

## HUMAN RIGHTS WATCH

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## Annex I. Letter to His Excellency Lotfi Brahem

September 25, 2017

His Excellency Lotfi Brahem

Minister of Interior

Ministry of Interior

Avenue Habib Bourguiba, 1000, Tunis

Fax: xxxxxxxxxxxxxx

We would like to first thank you for the continued collaboration with our organization and for the fruitful meetings we had in April 2017 with senior officials of the ministry of interior.

We are conducting research that would assess the impact of the entry into force of law 2016-05 modifying the code of criminal procedure, related to the situation of people in pre-charge detention. As you know, this law improved the safeguards for the rights of persons in detention by allowing them access to a lawyer in garde à vue. Human Rights Watch had, at the time, commended the adoption of the law and considered it a step forward for detainees' rights. We would like to ask you the following questions to help us assess how the law has been implemented in practice.

- How many people were detained in garde à vue from June 1<sup>st</sup>, 2016 to June 1<sup>st</sup>, 2017? Out of those detained during this period, how many asked for a legal representation and how many benefited from one?
- We would like to have the breakdown of detentions in garde à vue: how many were for minor offenses and how many for serious crimes during the same period?
- We would like to know whether your ministry issued instructions, directives, or guidelines on the implementation of the law to the police

officers in charge of applying it? If yes, can you provide us with those guidelines?

- When defendants, their families, or their lawyers filed complaints alleging denial of the right to a lawyer or failure to inform the detainee of his/her right to legal representation, did the ministry open an investigation into these cases? Can you give us details and specific information about the number of disciplinary or judicial cases brought against police officers for violation of procedural rights during pre-charge detention?
- Are there any specific steps taken in order to monitor the work of the judicial police and ensure that they comply with the requirements of the code of criminal procedure of ensuring the presence of a lawyer during garde à vue?
- Several lawyers told Human Rights Watch that they face difficulties having a confidential conversation with their clients in police custody, given the lack of space and privacy. Has the Ministry taken any steps to ensure good conditions for confidential communication between the lawyer and the suspect in garde à vue?
- Does the Ministry have statistics about the number of allegations for torture and ill-treatment in garde à vue, from June 2016 to date? Have you noticed any increase or decrease in the number of allegations compared to previous years?

Thank you for your consideration.

Sincerely,

[Signature]

Sarah Leah Whitson  
Executive Director  
Middle East and Northern Africa Division  
Human Rights Watch

## **Annex II. Letter from the Ministry of Interior to Human Rights Watch**

*[Received on December 18, 2017]*

### **Information Card**

#### **On Assessing the Mechanisms for Implementation of Law No. 5 of 2016**

The Ministry of Interior issued work notice number 1 dated 1 May 2017 to all agencies tasked with the implementation of the provisions of Law No. 5 of 2016, which included a reminder of the new procedures related to detention in terms of regulating the duties of law enforcement officials, especially as it relates to the requirement of obtaining permission for the detention of someone or bringing someone before the Republic's Prosecutor in order to obtain an extension, in addition to the guarantees granted to those detained, particularly those related to the appearance of an attorney before the preliminary examiner, with attestation of the means by which the attorney was summoned, whether chosen (by the detainee or his family or diplomatic authorities) or appointed for criminal proceedings. [The notice also relates to] the procedures and formalities of summoning the counsel and the rights granted him by the law, most fundamentally the right to meet his client in private, as feasible logistically and materially as per the circumstances of the detention center.

Noting the fact that a working group was formed under supervision of the Ministry of Justice including representatives of the Ministries of Interior and Justice and the Lawyers Association with the goal of preparing an operational guide to clarify the procedures stipulated by Law No. 5 of 2016.

2- The most important guarantees and rights granted to the detainee through the new provisions are: the detainee's ability to retain a counsel to appear with him at hearings or contestations with others before the preliminary examiner; and the attorney's right to visit and meet his client privately and review the examination proceedings during the period of detention. Among the duties of the preliminary examiner are to guarantee that the examination record informs the suspect that he or his family or his representative has the

right to choose an attorney to appear with him. And the Public Prosecutor's office has the authority to regularly conduct the necessary oversight over the record of detention to ensure that it contains, among other things, the request to choose an attorney.

3- The Ministry of Interior is working to ensure the necessary conditions upon an individual's exercise of his right to retain counsel as much as possible, and the work notice referenced above has stipulated the importance of ensuring proper reception of attorneys, including the designation of a waiting space within the [detention] unit if possible. In case of multiple attorneys, steps are taken to allow them to exercise their rights to visit and meet their clients, review the examination proceedings, attend hearings and contestations in such a way as to facilitate the proper course of the examination and hearing, and to appeal to the regionally relevant Republic's Prosecutor with jurisdiction to address any related complications.

4- A complaint of torture was filed in 2016 (suspicion of a citizen being subjected to torture by national security staff in Sbeitla during interrogation, and the General Inspectorate found that the claims are without merit in light of the conflicting statements of damage made by the claimant who suffers from epilepsy. A ruling on the matter was postponed for judicial decision considering that the judiciary has pledged to pursue the matter), and a second complaint in 2017 (filed by a woman on behalf of her son, accused of murder, who alleged that a security official subjected her son to violence to extract a confession, and the merit of her claims was not proven insofar as the examination of this crime was under the direct supervision of the Public Prosecution). No increase in the number of torture cases was recorded in comparison with previous years.