

Communiqué of solidarity and support No to the dilatory maneuvers of the sacred against freedom of expression

The associations and organizations members of the Civil Collective for Individual Liberties, the associations and organizations defending human rights and the signatory associations committed to the freedom of expression and to the freedom of conscience as an integral part of fundamental human rights, express their full solidarity with the blogger Emna CHARGUI in the face of criminal proceedings wrongfully brought against her concerning the aberrant affair on the one hand, and in response to insults, intimidation and threats against her on social networks, on the other hand.

On May 6, 2020, the blogger Emna CHARGUI, appeared before the Public Prosecutor's Office before the Court of First Instance in Tunis, which decided, after having conducted the interrogation, in the absence of her lawyers, to keep her on bail while transferring her case to the Sixth Chamber of the same court and fixing the day of the hearing to May 28, 2020.

A few days earlier, following the publication of a satirical status on the pandemic on her Facebook account, Emna CHARGUI was accused of having committed the crime of "incitement to hatred between genders, religions or populations, by calling for discrimination and by using hostile methods or violence by calling for discrimination or by using or propagating opinions based on racial segregation opinions", on the basis of articles 52 and 53 of the Decree-Law n° 115-2011 on the freedom of press.

In the light of the foregoing, the associations and organizations that have signed this communiqué declare that:

- 1- The procedure initiated by the public prosecutor on his own initiative, is all the more questionable as Article 102 of the Constitution of January 27, 2014 made the "judiciary an independent power that guarantees (...) the protection of rights and freedoms", and "the public prosecutor is part of it" according to its article 115.

It would have been fairer for him in this case to protect the blogger from the insults and the calls for violence against her. It would have been wiser for him not to clear and legitimize by his intervention the acts that undermine the dignity and physical integrity of persons who express opinions and beliefs against the prevailing culture and thought.

- 2- It is surprising that the Prosecution failed to comply with the requirements of Article 6 of the of the Constitution which guarantees the freedom of belief, including the religious freedom and the right to criticize religions as well as to express one's convictions without risk of sanctions or exposure to any threat or damage to one's dignity.

The practices to which the judges have been accustomed to for decades, whether they are judges of the public prosecution, investigation, or judgment, are incompatible with the requirements of the Constitution especially article 21 which guarantees "to all citizens the

individual and public rights and freedoms ...”, and article 32 which guarantees “freedom of opinion, expression, information and publication.

Moreover, such practices are not in conformity with the provisions of international treaties of human rights ratified by Tunisia, especially the International Covenant on Civil and Political Rights, and in particular its article 19. Restrictions on freedom of expression and creation, including those affecting the religious aspects, are inconsistent with the standards of international bodies charged with ensuring the proper interpretation and implementation of international treaties related to rights and freedoms.

In this sense, in its resolution n° 16/18 of March 2011, the United Nations Human Rights Council did not consider “the violation of religion” as a crime, but rather as a part of freedom of expression. Consequently, it is not permitted for States members to limit it, under any circumstances, not even under the pretext of public order. So that what was done by the judges in Tunisia is a judicial practice which is contrary to resolution 16/18 making Tunisia liable to punishment in cases where a complaint is brought before the monitoring treaty-bodies.

- 3- We denounce the intimidation tactics that target people by summoning them through judicial and police authorities, by questioning and bringing them before the courts for the purpose of punishing them simply for daring to exercise any of the recognized individual freedoms, which have paradoxically been transformed into a crime. Mere court appearances, even if they do not prejudge the guilt of the accused, they are appalling. This instrumentalization breeds fear among Tunisians of paying the high price and may discourage them from exercising their individual freedoms.
- 4- We declare that it must be put an end to the speeches of some media professionals which are disqualifying and devaluing the freedom of expression as a Western import item whenever it is a matter related to the religion. Freedom of expression is judged as not being in conformity with the prescribed identity, freedom of expression is a continuous object of their dilatory and extreme maneuvers which objective is to sow confusion about its status.

Therefore, and based on the foregoing, the signatory associations renew their solidarity with the blogger, Emna CHARGUI. They support her as for every free voice without restrictions. They call on judges to respect the Constitution, its letter and its spirit, to apply the law without abuse of power. They call everyone to uphold reason and common sense.

The signatory associations and organisations

- La ligue tunisienne de défense des droits de l’homme (LTDH).
- L’association Beity.
- L’association tunisienne des femmes démocrates (ATFD).
- L’association tunisienne de défense des libertés individuelles (ADLI).
- L’association Al Bawsala,
- Article 19.
- Association Alweni.
- L’association By La7wem.
- L’association CALAM.

- L'Association Arts et Cultures des deux Rives (ACDR).
- L'Association Citoyenneté, Développement, Cultures & Migrations Des Deux Rives.
- L'association Tunisienne pour la prévention positive (ATP+).
- L'association des femmes tunisiennes pour la recherche sur le développement (AFTURD).
- L'association Free Sight.
- L'association Vigilance pour la démocratie et l'Etat civique.
- L'association tunisienne pour la défense des valeurs universitaires.
- L'association histoire et mémoire commune pour la liberté et la démocratie.
- L'organisation 10/23 pour la promotion du processus démocratique.
- Le centre d'appui à la transition démocratique et aux droits humains (DAAM).
- L'association tunisienne d'action culturelle (ATAC).
- L'association de promotion du droit à la différence (ADD).
- L'association tunisienne des études sur le genre.
- L'association Venus.
- ATL/MST et du Sida Tunis.
- La coalition tunisienne pour l'abolition de la peine de mort.
- Le Comité pour le respect des libertés et des droits de l'homme en Tunisie.
- Damj, l'association tunisienne pour la justice et l'égalité.
- La Fondation Ahmed Tlili pour la culture démocratique.
- Groupe Tawhida Ben Chikh.
- Initiative Mawjoudin.
- La ligue des écrivains libres.
- L'Observatoire national pour la défense de l'Etat civil.
- L'Organisation Mondiale Contre la Torture.
- Le réseau Euromed droits.
- L'organisation Avocats sans frontières.
- Humain Rights Watch.