



THREAT TO THE INDEPENDENCE OF JUSTICE IN TUNISIA: WE MUST NOT ABANDON THE CAUSE OF DEMOCRATIC JUSTICE IN TUNISIA

We have only one world in which justice is a precious value in democracy and where the independence of justice and the principles of the rule of law and separation of powers should prevail.

If the cruel news of the invasion of Ukraine occupies our minds and our mobilizations, MEDEL remains attentive to the attacks on these principles in many countries and especially in Tunisia, a country where despite many difficulties after the Jasmine Revolution, we could have hope for a democratic rule of law. Several members of MEDEL had the opportunity to accomplish missions there and to appreciate the hospitality of the Tunisian people and their commitment to the democratic change initiated by the revolution.

Everyone has in memory the images of the Tunisian uprising of December 2010-January 2011. This sudden manifestation of the popular strength of democratic ideals shook many other Arab countries. Interest in the "Arab Spring" weakened, however, when, despite the legitimate aspirations of the people, authoritarian regimes were installed, tolerated by the concert of nations in the name of the fight against Islamic terrorism.

In Tunisia, however, this historic moment was believed to have been stabilized in time thanks to a successful transition to an innovative Constitution and an active civil society. Justice was central to the reform of institutional organization. The Constitution was expected to achieve a significant transformation: the independence of all justice systems - administrative, financial and judicial - was proclaimed, including the magistrates of the Public Prosecutor's office.

In this new institutional landscape, the establishment of a new Supreme Council of the Judiciary became the cornerstone of the construction of an independent judiciary. In the CSM created by the constitution and by law, judges, academics and lawyers were all elected by their peers.

The CSM had administrative and financial autonomy. It elected its president from among its members, who were magistrates of the highest rank, and drew up a draft budget, which it presented to the relevant committee of the Parliament.

The end of the transition to democratic Rule of Law in Tunisia?

After assuming full power by freezing the Parliament, Tunisian President Kaïs Saïed attacked the judiciary. First, he announced his intention to dissolve the High Council of the Judiciary (CSM), which was denounced by all international bodies such as the United Nations High Commissioner for Human Rights and the European Union, which supports the country's democratic transition.

President Kaïs Saïed has, despite everything, issued the decree of dissolution of the High Council of the Judiciary and set up a provisional council, without time limit.

Each of the three councils is composed of four members sitting because of their functions. For the judiciary, these are the heads of the Court of Cassation, the Director of Judicial Services at the Ministry of Justice and the President of the "Real Estate Court" of Tunis. In addition, there are three members appointed by the president who must be retired.

The president may "oppose" transfers and promotions decided by the provisional council. If the latter does not comply, he can decide himself on the magistrates concerned.



In disciplinary matters, it will be up to the president to ask the CSM to dismiss the magistrates appointed by him. The CSM will then be obliged to suspend the magistrates concerned and to decide within a period of one month. If this deadline is not met, the president will dismiss the judges himself.

All new members of the provisional high council have now been sworn in.

The violation of the Constitution by the dissolution of the CSM and the subsequent takeover of a "provisional" CSM by the executive branch seriously undermines the rule of law, the principle of the separation of powers and the independence of the judiciary as enshrined in international law.

MEDEL cannot remain silent in the face of these serious events in Tunisia and will continue to mobilize alongside Tunisian judges and all democrats in this country who aspire to a serene future in the fullness of a democracy leaving all its place to an independent justice and a free right of defense.