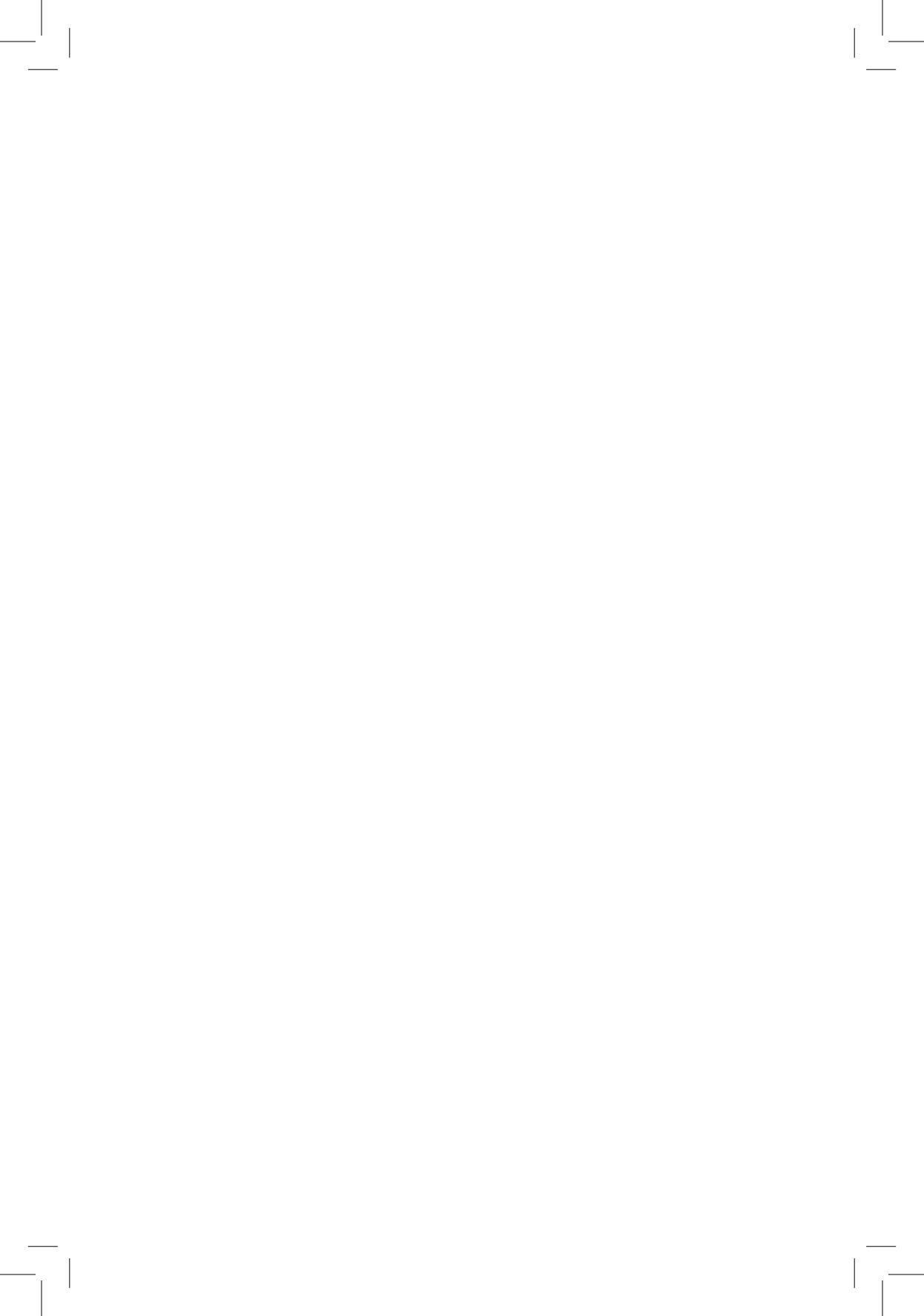


MOHAMED EL BOUSSAÏRI BOUEBDELLI

**WHITE PAPER
ON THE KILLING OF THE
FREE UNIVERSITY OF TUNIS**

How the rule of law is flouted in Tunisia



FOUNDATION BOUEBDELLI is, in the Tunisian private education, the flagship institution of education and training of Tunisian youth for over thirty-seven years: 3 000 students and about three hundred teachers and employees are involved in this educational community.

From the beginning, the Foundation was intended to be a symbol of quality and excellence. It observed this slogan initially in the primary education, with the famous «JEANNE D'ARC SCHOOL». She was assigned the same ambition in creating, 37 years ago, the oldest and largest institution of higher education sector: "Free University of Tunis".

This 'White Paper' is intended to present the results of the activities of the Foundation and its various educational institutions. It will show that this institution has contributed to a sustained and continuous training of many generations of pupils and students both Tunisian and foreign, and thus to economic and social development of their countries.

Tunisia is a country of peace, tolerance, a country worker and studious. A country which is aware that his greatest asset and strongest capital lie in his youth. Our country provides its youth a modern training to contribute to the development of the entire national community.

Tunisia has unfortunately suffered a severe political crisis that has destroyed all possibilities of building a true democracy in the country. And what is even more serious is that this political crisis led to a disruption increasingly deeper and more diffuse in the functioning of the political institutions of the State. The application of the rule of law in all sectors of national life is threatened by arbitrary power, privileges, corruption, and by the establishment of the reign of fear and the insecurity for individuals and their property.

