

STATEMENT

By the Decree-Law 2022-11 of 12 February 2022, the President of the Republic of Tunisia dissolved the High Council for the Judiciary (HCJ) which is the guarantor of the independence and proper functioning of the judiciary and replaced it for a provisional Superior Council whose members were directly appointed by him.

The International Association of Judges (IAJ), of which the Tunisian Association of Judges is a member, by a communication of 06 February 2022, and the African Regional Group of the IAJ, by a statement of 10 May 2022, promptly denounced this measure, which undermines the rule of law, characterized by the separation of powers, and constitutes an undeniable impediment towards the independence of judges.

By a new Decree 2022-516 of 01 June 2022, again the President of the Republic has given himself the power to unilaterally dismiss judges with the prohibition of any kind of appeal against the decision of dismissal, violating once again the principle of the independence of the judiciary and the very foundations of the rule of law.

According to this text, the President of the Republic proceeded with the collective dismissal of 57 judges, without any disciplinary procedure or the possibility of appeal, giving rise to a profound crisis in the Tunisian judiciary.

The IAJ, once again, in a press release dated 11 June 2022, emphasized the existence of a serious violation of elementary rules characterizing the rule of law and an intolerable violation of the principle of the separation of powers and, therefore, requested that this decree was immediately reversed and that any disciplinary proceedings against these magistrates be subject to internationally established rules, which guarantee a fair, impartial, appealable and non-controlled procedure.

The IAJ decided also to organize a mission to Tunisia, led from 7 to 10 July 2022, by Mr. Christophe REGNARD, Honorary President of the IAJ, whose report clearly mentions a catastrophic situation for the Tunisian justice.

In parallel, acting under the law, through a judicial law suit led by the Association of Tunisian Judges, together with other organizations of the judiciary, it was possible to obtain a judicial ruling from the Administrative Court of Tunis, on August 9, 2022, ordering the suspension of the execution of this illicit order to dismiss the concerned judges.

Ignoring all these statements, the Executive Power refused to obey to this Court decision and instead took new measures to circumvent it namely by carrying out irregular

acts tending to prohibit those judges even from accessing their offices and by initiating criminal proceedings against them.

Several bodies within the judiciary, including the Association of Tunisian judges, denounced this current situation and called on the President of the Republic to enforce the decision of the Administrative Court.

The Association of Tunisian judges notes that its President, in this case, Mr. Hmedi ANAS, is being harassed and threatened with criminal procedures simply because of his activities in the Association of Judges, following the legitimate protest movements led by the said Association against the decisions of the President of the Republic.

The International Association of Judges (IAJ), whose main purpose is to safeguard the independence of the Judiciary, an essential condition for the judicial function and to the guarantee of basic human rights and freedoms:

- Denounces, as in previous statements, the various described violations already committed;

- Urge the Tunisian State to avoid all arbitrary disciplinary, or criminal, measures against judges in the exercise of their freedom of association and freedom of expression to defend the independence of the judiciary and its institutions, and to confront any attempt by the executive to control the judiciary;

- Demands adequate respect for the adversarial principle according to which every person must have access to the documents and evidence produced by his opponent, an essential condition of the right of defense and of a fair trial;

- Requests the Executive Power to refrain from initiating any criminal proceedings against judges, because of the peaceful exercise of their rights;

It expresses, once again, its solidarity with Mr. Hmedi ANAS and to all Tunisian judges in their struggle for an independent judiciary, based on long established international standards.

August 17, 2022