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of Human Rights Defenders



EURO-MEDITERRANEAN HUMAN RIGHTS NETWORK  
RÉSEAU EURO-MÉDITERRANÉEN DES DROITS DE L'HOMME  
الشبكة الأوروبية - المتوسطية لحقوق الإنسان



**fi** **Front Line**  
PROTECTION OF HUMAN RIGHTS DEFENDERS

**REPORTERS  
SANS FRONTIÈRES**  
POUR LA LIBERTÉ DE LA PRESSE

## OPEN LETTER TO Mr. ZINE EL-ABIDINE BEN ALI, PRESIDENT OF THE REPUBLIC OF TUNISIA

Copenhagen, Dublin, Geneva, Paris, 8 July 2010

### Re: Appeal to the President of the Republic of Tunisia to repeal the amendment to Article 61bis of the Criminal Code

Mr. President,

Action des chrétiens pour l'abolition de la torture (ACAT), the International Foundation for the Protection of Human Rights Defenders (Front Line), the Observatory for the Protection of Human Rights Defenders, a joint programme of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT), the Euro-Mediterranean Human Rights Network (EMHRN) and Reporters Without Borders (RSF) wish to draw your attention to the amendment to Article 61bis of the Criminal Code published in the Official Journal of the Republic of Tunisia on 1 July 2010. Our organisations consider that the new provisions may hinder the work carried out by Tunisian human rights defenders for the protection and promotion of human rights.

Our organisations are deeply concerned about this law, which complements the provisions of Article 61bis of the Criminal Code by adding the criminalisation "*of any persons who shall, directly or indirectly, have contacts with agents of a foreign country, foreign institution or organisation in order to encourage them to affect the vital interests of Tunisia and its economic security*". This amendment may allow the prosecution and imprisonment of human rights defenders who cooperate with foreign and multi-lateral organisations, including the European Union (EU) and the United Nations (UN). Furthermore, witnesses or victims of grave human rights violations could also be affected by this new criminal charge if they communicate with any "foreign entities".

Our organisations wish to reiterate that unfettered dialogue with civil society and full respect for freedom of expression constitute one of the pillars of these multilateral organisations. These provisions also constitute an additional obstacle to human rights activities in your country. They may allow an increase in harassment against those who expose human rights violations, in flagrant contradiction of the international obligations undertaken by Tunisia. These fears have been confirmed in a recent statement by Mr. Lazhar Bououni, Minister of Justice and Human Rights. In response to MPs' interventions during parliamentary debate, Mr. Bououni stated that "affecting the vital interests of Tunisia" also included "inciting foreign parties not to extend credit to Tunisia, not to invest in the country, to boycott tourism or to sabotage the efforts of Tunisia to obtain advanced partner status with the European Union"<sup>1</sup>.

The adoption of this new provision occurred at a time when smear campaigns have been on the increase. In articles published in the newspapers *Al-Hadath*, *Koll Ennass*, *As Sarih*, *As Sabah*, *La Presse* and *Ach-Chourouk* several Tunisian human rights defenders who had been in contact with the EU were depicted as "traitors", "agents" and "mercenaries" who "should be under trial"<sup>2</sup>. Our organisations are concerned that complaints filed by the defenders defamed are yet to receive a response.

<sup>1</sup> See articles of *Agence Tunis Afrique Presse*, 15 June 2010 and *La Presse de Tunisie*, 16 June 2010.

<sup>2</sup> See articles in *Al-Hadath*, 19 and 26 May 2010.

Mr. President, our organisations urge you to ensure the repeal of the new provisions amending Article 61bis. Such provisions are contrary to international human rights law. They contradict, in particular, Article 19 of International Covenant on Civil and Political Rights, to which Tunisia is a party, which provides in paragraph 2 that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice". The new Article 61bis also violates the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the UN General Assembly on 9 December 1998. The Declaration protects the right "to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" (Article 1), "to communicate with non-governmental or intergovernmental organizations" (Article 5.c) and of "unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms" (Article 9.4).

Furthermore, these provisions violate the commitments made by Tunisia with the EU in the Association Agreement, in particular those concerning the need "to further increase participation of all sections of Tunisian society in political life" and "further develop the role of civil society".

We would like to thank you in advance for the action you will take on this matter and we remain at your disposal for any further information.

Please accept, Mr. President, the assurances of our highest consideration.



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