The Foundation Bouebdelli has not escaped this fate. For several years she has continually harassed by the police, she was victim of several attempts of theft and destruction by the regime. In defiance of the highest interests of the Nation, as well as the interests of several generations of pupils and students it has received in its educational setting. The dedication of all the staff of the Foundation Educational Family is really great and the achievements of this Family are very honourable.

The misuse of power is the systematic mode of action of the power vis-à-vis our institution. This “White Paper” will demonstrate this fact point by point, piece by piece. It will draw the sad record of the actions of a regime bent on destroying more than building, which openly seeks to use its authority to satisfy the personal ambitions of a privileged group of persons.

There is a direct relationship between these continual administrative abuses suffered by the educational institutions of the Foundation Bouebdelli and bad political turn that the current regime has taken in recent years. These abuses of power have been reported in a book entitled «THE DAY I REALIZE THAT TUNISIA IS NO LONGER A COUNTRY OF FREEDOM» (1). The publication of this manifesto, which sought to enlighten public opinion nationally and internationally about the political reality of our country, did not fail to cause the repressive power reaction against our higher education institution.

The case of the University of Tunis is a political matter. Under the guise of so-called administrative sanctions unjustified and disproportionate, this bad trial aims to deny to a Tunisian citizen free and patriot the right to tell the truth, to speak.

(1) You can view or download the book of Mohammed Bouebdelli on the following website: www.bouebdelli.org.

Computer engineer training, Mohamed El Boussaïri BOUEBDELLI began his professional career working with multinationals in France. He returned to Tunisia in 1972. Flagship militant, he adhered to Destour Party (PSD), then the largest opposition party, the Movement of Socialist Democrats (MDS), which he left in 1990. Then Mr. Bouebdelli was fully invested in the educational work. He and his wife established the first institution of private higher education, the University of Tunis, and a primary school. The inability to extend the educational work by creating a high school («Louis Pasteur») was a shock to Mr. Bouebdelli and his wife.

Indisputably, the «Declaration of November 7, 1987» issued by the current President when he came to power, had encouraged the Tunisian people to understand the removal of the great man that was Bourguiba, still loved by the whole Tunisian population.

This seminal text has been perceived as a message of hope and progress, commitment towards democracy and justice in favour of people who have achieved a degree of political maturity sufficient to exercise freely and in complete security their rights as citizens. Alas, the drifts were quickly multiplied. The revival of «demon of politics» was for Mohamed Bouebdelli, like the vast majority of the Tunisian population, directly driven by the disappointment caused by the new regime.

The deteriorating political, economic, social and cultural life is, alas! gone from bad to worse. Therefore, in his book entitled «**The day I realized that Tunisia is no longer a free country**», Mohamed Bouebdelli presented many constructive proposals, combined instructions for making Tunisia a democratic country. Mr. Bouebdelli and his wife entered into resistance.



THE 'BOUEBDELLI' PRIVATE INSTITUTION DEDICATED TO EDUCATION AND SCIENCE AT THE SERVICE OF EXCELLENCE

Destined for a career in engineering, Mohamed BOUEBDELLI began his professional life creating a company for maintenance and consulting in computer science. This first experience made him discover that the development of young companies like his would be seriously handicapped because of the shortage of highly qualified technicians and executives. In those circumstances it was decided to train its own technicians, opening in 1973 the first Higher private **Institute of Computer Science** in Tunisia: A flagship project. Under the same conditions, was created later the **INTAC Institute**, today very renowned in the entrepreneurial world be-

cause of its excellence in the training of senior technicians and senior management since its creation.

The way was thus opened; Mohamed Bouebdelli did not stop there. In 1988, the religious congregation of Sisters of St. Joseph told his wife and himself the heavy responsibility of ensuring the continuity of their work in Tunisia, asking them to take the responsibility of the private educational institution 'Emilie de Vialar', called '**Jeanne d'Arc School**', created in 1936 for the scholarization of students aged 5 to 15 (primary and secondary levels).

Thus Bouebdelli Mohamed has waived any other business and decided to devote himself fully to his new vocation as educator. But he was not alone in taking such a decision. His wife also, French by origin and Tunisian by heart, Madeleine Bouebdelli, a certified public accountant, has decided to give up his job to devote herself entirely to the direction of 'Jeanne d'Arc School'.

Together they have then created the Foundation Bouebdelli to manage this important educational institution. Thanks to the dedication and thoroughness of Mrs. Bouebdelli through the meticulous respect of law and discipline in her relationship with students, 'Jeanne d'Arc School' was ranked, for more than thirty years without interruption, first primary school and college across the country.

The results, which have never wavered for over twenty years of existence, have been consistently among the brightest of all the examinations at the end of primary school and the entry to secondary education.

In 1992, 'Higher Institute of Computer Science', created in 1973, has been transformed into a private university, known as the '**Free University of Tunis**' (ULT), the first in this category in Tunisia, which houses today, a 'faculty' (Law, Management), a 'Polytechnic Institute' and a 'School of Architecture', with so far over 1 500 students, approximately 50% of whom are international students from more than 25 Francophone countries. The diplomas are recognized by the Tunisian State and in many countries.

