

## **Final Statement of the National Symposium on: "The Independence of the Judiciary: What Safeguards?"**

*Following the invitation of the Civil Collective for the Defence the independence of the Judiciary;*

*In collaboration with the International Federation of Human Rights, the Euro-Mediterranean Human Rights Network, the International Commission of Jurists, the Moroccan human rights organizations and social actors involved in the comprehensive reform of the justice system in Morocco;*

*With the support of the German foundation Friedrich Ebert Stiftung; and*

*As part of the strong sustained collective interaction with the dialogue process between associations and professional components involved in the issues of the judiciary, initiated by Adala (Justice Association for the Right to Fair Trial) since January 10, 2014;*

The National Symposium on the Independence of the Judiciary took place at the Higher Institute of the Judiciary in Rabat on 16, 17 and 18 May 2014, under the theme "*The Independence of the Judiciary: What Safeguards?*", with the view to develop constructive outcomes and contents for all issues relating to the reform of the justice system in Morocco, and more specifically the draft regulations relating to the Supreme Council of the Judiciary and the Statute of Judges.

The opening session of the symposium began with speeches by the Minister of Justice and Liberties, Civil Collective for the Defence of the Independence of the Judiciary, the National Council for Human Rights, and partners and supporting parties, in the presence of the various components of society that strive for defending the independence of the judiciary, as well as many representatives of the national and international media.

The symposium continued in an atmosphere marked by the review of the major stakes expected by social actors, both Moroccan and international, from the existence of an independent judiciary in the true sense of the word, and whose purpose is to serve citizens

by protecting their rights, freedoms and judicial security, and seeing to the sound enforcement of law and the protection of the right to a fair trial.

Taking into account the participatory approach, the organizers have taken particular care to make sure that the path of dialogue is adopted with all governmental and non-governmental stakeholders involved in the issues of the judiciary independence and the justice system reform, with the aim of developing advanced contents, whether in relation to the two regulatory bills which make up the core of the symposium, to penal policy, and other topics related to the comprehensive reform of the judiciary, within the prospect of building firm foundations likely to lead the justice system towards independence, effectiveness, efficiency and dedication to protecting the rights of citizens by the judiciary.

During the three days of participatory, interactive and constructive discussions among the participants in the National Symposium on the Independence of the Judiciary, whether in plenary sessions that highlighted intellectual and theoretical topics, in addition to diagnosis and proposals related to justice, or during the workshops, the participants have set forth procedural proposals aimed to enrich the draft memorandum of the Civil Collective for the Defence of the Independence of the Judiciary.

Considering the international human rights instruments such as the International Covenant on Civil and Political Rights, the United Nations Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Universal Charter of the Judge, and the Bangalore Principles of Judicial Conduct; and

Taking into account the contribution of the Constitution of 2011 in terms of consolidating the rule of law, the recommendations of the Equity and Reconciliation Commission concerning justice, and the memorandum of the National Council for Human Rights on the judicial authority in Morocco, in support of the effective and actual independence of the judiciary;

The participants at the Symposium have identified a large number of issues and put forward many recommendations that could enrich and support the memorandum of demands and proposals that will serve for the Collective's advocacy with bodies legally responsible for adopting the two regulating laws of the Supreme Council of the Judiciary and the Statute of Judges.

In this final statement, the participants set out the following:

#### **Regarding the major issues related to diagnosing the reality of justice:**

- Continued prevalence of the authority of the Ministry of Justice over the judiciary and the evaluation of the performance of judicial officers;

- Weakness of the guarantees granted to the judges with regard to the management by the Supreme Council of the Judiciary of their employment status, in the absence of actual provisions and measures that can protect the independence of judges and justice;
- Failure to implement the gender approach regarding gender equality in organizing the election mechanisms of representatives of judges and ensuring the representativeness of female judges, and in managing their employment status with respect to appointment, promotion, mandates and responsibility;
- Restrictions on freedom of association and on the right of individual and collective expression of judges, in clear violation of the Constitution;
- Lack of legal provision for the establishment of the State Council, entitled to monitor the legality and the validity of decisions made by the Supreme Council of the Judiciary;
- Lack of transparent criteria in selecting and electing the members of the Supreme Council of the Judiciary, as well as in defining their rights, obligations and terms of office.

**Regarding the basic recommendations, the participants advocate for the following:**

- Strengthening the independence of justice and promoting the role of the Supreme Council of the Judiciary as a constitutional body with full powers to manage the affairs of judges and judicial officials;
- Identifying mechanisms and procedures to ensure the independence of selecting the first President and the Attorney General of the King to serve on the Supreme Council of the Judiciary;
- Providing for the right of professional associations to grant their support and attend as observer, and for their right to be consulted by the Supreme Council of the Judiciary;
- The need to strengthen the deliberative and declarative nature of the Supreme Council of the Judiciary with the view to ensure integrity and transparency;
- Fostering public debate on the creation of the State Council as the supreme judicial and administrative institution of the Kingdom;
- The need for adopting an integrated participatory approach for coordination between the various professional associations, the Supreme Council of the Judiciary and governmental authority in charge of justice;

- Ensuring effective protection of judges against threats and attacks, by adopting appropriate safeguards, such as those enacted for protecting victims and witnesses;
- Emphasizing the need for the absolute independence of the public prosecutor authority in respect of the executive branch;
- Transferring the full supervision of the judicial police to the public prosecutor, and making it a component of the judiciary;
- Developing the legal framework for the exercise of court clerks, given their role as the backbone of the courts in particular, and of justice in general, in order to ensure their independence and expand their skills with a view to achieving efficiency and materializing the principle of justice for all;
- Enshrining the right of judges to individual and collective expression, and to membership in associations;
- Removing the distinction between judges and prosecutors;
- Strengthening training for all the components of the judiciary;
- Supporting the principles of transparency, equality, fairness and justice in managing the employment status of judges.

Furthermore, the Symposium recommends to the components of the Civil Collective for the Defence of the Independence of the Judiciary to strive for tracking all bills relating to the reform of the judiciary and justice system, bearing in mind that resort is made to the judiciary, as a protection mechanism for any matter relating to the rights, freedoms and the building of the rule of law, whether this deals with constitutional institutions, such as the government, opposition and councils, or civil society organizations and bodies, or again citizens.

Rabat - May 18, 2014

**In collaboration with:**

