



الرابطة الجزائرية للدفاع عن حقوق الإنسان

Ligue Algérienne pour la Défense des Droits de l'Homme

Report on the Front Line observation mission carried out during the trial of Omar Mestiri in Tunis, from 27th to 29th August.

Having been warned of the possible risks associated with taking flights on Tunis Air, I decided to travel with Air Algeria. This was following the incident on the 15th August when my reservations were canceled at the last minute to prevent me from attending the hearing on the 16th August. Aside from some delays, the flight and stay in Tunis went by without any major incidents. I want to point out though that on arrival in Tunis airport, I was approached by an officer in plain clothes and asked if I was the president of the Algerian League for the Defence of Human Rights. He also added, "we know you".

The night of the 27th was spent familiarizing myself with the case with Tunisian friends. Omar Mestiri was being prosecuted for slander by the Tunis criminal court, on the basis of articles 50 and 53 of the Media Code, and 245 of the Tunisian Penal Code.

The public trial was launched on the charges of Mohamed Bessar, a lawyer who had been struck off the Tunis bar after several charges and sentences, and who had then curiously had been reinstated by the legal council on the 14th July 2006.

The online journal run by Omar Mestiri had published its protest against the decision.

Despite the closure of the website which published this protest, which made it inaccessible in Tunisia, the Public Prosecutor lodged a complaint with alarming speed that is not unlike occurrences in the past and not surprising considering Omar Mestiri and Sihem Bensedrine's status as opponents and as human rights activists.

The case was thus called to a hearing on 28th August having been postponed from the 16th August. We attended the opening of the trial. I had previously made a courtesy call to the leader of the Tunis lawyers and to the associate head of the magistrates' association. Omar Mestiri was surrounded by a solid defence team of several high-profile Tunisian barristers, including the president of the Tunisian Human Rights League. It was late in the morning that the accused was called to the bar. After the usual interrogations concerning his identity and judicial record, there were several lively exchanges between the defence and the judge concerning the questioning; notably regarding the absence of the prosecutor. The hearing was suspended at about 1 pm. When it began again in the afternoon, the defence raised the question of the absence of the prosecutor once more. The judge became somewhat irritated, but finally he acted on this question. The prosecutor came forward to finally express his desire to withdraw his charges - publicly. The prescriptions of Tunisian law are clear on this point; this incontestably entails the dissolution of the public trial and thus of the entire lawsuit. The hearing was suspended for deliberation.

The judge could have recorded the proceedings and decided there and then that there was no ground for prosecution, but he preferred to defer this by several days, probably motivated by pride. I had to take the Air Algeria flight the following day at 7 pm. During the rest of my stay I did not experience any violence or hostility, but police presence was evident wherever I went, whether I was alone or accompanied by Tunisian friends.

It is clear that the support given to the accused in this affair and the denunciation of the political nature of the case had a palpable effect on the ultimate conclusion. Although I was

in possession of a mission statement from Front Line Defenders, the Tunisian friends wanted to make apparent the fact that I was an Algerian lawyer capable of addressing the court for a claim for a Maghreb judicial space. We never reached this stage as the proceedings stopped as soon as the effectiveness of the withdrawal of the charges had been recognized.

One conclusion can be drawn from this case: it is that the mobilization of defenders' organizations against such wicked procedures does have a dissuasive power.

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