The last initiative of the Mr. and Mrs. Bouebdelli was to extend the mission of 'Jeanne d'Arc School', which was from the outset a school for primary and secondary education at the same time.

Thus Bouebdelli Foundation has initiated the establishment in 2005 of a secondary school, called '**Louis Pasteur High School**' who was destined to lead a section delivering an education based on the French Baccalaureate programs. This initiative has been taken in close collaboration with the French Institute of Cooperation at the French Embassy in Tunis and with the Tunisian-French Chamber of Commerce and Industry.

This high school, which we wanted to be a symbol of cultural mutually beneficial cooperation between Tunisia and France, while it is the symbol of the Francophonie and the spirit of openness, progress and modernism, started its activities with positive perspectives. It was not surprising that, from the beginning of its existence, it has enabled its students to achieve excellent examination results in the French lower secondary diploma.

In all these initiatives, the Bouebdelli Foundation's efforts were successful, and the name 'Bouebdelli' has been and still is a 'high quality label'. In order to serve its dear country, the Foundation has always cultivated the spirit of excellence and innovation, always preferred teaching and training of competitive and responsible elites.

We should recall that the Foundation was the first to introduce the compulsory teaching of foreign languages - English, Italian, Spanish, German and even Chinese - in its courses, from primary to higher education. Its principle in linguistic education was based on teaching three languages.

We should recall also that long before other educational institutions, public or private, the Foundation Bouebdelli introduced compulsory education for computer science in his teachings at all levels, from primary to higher education.

We could also underline that the Foundation Bouebdelli included among its missions building strong and productive relations of cooperation between the school and the workplace: Thus, in the vast majority of graduates prepared within the education institutions of the Foundation Bouebdelli get their first recruitment very quickly, once they leave our schools or faculties, and even before the end of their graduation internship! ...

It should also be recalled that more than half the number hosted by the University currently are from friend countries, from four continents: the Arab and Muslim World, Africa, Asia and even Europe.



THE KILLING OF EDUCATIONAL INSTITUTIONS OF THE FOUNDATION BOUEBDELLI

YEAR 2004, THE CRISIS OF JEANNE D'ARC SCHOOL

The triggering incident and manipulation

Because of the refusal decision in June 2004 by the Class Council, under the rules of procedure, concerning the registration of a student in the first year of the College of Bouebdelli Foundation for lack of school level, the “Jeanne d’Arc School” received from the Ministry of Education a real warning. It should immediately register the student in question under penalty of closing the entire facility.

The lightning attempt of takeover of the Institution by the Administration

Given the refusal of the school to revise its decision taken on a perfect regular basis, the Ministry, on September 18, 2004, that is to say quite early in the school year, took the abrupt and precipitous decision, to initiate its repressive machine in a high speed process, never observed in administrative practice or Tunisian judicial.

Within twenty four hours, the Trial Court of Tunis issued the order for removal of Madeleine Bouebdelli, director of the School, with the withdrawal of authorization to open the school, blocking bank accounts, appointment of a director from the public education, and intrusion of the police in the premises of the school, the whole constituting a real spoliation of private property protected by law. The new 'director' hastened to register the pupil concerned.

Simultaneously, a campaign of vilification in newspapers has been launched against the school - which they denounced the «Selective method» of the school - and against Bouebdelli Foundation, which has been a real scramble in which was involved not less than six ministries and various government agencies: Ministry of Education, Ministry of Interior, Ministry of Justice, Ministry of Finance (with the onset of a tax audit 'in all directions'), Ministry of Social Affairs (with the trigger of an immediate control of the Social

Security Fund), Ministry of Higher Education, with threats of retaliation at the 'Free University of Tunis.

A 'tsunami' would not have caused greater stir ...

The unanimous support of public opinion to the Institution

The day after the closure of the school, the authorities were faced with a highly mobilized 1 400 students and the entire educational staff. All forcefully challenged the arbitrary decision of dismissal of the management and closure of the school. A massive movement of protest and strike has quickly developed. It led to the constitution of a delegation of parents who requested an appointment with the relevant authorities. Support were received from throughout the country as well as foreign countries such as: France, the USA, Canada, Gulf countries, countries from West Africa ...

The decline of the Administration

Given the scale of the protest and supporting our educational institution and because of the absence of real and serious reasons to repression as unjustified and disproportionate with the excuse made for the trigger, the Department of Education has been forced to reconsider its decision. Madeleine Bouebdelli was reinstated as Director of the School, and it resumed its normal operation in the days that followed. Even the court decision against the School has been cancelled.

YEAR 2007, THE CASE OF 'LOUIS PASTEUR HIGH SCHOOL'

The maneuvers of the Administration

In May 2007, the competent ministry, without any further procedure and without any legally valid explanation, has given the order to the Foundation Bouebdelli to close altogether the Louis Pasteur High School at May 10, 2007, not to make recruitment of students under the next school year, and to guide students currently enrolled to other similar institutions.

