

Joint Open Letter

Index: MDE 30/8047/2018

13 March 2018

Appeal to the government to put an end to the widespread impunity

Head of Government,

Minister of the Interior,

Minister of Justice,

The signatory organizations address this letter to you in order to ask you to ensure that the government brings an end to the impunity that prevails for human rights violations by the Tunisian security forces. Our organizations have urged the Tunisian authorities on several occasions to ensure that members of the security forces suspected of committing or participating in crimes of torture or ill-treatment are not allowed to escape judicial proceedings opened against them.

It is important for the Tunisian government to translate its commitment to respect its obligations under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in concrete action. Investigations into crimes of torture must result in fair, transparent and independent trials that are free from interference, are not obstructed in any way and without recourse to the death penalty. Judicial proceedings must provide protection to victims against any kind of intimidation or reprisals and ensure they are not subjected to torture or other cruel punishment or treatment. It is also indispensable to safeguard their rights to be heard and obtain justice and reparation. We ask you to make a clear signal to this effect in order to express that you will not tolerate any form of impunity for acts of torture or other cruel treatment or any attempts to obstruct justice.

In this regard we consider the events that took place in the Ben Arous tribunal to be an indicator of the prevailing impunity in Tunisia. On 26 February 2018, the investigative judge at the Ben Arous court of first instance questioned judicial brigade members suspected of acts of torture. According to the plaintive, four police officers physically tortured him upon taking him to a police station on 22 February 2018. According to the report by the National Institute for the Prevention of Torture, the plaintive said he was handcuffed in a standing position facing a wall and assaulted by the officers. He

reported that when he fell to the ground, he broke a window, causing a wound to his right hand. The plaintive says he was then made to stand in the rain while injured and stripped of his clothes wearing a car tyre. He alleges that an officer also sprayed him with teargas. The lawyer Mehdi Zagrouba lodged a complaint for torture on 23 February 2018 and the prosecutor opened a judicial investigation.

In response to the investigation of judicial brigade members suspected of committing these acts, the security force union (Syndicat des Fonctionnaires de la Direction Générale des Unités d'Intervention, SFDGUI) issued a statement on 26 February 2018 calling on all security force officials and officers not to perform their functions at the Ben Arous court of first instance until the officers accused of torture were released. On the same day, a large number of security force officers occupied the court premises to put pressure on the judiciary.

The events of 26 February 2018 at the Ben Arous court constitute a serious attempt by officers that have the mandate to enforce the law to obstruct justice and perpetuate the impunity enjoyed by the security forces for crimes such as torture. These activities contravene article 109 of the Tunisian Constitution and other Tunisian legislation.

For years, human rights organizations have been asking the Tunisian authorities to put an end to impunity. However, since 2011, the overwhelming majority of credible allegations of torture and other ill-treatment attributed to the security forces has not resulted in a prosecution. It is in this context that the United Nations Committee against Torture expressed its concern about the lack of accountability for crimes of torture and ill-treatment in Tunisia. It recommended the Tunisian government to ensure that all complaints of torture or ill-treatment are promptly investigated in an impartial manner and with due diligence by independent judicial officials, and that persons suspected of such acts are duly tried and, if found guilty, are punished in a manner commensurate with the gravity of their acts. Finally, the committee called on the government to ensure that persons suspected of torture or ill-treatment are immediately suspended from duty for the duration of the investigation, particularly when there is a risk that they might otherwise be in a position to repeat the alleged act, to take reprisals against the presumed victim or to obstruct the investigation¹.

In their statement of 26 February 2018, the SFDGUI called on all security force officers to boycott judicial proceedings investigating incidents in the context of the exercise of their functions.

In another statement dated 1 November 2017, the security force unions issued a 15-

¹ Paras 19 and 20, Final Observations Concerning the Third Periodic Report on Tunisia CAT/C/TUN/CO/3, 6 May 2016. http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fTUN%2fCO%2f3&Lang=en

day ultimatum to the Assembly of the People's Representatives (ARP) to start a plenary debate on the Repression of Attacks Against the Armed Forces bill. The statement said that unless their demands were taken into consideration, they would withdraw security protection for deputies and presidents of the parties represented in Parliament as from 25 November. Several civil society actors have criticized this bill since it was submitted in Spring 2015. They believe it is unconstitutional and contrary to Tunisia's international commitments, threatens individual and public freedoms and strengthens impunity.

Last June, members of the El Gorjeni anti-terrorism brigade complained about the number of allegations of torture and other ill-treatment against them at a meeting with deputies of the Assembly's Security and Defence Committee, describing them as "a form of harassment".

By failing to react promptly and publicly to police union pressures and blackmail of the justice system, the Tunisian authorities missed the opportunity to give concrete expression to their national and international commitments and affirm their intention to ensure that individuals suspected of torture are brought to justice. The authorities are required to react to such pressures to ensure the independence of the judiciary and to protect judges in their role as protectors of rights and freedoms and combat torture and other ill-treatment, in accordance with the Tunisian constitution.

Our organizations call on the Tunisian authorities to urgently increase their efforts to ensure that the judiciary investigates suspects. Notably by ensuring that members of the security forces summoned for questioning appear before investigative judges and the courts without threats and other types pressure by the security forces.

In view of Tunisia's commitment to promote the rule of law and respect for human rights, it must prioritize progress towards ending the impunity of the security forces in order to build a climate of trust between the security forces and the population.

Counting on your responsiveness

Please accept the assurances of our highest consideration.

ADLI Tunisian Association Defending Individual Liberties

Al Bawsala

Amnesty International

Association of Tunisian Judges

Article 19

Euromed Rights

Human Rights Watch

International Federation for Human Rights (FIDH)

Lawyers Without Borders

The Tunisian League for the Defence of Human Rights,

The Tunisian Organization Against Torture,

The Tunisian Journalist Union,

The Tunisian Committee for the Respect of Rights and Liberties

The Tunisian Observatory of Rights and Liberties,

The Tunisian Forum for Social and Economic Rights

World Organization Against Torture