Monitoring Group (IFEX-TMG), « *Behind the Façade: How a Politicised Judiciary & Administrative Sanctions Undermine Tunisian Human Rights* », September 2010.
- Statement of the ousted leaders of the Association of Tunisian Judges AMT, « *Une si chère et coûteuse indépendance* », (in French)
- Statement of the ousted leaders of the Association of Tunisian Judges AMT, 18 August 2010 (in French)
- Statement of the actual executive board of the Association of Tunisian Judges AMT, 18 August 2010, (in French)