Closing of School

The decision to close the school can be analysed as mere 'fact of the Prince'. Therefore, all the emotion that this iniquitous decision has aroused among the general public, both Tunisian and international, was understandable. The media, especially foreign ones, have seen in this fact the expression of arbitrary administration and serious harm to individual freedoms. These media included inter alia: Le Monde, Libération, L'Express, Le Figaro, Le Point, the newspaper "La Suisse", France 3, TSR 1, several Arabic language newspapers in the Middle East, several websites like Rue 89 and bakchich.info ... The only Tunisian media that has protested rigorously was the newspaper «El MAWKEF» and «EL MOUATINOUN ' (both published by opposition parties) and the TV channel Al

Hiwar Attounssi owned by Tahar Ben Hassine, emitting from Roma. But this merely intensified the desire for revenge of those who issued the order.

Nobody ignored that it was a decision aiming to encourage - even at the cost of illegality - an educational institution which had been created at that time, «the International School of Carthage», on the initiative of Mrs. Ben Ali and Mrs Arafat. Until now, the 'Louis Pasteur High School' remained closed. The appeal filed in 2007 before the Administrative Court of Tunis is still awaiting trial.

The use of «outrageous» laws

The case of the Louis Pasteur High School has further poisoned the climate of insecurity and harassment of family Bouebdelli: mails diverted, extensive tax audits, health and social controls repeated, opened mail, wiretapping, rejection of any legal demand ...

The legal determination was then intensified. For example, the Ministerial Decree of February 22, 2008 imposed a new «specifications» with retrospective effect which took effect prohibiting such a combination in a single school in a section preparing Tunisian diplomas and preparing a section of foreign degrees (the target was obviously the "Louis Pasteur High School"). Likewise, it is now forbidden to open annexes: This decision aims to prevent the implementation of the project of

opening an annex to the Foundation in the northern suburbs of Tunis. Finally, the new provisions require a minimum class size of 42 m², where the standard size classes of the Foundation is 40 m²: it is not a pure coincidence. This requires it to destroy more than 20 classes, knowing that the Ministry imposes no such requirements in their own schools.

YEAR 2009, THE OPEN UNIVERSITY OF TUNIS

Damping Attempts

Despite the adoption in 2000 of a law authorizing and regulating private investment in higher education, the Free University of Tunis (ULT) has continued since its creation, to be subject to arbitrary measures from the Ministry of Higher Education: breaks or denial of partnership agreements regularly signed with national and foreign universities, refusal to grant the Free University of Tunis financial and other benefits expressly provided by law, rejection of many educational development projects, refusing to create new degrees in specialized courses and PHD studies. In addition to these abuses of power, there was almost daily harassment by a meddling administration to impose to the Free University of Tunis operating conditions that it fails to require from its own institutions.

The latest offensive by the Administration was the Act of August 4, 2008 imposing new «specifications» also retroactive: it is no longer allowed to use the word «university» in the title; only the words «faculty», «institute» or «school» are allowed; obligation to increase the initial capital from 75 000 to 1 000 000 euros (13 times higher!). It means that the Free University of Tunis is required to split the institution into several separate units, significantly increasing the management burden of each and endangering its survival.

This law, by its retrospective nature, is in fact directed against the Free University of Tunis, and is contrary to the principles of well established law. All these measures, far from being a neutral and objective application of law to serve the general interest, are a very serious injury to the most basic principles of «rule of law» that Power claims to respect.

The mission of «deep inspection»

History repeats itself. Under the guise of a thorough inspection of the Ministry of Higher Education, conducted in December 2009, whose fabricated report identified «administrative and educational deficiencies and irregularities», the Ministry notified the Free University of Tunis suspension of its approval until 2014, the prohibition to include new students, the definitive withdrawal of approval for engineering courses and the appointment of a managing director in charge of completing the courses underway.

The five objections of the Administration and the responses of the Free University of Tunis

Mr. BOUEBDELLI demonstrated, with supporting evidence, none of the objections raised during the inspection were based. These objections relate to the following:

1. The Free University of Tunis is accused of having launched an unauthorized advertising campaign for lessons in public accounting on behalf of the CNAM-INTEC (Paris).

Answer: This advertising operation involves lessons provided, for over 10 years, directly and remotely by the CNAM INTEC and not by the Free University of Tunis, which is a liaison office. By letter, date on 26/01/2002, the Ministry wrote that no permission was required for this activity.

2. It is alleged that the director of the Free University of Tunis (president) have been absent during the control period (from 8 to 22/12/2009) and has neglected his duties in performing its functions

Answer: This Director Mr. Sadok BELAID has always been present during that period and attended three meetings with the inspector, although the inspection period corresponds to a period of school holidays

3. The Free University of Tunis is accused having employed teachers from the public sector without the authorization of the Ministry

Answer: In order to undertake the entrusted tasks of education, the Free University of Tunis has actually been forced to hire a few teachers before the Ministry does achieve regulatory approval and which, because of administrative delays, never arrive on time and often arrives during the 2nd academic semester. Moreover, a campaign to recruit permanent professors has been initiated by the Free University of Tunis several years ago. To date there are over 40 permanent professors.

4. The Free University of Tunis is accused of having issued engineering degrees in irregular conditions: lack of competitive process for the selection of students at the entrance to the University engineering courses after preparatory classes.

Answer: the accreditation of engineering courses obtained from the Ministry in 2001 provided for the admission based on the documents presented by the student. This course has so far been approved by the Ministry since the engineering diplomas issued by the Free University of Tunis (5 cohorts) have received regulatory equivalence of diplomas in the public sector.

5. It is alleged that the Free University of Tunis have provided lessons for license in management-finance without prior permission of the Ministry.

