

جمعية القضاة التونسيين
قصر العدالة
تونس



Association des Magistrats
Tunisiens
Palais de Justice
Tunis

**The association of The Tunisian Magistrates
Tunisia on: April 16, 2024**

Statement on the extremely serious situation of the Tunisian judiciary

Since the beginning of the judicial year 2023-2024, the Executive board of the Association of Tunisian Magistrates has been following up on the general judicial situation, which was characterized by the further expansion of the Ministry of Justice's influence within the judiciary and the extension of its full control over it by exploiting the situation of the institutional vacuum in the judicial judiciary, which was fabricated by the Ministry itself by creating vacancies in the composition of the Temporary Judicial Council, which is the institution established by the President of the Republic by Decree No. 11 / 2022 replacing the elected council that guarantees the foundation of judicial independence.

Clarifying that, in this context, two members of the Temporary Judicial Council were transferred in the last judicial mobility 2023/2024 and two others retired without naming other members in their places, which prevented it from meeting for more than 6 months due to the lack of its quorum and led to its complete paralysis and opened the way for the Ministry of Justice to use the work memoranda mechanism arbitrarily and intensively outside any legal framework that entitles it to do so, aiming to make fundamental and continuous changes in the composition of the courts, their presidents, public prosecution judges, instruction judges and judicial chambers during the judicial year in a large number of the Republic courts without taking into account any legal controls or objective standards or requirements of the proper functioning of the judiciary and the justice facility, and the interests of litigants.

Noting, based on the information it has investigated so far, that the work memoranda issued by the Ministry of Justice included the appointment or deprivation of major judicial responsibilities of the First Presidents of Courts of Appeal in Jendouba, Gafsa, Sfax and Gabes, and the General Prosecutors of Courts of appeal in Baja, Monastir, Gabes and Sidi Bouzid, Presidents of Courts in Kasserine, Sidi Bouzid, Ariana, Mahdia, Nabeul and Jendouba, Prosecutors of the Republic in Sidi Bouzid, Ben Arous, Bizerte, Mahdia, Monastir, Kasserine and Tunis, as well as many public prosecution judges, instructor judges, council judges and judges of the specialized judicial poles in an initial total of 105 judges and in semi-weekly partial mobilities related to many judges and judicial officials

including judges nominated in the original judicial movement prepared by the Ministry of Justice itself, announced on August 30, 2023, which has included 1.088 judges, in addition to suspensions from work, with or without salary, outside of any disciplinary process while examining the files or after ruling on them, similarly to the arbitrary dismissal from daily work.

Noting that the decisions of transfer and deprivation of intensive and daily responsibilities have reached extreme forms of insult and disregard with the absence of prior notifications and due justifications for each individual decision. The executive board has been informed that some of the transfer notes were issued following interrogations of judges in the General Inspectorate of the Ministry of Justice about their jurisprudence within the scope of judgments or decisions issued by them in a complete violation of the independence and impartiality of judicial work; which is not controlled by the Executive, rather shall not be censored except within the scope of legal appeals.

Pointing out, as a result of all of the above, that these changes to work memoranda in the middle of the judicial year, in addition to the major disruption they caused in the workflow of the courts, were mostly based on the rule of penalty and punishment and were accompanied by transferring former officials to judicial departments far from their places of residence and rank demotion of many of them in clear violation of the principle of legal security and the principle of transferring a judge only with his consent, and the complete absence of guarantees of fair legal accountability and the most basic rules of integrity and transparency, and a flagrant violation of international standards for the independence of the judiciary and the requirements of the public interest,

Therefore:

First: Strongly condemns the Ministry of Justice's authoritarian approach and monopoly on the judicial judiciary, and controlling the professional paths of judges, the arbitrary and retaliatory management which lacks objective evaluation of judicial performance and fair competition for judicial responsibilities after deliberately fabricating the absence of the Temporary Judicial Council and freezing its activity.

Second: It confirms that the policy followed by the Ministry of Justice has nothing to do with any reform approach to improving the conditions of the courts and improving the performance of justice, but rather its goal is to spread an atmosphere of fear, terror, intimidation and insecurity in the judicial community to further tighten the grip on the judiciary and control it to the detriment of the rights of litigants and citizens, and the supreme interest of the nation.

Third: Given this situation of the collapse of the components of the independent judiciary, it calls for the opening of investigations into the circumstances that led to many decisions to strip the judiciary and suspensions from work, which raised many questions in the judicial community and public opinion, especially regarding the transfer of the Public Prosecutor at the Court of First Instance of Tunis, who was appointed by the Minister of Justice herself a few months ago, and also demands the Ministry of Justice to provide the

necessary clarifications about everything that has been happening in the judiciary in the recent period.

Fourth: Calls on the Ministry of Justice to stop its domination over the institutions' role in the management of the judiciary and to supervise the professional paths of judges.

Fifth: Stresses the need for the Political Authority to review its options in dealing with the Judicial power, which has proven to be a failure and has further exacerbated the crisis in the justice facility in a way that the Tunisian judiciary did not experience even in its darkest stages.

Sixth: It considers the escalation of the targeting of rights and freedoms, foremost of which is the freedom of expression and media, and the decline of judicial protection using Decree No. 54 of September 13th, 2022, arbitrarily and without regulations, as repercussions of this crisis in the judiciary.

Seventh: It calls on Tunisian society in all its components to be aware of the seriousness of the judicial situation in Tunisia and to work with all its capabilities to protect Tunisian judges from the unprecedented arbitrary measures that affect them on a daily basis threatening their role in protecting freedoms, ensuring the right to defense, and delivering rights to their rightful owners in an independent, impartial, honest and objective framework, and finding the necessary mechanisms to limit the encroachment of the executive and its extension within the judiciary.

Eighth: Renews the call to all judges of all types and ranks to further adhere in these difficult times to their independence and impartiality in performing their noble mission and not to submit to any pressures imposed on them, regardless of their type or source, and to play their full role in protecting rights and freedoms and activating the principles of fair trial to uphold the value of justice and protect it from all arbitrariness or injustice.

Ninth: Finally, it is indicated that the Association of Tunisian Magistrates, as a national organization and with its struggle assets, per its mission and in line with its founding principles and its Basic Law, will follow all these situations with constant vigilance to enlighten public opinion in the meantime regarding all new events related to the aforementioned situations in defense of the legal safety of judges and the principles of the independence of the judiciary.

**For the executive board,
The president of the Association,
Anas Hmedi**

