

TO BE

• REC



Arbitrary administrative control measures in Tunisia



TENS OF THOUSANDS OF TUNISIANS ARE SUBJECT TO CONTROL ORDERS AND FREEDOM-RESTRICTING MEASURES IMPOSED BY THE MINISTRY OF THE INTERIOR OF THE INTERIOR ON THE ACCOUNT OF THEIR ALLEGED LINKS WITH TERRORIST ACTIVITIES. BANNED FROM TRAVELLING, DEPRIVED OF OFFICIAL DOCUMENTS, HARASSED BY THE POLICE AT HOME, ON THE STREET, IN THEIR WORKPLACE... THESE PERSONS SUFFER, SOMETIMES FOR YEARS, ARBITRARY PUNISHMENT WITHOUT JUDGMENT, WITHOUT REASONING AND WITHOUT A DATE OF EXPIRATION; A PUNISHMENT THAT CAUSES DESTRUCTIVE EFFECTS FOR THEM, THEIR FAMILIES AND THEIR COMMUNITIES.

WHAT ARE «ADMINISTRATIVE CONTROL MEASURES»?

Administrative control measures are freedom-restricting measures imposed by the Ministry of the Interior on individuals allegedly being a threat to public order or national security. These measures, which are mainly aimed at preventing terrorist acts, may take various forms, such as house arrest, bans on

leaving the country, repeated summonses to report to police stations, house searches with no judicial proceedings, prolonged detention for intelligence purposes following road checks or border controls, investigations within neighbourhood and police visits at home and at the workplace.

WHO IS SUBJECT TO THESE CONTROL MEASURES?

Control measures are imposed on both male and female individuals who are listed by the Ministry of the Interior because of their alleged dangerousness deriving from their close relations to a terrorist group. The World Organisation Against Torture (OMCT) has documented the cases of 20 individuals - 18 men and two women - supported by the organization through

its multidisciplinary direct assistance program SANAD, which accompanies victims of torture and/or ill-treatment in Tunisia.

It appears from the victims' testimonies that listed persons who are subject to restrictive measures do not understand the reasons of such treatment.

Indeed, the process registering individuals on lists is completely opaque and the administration never notifies the persons subject to control measures nor does it reveal the suspicions that justify these measures. In many cases, it appears that the

targeted individuals owe their listing to their religious appearance, their relationship to a terrorist suspect, or their previous involvement in a case threatening national security, even if the individuals have been dismissed or acquitted.

IN WHAT WAY ARE THESE CONTROL MEASURES ARBITRARY?

All control measures mentioned in the report violate several fundamental rights and freedoms guaranteed by the Tunisian Constitution and international human rights law, such as the freedom of movement, the right not to be arbitrarily detained or the right to privacy and inviolability of the home.

Some of these rights and freedoms may theoretically be restricted by the State, provided that they meet three essential conditions set out in the Constitution and international law. These measures must be provided for by law and not by a simple administrative decree, they must be necessary and proportional and they must be subject to prompt, serious and effective judicial review.

Among the restrictive measures described in the report, some, such as house arrest and bans from leaving the territory, are based on a regulatory and non-legislative text, while others, such as repeated summonses to police stations or arrests at roadside checkpoints, simply have no legal basis.

Similarly, necessity and proportionality requirements are not met since these restrictions of freedom are, in most cases, unlimited and with no grounds for their implementation given to the affected person.

As regards judicial review of these measures by the administrative court, the procedure is far from being prompt, and even, considerably hampered by Ministry of the Interior. Indeed, in the absence of notification of the measures, targeted persons must provide the court with proof that they are indeed subject to a restriction on freedom. However, it is not easy, for example, to provide evidence of stigmatising neighbourhood investigations or police pressure on employers. In addition, it is difficult to review the proportionality of the measures since the administration justifies its practices with stereotypical allegations against listed persons.

WHAT IS THE IMPACT OF THE IMPLEMENTATION OF ARBITRARY ADMINISTRATIVE CONTROL MEASURES ON AFFECTED PERSONS AND THEIR RELATIVES?

As implemented in Tunisia, administrative control measures are not only arbitrary but often amount to police harassment or even ill-treatment. They cause serious material and psychological damage. Many of the listed persons supported by the OMCT have lost their jobs or homes due to police pressure.

The psychological suffering is such that some people would rather be sentenced to imprisonment than be subjected to what one of them called «a sentence

issued by no one and enforced by everyone». An unlimited, unjustified and indefinite punishment, a stigmatizing and agonizing penalty that generates fear and anger and gradually dissolves social and family ties. Indeed, apart from the targeted individual, the family as a whole suffers from police harassment. Couples have eventually divorced, family ties have broken down, and children have been and still are traumatized.