Answer: The Free University of Tunis pointed to the inspector that the Students Guiding Manual published by the Minis-

try for the relevant years (2007, 2008 and 2009) shows clearly that this university is legally authorized by the Ministry to ensure these lessons. This authorization is also mentioned on the official website of the Ministry.

The reasons described above are so misleading that all Tunisian newspapers mentioning the decision to withdraw approval of the Free University of Tunis recall vaguely «educational and administrative irregularities.»

The «dismantling» of the plot

This shows clearly that this is a staging designed to «punish» a private academic institution for objections which have nothing to do with its mission. The misuse of power is obvious: it clearly recalls what happened a few years ago in the attempted closure in 2004 of «Jeanne d'Arc School» and the effective closure of the «Louis Pasteur High School», which fall within Bouebdelli Foundation.

The latest developments of the crisis

On February 2, 2010, a managing director has been appointed by the Court with a formal mandate to «ensure the continuity of the courses provided by the Free University of Tunis, preserve the rights of teachers and students as well as the administrative framework of the institution».

In fact, since his appointment, the administrator acts more to «liquidate» the Free University of Tunis than to en-

sure sustainability. His first decision was to dismiss two senior executives working in the direction of the institution for over 8 years: the Vice-President for teaching matters, Mr. Mehdi Bouebdelli, and the administrative and financial director, Mr Karim Bouebdelli, Both sons of Mohamed Bouebdelli. The other measures taken by the director include: the rehiring of a teacher fired in January 2010 after 1 academic semester for educational incompetence and strongly contested by his students, and an administrative officer also dismissed for incompetence in January during his trial period.

The existing staff at the Free University of Tunis has been «doubled» by a new team without the administrative workload justifies it, creating not only a tension between staff members, but also a climate of suspicion and denunciation.

In addition, the administrator has granted himself the right to challenge the tariff of fees set for the 2009/2010 academic year by making free some services which were not free before. Finally, the occupation of a building adjoining the Free University of Tunis belonging to the sons of Mr. Bouebdelli is illegal.

All these measures are only intended to «liquidate» the University of Tunis, which will not be able to survive by 2013, emptied of its students. The case of the Free University of Tunis is a political matter. Under the guise of so-called ad-

ministrative sanctions unjustified and disproportionate. This bad trial is intended to deny a free and patriot Tunisian citizen the right to tell the truth to his fellow citizens.

TUNISIAN GENERAL INTEREST DENIED

In Tunisia, two regimes coexist. In the light Side, there are codes fixing the law and a judicial system similar to the most advanced. In the shadow side, there is a pharaonic power able to remove, by a snap of its fingers, those who displease him.

Recently, International opinion has started to worry about the situation in Tunisia, following the increase in trials involving trade unionists, journalists, human rights activists, students and thousands of young considered as terrorists.

Officially, there are no political prisoners in Tunisia and all those who are arrested, tried and thrown in prison are only for so-called common crimes. But, the serious problem is the whole system put in place to withhold all the institutions

from their content and their meaning. This applies to pluralism, elections, constitutional rights to freedom of association and expression.

The recent «killing» of the University of Tunis has used subterfuge, a legal arrangement, after failing to reach its goal with tax audits, health, social security and other controls, which, unfortunately for the power, have resulted in a “ nothing to report”. For these reasons, the French wife of Mohamed Bouebdelli, chartered accountant, has always practiced a particularly honest accounting and a strict observance of all regulations in force.

Therefore, the only solution for the Power was to move quickly and strongly.

Mohamed Bouebdelli has been willing to fight for rights. He found sympathy in all walks of Tunisian and foreign democrats. But how many robberies of this kind, even more revolting, were held in the silence of victims, isolated and terrorized by the Authority in order to remain silent.

Mohamed Bouebdelli understood that the Power is not only determined to serve some persons by dispossessing others, but it is also acting illegally. So, since 2007, he has moved the subject of his struggle, from a fight for his rights to a fight for the right itself. He then multiplied the interviews to

national and especially to international media, exposing miscarriages of justice, arbitrary spoliation, and has especially been the first to say aloud what everyone thought softly.

But the strongest moment of his struggle was undoubtedly the publication of his book in late September 2009, shortly before the parliamentary and presidential elections in October. Mohamed Bouebdelli not only defends his professional dignity, he is submitting proposals for practical reforms. This Tunisian citizen trusts the political debate in a country where politics is quasi prohibited.

The abuse of law in cascade

In summary, the concept of “abuse of law”, a central pillar of any modern legal system, is an ‘empty word’ in Tunisia today, although the Tunisian Constitution proclaims its commitment to this concept and the most official discourse continues to rehash its total respect for this fundamental principle. The case of the closure of the University of Tunis, the oldest and largest private institutions of higher education, demonstrate this fact.

Indeed, the University of Tunis was a victim to rights abuses and violation of ‘the rule of law’. In addition, we should underline the fact that the arbitrary decisions of the Minister of Higher Education represent a flagrant violation of one of the

most fundamental principles generally accepted in the modern law and more specifically, the administrative law: **“the principle of proportionality”**. It is a general principle of law stating that the punishment should be proportionate to the ‘fault’ to punish. It is undeniable that this principle has been violated in this case. We saw that the grounds for closing the University of Tunis are really unfounded. But what is even more unfortunate is that the severity of the penalty decided by the Minister of Higher Education has nothing to do with the actual content of these objections. **Obviously, the penalty was decided to “punish” the founder of the Free University of Tunis for anything other than “mistakes” allegedly committed by the latter. If so, it is clear that we are dealing with another serious and flagrant illegality: the “Misuse of power”**.

ANNEXES

ABUSES OF LAW IN CASCADE

The ‘rule of law’ concept, which is a central pillar of any modern legal system, is an ‘empty word’ in Tunisia today, although the Tunisian Constitution proclaims its commitment to this concept and despite the most formal political discourse keeps rehashing his total respect for this fundamental principle. The case of the closure of the University of Tunis, the oldest and largest private institution of higher education in Tunisia, will demonstrate this statement.

I - ARBITRARY PROCEDURE OF CLOSING THE FREE UNIVERSITY OF TUNIS: The University was closed by a ministerial arbitrary decision taken in lightning speed, according to the most expeditious and the most arbitrary procedure and based on the most misleading pretexts.

On the basis of a ‘thorough inspection report’, an administrative commission, composed entirely of persons subject to the ministerial authority and whose members have not received the ‘report’ before the beginning of the hearing The founder of the University, Mr. Mohamed El Boussaïri Bouebdelli, was summoned «for a matter concerning you». During a mock hearing, Mr. Bouebdelli was denied the «right to read his file», one of the most indisputable guarantees of defense. He was also denied the «right to prepare his defense» and the «right to be assisted by a legal counsel or a lawyer». This expeditious administrative procedure was completed in thirty minutes. It was followed the next day, without any other proceedings, by a decree signed by the Minister of Higher Education, himself yet law professor and expert in administrative law, by which it decided to

withdraw the authorization of the University of Tunis, to place for three years this university under the authority of an ‘administrator’ from the Ministry and to permanently close the Polytechnic School of this University, representing over 70% of its activity: the ministerial decision represents really a «programmed death warrant» against the Free University of Tunis.

This expeditious process is absolutely contrary to the Tunisian administrative law, which provides, even for the lighter disciplinary sanctions, guarantees and rights to defense. In our case, neither the procedure of «communicating the file» nor «the right to have adequate time to prepare his defense», nor the effective exercise of the «right of defense», nor the «right to be assisted by a legal counsel or a lawyer’, nor finally the intervention of a judicial authority, have been recognized for the benefit of the Free University of Tunis.

II - VIOLATION OF THE RULE OF LAW: Arbitrariness has been pushed to the point where, to pronounce its edicts, the Authority does not bother to look for more false reasons and to hide the real abuse of power. As we will demonstrate, the pretexts used by the Ministerial Order are without any legally valid grounds.

Here are, point by point, four pretexts used by the Minister of Higher Education to close the University of Tunis. We emphasize that for each of these ‘grievances’, the Free University of Tunis has responded by producing authentic documents that the Minister can not deny, as they are, in most cases, documents from his own official services.

a - The Ministry blamed us for having conducted in Tunisia an advertising operation in favour of the famous French institution «CNAM-INTEC», without prior authorization. However, before doing the advertising, the University of Tunis took the precaution

to request such authorization from the Ministry. In a ministerial correspondence, that we have in our hands, the Ministry wrote in response that, by law, this business of advertising does not fall within the sphere of control of the ministerial authority. As a result, our university is fully released from any obligation regarding this advertisement. Moreover, for ten consecutive years, we have done this publicity without any objection from the Ministry.

b - The Ministry blamed us for organizing engineering courses in violation of the law. However, the Ministry has overshadowed the following two facts: firstly, it has issued to our University authorizations in proper form to organize such teachings. On the other hand, our lessons were conducted in strict compliance with the program officially approved by the Ministry itself. Finally, for several years, the Ministry has issued certificates of equivalence of our diplomas to formal qualifications in the same discipline.

c - The Ministry blamed us for having taught a specialty of 'management' (management-finance) without official authorization. However, anyone consults the very official document of the Ministry entitled Students' Orientation Guide for the years 2009 and 2010, discovers that this Guide informs students that our university is authorized to teach this specialty and that they can be enrolled in our Institute of Management for this specialty.

d - The Ministry blamed us for hiring, without its permission, teachers working in public university sector to give a few extra hours at our University. But this action falls naturally within the cooperation between public and private university sectors, which is encouraged by the State. In addition, we would observe that when the Ministry has taken control of our University by placing it under the authority of an Administrator appointed by the Ministry, the first act that the Director has done was to confirm the hiring of teachers

from the public sector, launched earlier this academic year by our University ...

III-INFINGEMENT OF THE PRINCIPLE OF PROPORTIONALITY: In addition to rights abuses and violations of «the rule of law» whose the Free University of Tunis was the victim, we should underline the fact that the arbitrary decisions of the Minister of higher education represent a flagrant violation of one of the most fundamental principles generally accepted in the modern law and more specifically, the administrative law: «the principle of proportionality». It is a general principle of law that the punishment should be proportionate to the «fault» to punish. It is undeniable that this principle has been violated in this case. We saw that the grounds for closing the University of Tunis are really unfounded. But what is even more unfortunate is that the severity of the penalty decided by the Minister of Higher Education has nothing to do with the actual content of these objections. Obviously, the penalty was decided to “punish” the founder of the Free University of Tunis for anything other than “mistakes” allegedly committed by the latter. If so, it is clear that we are dealing with another serious and flagrant illegality: the “Misuse of power”.

February 11, 2010

Tunisian Republic
Ministry of Higher Education,
Scientific Research and Technology
The Minister

No. 264

Tunis, December 4, 2009

Mission Assignment

Considering Law 2000-73 dated July 25, 2000 on private higher education, as amended and supplemented by Law 2008-59 of August 4, 2008, and Decree 2876 of August 11, 2008 on the organization of the Ministry of the higher education, scientific research and technology,

The Minister of higher education, scientific research and technology assigns to:

- Mr. Abdellatif Moumen: Inspector General
- Mr Al Hamadi Soltani: chief inspector

the task of conducting a thorough inspection mission at the Free University of Tunis.

As part of this mission, they are given the largest power to investigate and they have therefore the right to report anything they deem useful to their mission

Lazhar Bououni

Tunisian Republic
Ministry of Higher Education,
Scientific Research and Technology

The Inspectorate General
No: 362

Subject: Regarding the outcome of the inspection at the Free University of Tunis.

Ref.: Mission Assignment No. 246

December 4, 2009.

Rector of the Université Libre de Tunis,

I have the honour to inform you that under the mission assignment mentioned in reference, the Inspector General conducted at the Free University of Tunis a thorough inspection mission, which shows the following observations:

1. The Free University of Tunis has used its authorization to carry out, through the print media, advertising operations underlining the activity of a foreign educational institution, namely National Institute of Technical and Economic Accounting (CNAM-INTEC). The Institute provides distance education courses leading to the acquisition of French degrees, such as diplomas in accounting and the «Master accounting, control, audit», specializations unauthorized under the pedagogical partnership agreement dated March 30,

2001 between the parties concerned (before obtaining approval to set up this educational institution), and without obtaining the prior approval of the Ministry under paragraph 2 of Article 16 of Law No. 2000-73.

2. It should be noted that the Free University of Tunis responded that its role is limited, under the terms of the agreement with the above-mentioned Institute, to assist it in the following tasks: guiding students, collecting applications, ensuring the examination rooms and procedures to facilitate conduct of examinations. Therefore, it is an implicit recognition of the participation in the pre-registration of candidates for such university studies in the specialties mentioned above, which are not allowed.

3. During the inspection visit, it was found that Mr Sadok Belaid, Rector of the Free University of Tunis, is not exercising its functions of management of the institution effectively, which was confirmed by multiple field visits by the inspection team. This act constitutes a breach of Article 5 of Law n ° 2000-73 dated July 25, 2000, which stipulates that the institution director must dedicate himself to the management of the institution.

4. The Free University of Tunis has hired teachers working in public institutions of higher education (102 teachers during the academic year 2008-2009 and 78 during the academic year 2009-2010), but these teachers did not obtain personal authorizations from the Ministry of Higher Education, Scientific Research and Technology. Therefore, it is indeed an infringement of Article 16 of Law No. 2000-73 relating to private higher education institutions (Annex 01).

5. The Free University of Tunis issued the national diploma in engineering in diverse specialties, after the successful completion of 5 years of university studies. However, it was found that

the engineering studies system used in this private institution does not conform to the engineering studies system in force in the public sector, including the system applied to students in public sector preparatory classes, which requires students to submit to a national competition to select deserving students to enroll in the curriculum of engineering degree. However, it was found that the transition to the third year at the Free University of Tunis is a regular pass, subject to obtaining an overall average of 10 out of 20 without any other condition. This constitutes a contradiction with the provisions of Article 4 of Law No. 2000-73, which states that: «... private institutions of higher education must provide an education level not lower than the level provided in institutions of public higher education ... ». It is also inconsistent with the provisions of Article 8 of the Decree of the Minister of Higher Education of September 28, 2000 approving the specifications governing the organization and functioning of private higher education institutions.

6. The Free University of Tunis enrolled students in the main graduate degree of management - specialty finance, without permission, which constitutes an infringement of Article 4 of Law No. 2000-73 relating to the higher education sector.

Also, in light of the foregoing, you are requested to submit the answers on these observations, within ten days from the date of receipt of this letter.

**For the Minister of Higher Education, Scientific Research and
Technology
The Inspector General
Mohamed Abdel Mouden**

Tunisian Republic

**Ministry of Higher Education,
Scientific Research and Technology**

**Directorate General of Higher Education
Directorate of Private Higher Education and Accreditation**

1106

Tunis, January 14, 2010

To Mr. Mohamed El Boussairi Bouebdelli
Founder of the Free University of Tunis

Subject: Summons

I have the honour to inform you that the Advisory Commission to grant approval for the establishment of private higher education institutions or its removal and its operation will be held Friday, January 22, 2010 at 9 am morning at the headquarters of the Directorate General of Higher Education, located Aouled Haffouz Avenue in Tunis.

You are requested to attend on the date indicated above, for a matter concerning you.

**Director General of Higher Education
Noureddine El dokki**

Mohamed El Boussairi Bouebdelli
Founder of the Free University of Tunis

To Mr. Director General of Higher Education

**Chairman of the Advisory Commission to grant approval
for the establishment of private higher education
or its withdrawal and its operation
Ministry of Higher Education, Scientific Research and Tech-
nology
- Tunisia --**

Subject: Clarification of Position

Reference: Summons No. 375, January 14, 2010.

Following the invitation sent to me to attend the meeting of the Advisory Commission to grant approval for the establishment of private higher education or its withdrawal and its operation, held Friday, January 22, 2010 at 9 am in the morning, I wish to inform you that I will participate in the meeting as scheduled to share the following position:

- The invitation to the meeting did not specify the purpose of the meeting but merely use the phrase «matter concerning you», that does not specify the reason for the summons.

- Moreover, knowing that the Commission's mission to which I am called is part of the grant and withdrawal of approval to create

private institutions of higher education, it is clear that the purpose of convening the meeting is part of procedures that may harm the authorization granted to the institution that I created, which requires me to know exactly which facts are alleged against me, so that I will be able to prepare my defense and to seek assistance, if appropriate, by counsel or lawyer. For all these reasons, I ask you to register my desire to participate in the meeting and record my actual presence in the minutes of the meeting.

- I request that my file submitted to the Commission be communicated to me so that I will be able to prepare my defense and to seek assistance, if appropriate, by counsel or lawyer.

- I request the recording of my request to postpone the meeting to a later date in order to have enough time to exercise my right to defense.

Thank you.

Mohamed El Boussairi Bouebdelli
Founder of the Free University of Tunis

Tunisian Republic
Ministry of Higher Education,
Scientific Research and Technology

Order

by the Minister of Higher Education and Scientific Research, dated January 25, 2010 concerning the withdrawal of approval of the Free University of Tunis.

The Minister of Higher Education and Scientific Research,

Given the Law n° 2000-73 dated July 25, 2000, on private higher education, and all the texts amending and supplementing it, including Law No. 2008-59 of 04 August 2008,

Considering the Decree n° 2000-2125 of September 25, 2000, defining the conditions and regulations for granting permission for the creation of a private institution of higher education,

Considering the Decree n° 2000-2126 of September 25, 2000, establishing the composition of the Advisory Commission to grant approval for the establishment of private higher education institutions or its withdrawal and its operation,

Given the order of the Minister of Higher Education, dated September 28, 2000, defining the criteria for determining the amount of bank guarantee provided by private institutions of higher education,

Given the order of the Minister of Higher Education of September 28, 2000 approving the specifications governing the organization and operation of private institutions of higher education,

Given the order of the Minister of Higher Education of July 12, 2001, on the authorization for the establishment of private higher education institutions, and all the texts amending or supplementing it, including the Order of 18 October 2005,

Given the order of the Minister of Higher Education, Scientific Research and Technology, dated January 23, 2009 concerning the withdrawal of the specializations of the Free University of Tunis,

Given the order of the Minister of Higher Education, Scientific Research and Technology, dated 04 April 2009 concerning the appointment of members of the Advisory Commission to grant approval for the establishment of private higher education institutions or its withdrawal,

Considering the report of the administrative inspection conducted in the institution by the General Inspectorate of the Ministry of Higher Education, Scientific Research and Technology, dated December 23, 2009, which noted the following deficiencies:

- Free University of Tunis has made, through the print media, advertising operations on the activity of a training institution abroad, namely the National Institute of Technical and Economic Accounting (CNAM-INTEC), which awards degrees in accounting, and the “Master of accounting, control, audit”, pursuant to a partnership agreement with that institution, without obtaining prior authorization required.

- Mr. Sadok Belaid, rector of the Free University of Tunis, is not dedicated to the management of the institution.

- Free University of Tunis has employed teachers working in public institutions of higher education, without prior authorization.

- Failure to comply with the requirements for admission to national diploma in engineering, and with education system in force in public institutions of higher education for graduation in the same diploma.

- Free University of Tunis enrolled students in a main graduate degree in management, with specialization in finance, without prior authorization,

Considering the responses of the rector of the Free University of Tunis on the report of the Inspector General of 14 January 2010,

Given the minutes of the meeting of the Advisory Commission to grant approval for the establishment of private higher education institutions or its withdrawal, held January 22, 2010, during which the above mentioned shortcomings were exposed again, and Mr. Mohamed El Boussairi Bouebdelli, founder of the Free University of Tunis, was heard,

Considering the opinion of the Advisory Committee, registered in the minutes of that meeting,

Decides the following:

Article one:

The withdrawal of approval of the Free University of Tunis located at 30 avenue Kheir Eddine Bacha 1002 Tunis, whose foun-

der is Mr. Mohamed El Boussairi Bouebdelli, holder of National Identity Card No. 00047148, and whose rector is Mr. Sadok Balaïd,

this from the date of publication of this Order and for a period of 3 consecutive academic years, i.e. 2010-2011, 2011-2012 and 2012-2013.

Article 2:

The final withdrawal of the authorization granted to the Free University of Tunis on the national diploma in engineering in all specializations from the date of publication of this Order. Students already enrolled in the diploma can continue their studies until the end of their education.

Article 3:

Any registration of new students in all disciplines and all levels, is suspended for academic years 2010-2011, 2011-2012 and 2012-2013.

Article 4:

The provisions of this Order shall come into force from the date of its publication.

Tunis, January 25, 2010.

**The Minister of Higher Education and Scientific Research
Bechir Tekkari**



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