

## TUNISIA

- **TUN-06:** Abir Moussi (Ms.)
- **TUN-COLL-01:** 64 Parliamentarians



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# Tunisia

*Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)*



Abir Moussi (centre), President of the Free Destourian Party (PDL), lifts her face mask as she gestures during a parliamentary session as Tunisian lawmakers debate ahead of a vote of confidence on the new government reshuffle by the Prime Minister at the Tunisian Assembly headquarters in the capital Tunis on 26 January 2021. FETHI BELAID/AFP

## TUN-06 – Abir Moussi

### Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Impunity
- ✓ Other violations

### A. Summary of the case

A member of the Assembly of People's Representatives of Tunisia elected in 2019, Ms. Abir Moussi was the victim of acts of verbal and physical violence and sexist, degrading insults directly linked to the exercise of her parliamentary mandate. The abuse suffered by Ms. Moussi is allegedly based, on the one hand, on the fact that she is the leader of an opposition political party and, on the other, on her gender. Ms. Moussi has also received serious death threats, which she has reported to the police, who are providing her with security.

The complainant's allegations were supported by videos and excerpts from social media posts that helped identify the alleged perpetrators, including two members of the Assembly of People's Representatives elected in 2019, Mr. Seifeddine Makhoul and Mr. Sahbi Smara. The latter physically assaulted Ms. Moussi during Assembly proceedings on 30 June 2021. The two parliamentarians have not been punished as no disciplinary measures had been taken by the parliamentary authorities against them or against other members of the same political party accused of harassing and intimidating Ms. Moussi with the aim of removing her from political life.

### Case TUN-06

**Tunisia:** Parliament affiliated to the IPU

**Victim:** Female opposition member of parliament

**Qualified complainant(s):** Section I.1(a) of the Committee Procedure (Annex I)

**Submission of complaint:** October 2020

**Recent IPU decision:** February 2023

**Recent IPU mission(s):** - - -

**Recent Committee hearing:** Hearing with the complainant at the IPU's 143rd Assembly (November 2021)

#### Recent follow-up:

- Communication from the authorities: Letter from Speaker of the Assembly of People's Representatives (December 2023)
- Communication from the complainant: December 2023
- Communication to the authorities: Letter to the President of the Republic (December 2023)
- Communication to the complainant: December 2023

In several of their letters sent between 2020 and 2023, the parliamentary executive authorities pointed out that measures had been taken to protect Ms. Moussi's rights, in particular the provision of permanent security by the Ministry of the Interior. Nevertheless, the Tunisian authorities have repeatedly asserted that Ms. Moussi's conduct was prejudicial and that certain measures taken against her were justified.

On 25 July 2021, President Kais Saïed suspended parliament and lifted the parliamentary immunity of all parliamentarians, invoking Article 80 of the Constitution. The President granted himself the power to legislate by means of presidential decrees, which are not subject to judicial review in the absence of a Constitutional Court. On 30 March 2022, the President officially dissolved parliament and announced a road map for the year 2022 that included the organization of parliamentary elections and the adoption of a new Constitution. According to the results published by the *Instance supérieure indépendante pour les élections*, ISIE (Independent High Authority for Elections), the turnout for the parliamentary elections was around 11%. Several political parties, civil society organizations and the Tunisian General Labour Union (UGTT), a powerful national trade union organization, boycotted the elections on the grounds that the whole constitutional process initiated by President Saïed had been neither free nor fair. They therefore rejected the election results as illegitimate.

In January 2023, Ms. Moussi's political party was reportedly banned from protesting freely against the decrees adopted by President Kais Saïed. Ms. Moussi and her supporters were allegedly violently prevented from marching by a public order brigade.

On 3 October 2023, Ms. Moussi was arrested while attempting to lodge an appeal against the presidential decrees on the organization and conduct of local elections scheduled for December 2023, citing a lack of transparency in the electoral process. On 5 October 2023, she was reportedly questioned by an investigating judge about a series of security-related allegations, and the judge ordered that she be remanded in custody. She is accused of "an attack aimed at changing the form of government, inciting people to arm themselves against each other or to provoke disorder, murder or pillage in the country", as stipulated in section 72 of the Tunisian Penal Code. According to the complainant, Ms. Moussi faces the death penalty as a consequence of these charges. The complainant added that Ms. Moussi's detention was intended to hinder her participation in the forthcoming presidential elections scheduled for autumn 2024.

In a letter received on 20 December 2023, the parliamentary authorities stated that they did not have official information on the judicial cases in progress, as these proceedings fell within the remit of the judicial authorities, in accordance with the principle of the separation of powers set out in the Tunisian Constitution of 2022. Furthermore, according to the parliamentary authorities, these cases are also subject to the principle of confidentiality of the investigation in order to ensure the proper conduct of investigations and protection of personal data. In the same letter of 20 December 2023, the parliamentary authorities refuted the allegations that the proceedings initiated against the former members of parliament, including Ms. Moussi, were political in nature, stating that these allegations were unfounded, without, however, providing any arguments to that effect. According to the authorities, the current proceedings are based on laws applicable to all citizens, who remain equal before the law, and that involvement in politics does not guarantee immunity for those who break the law, contrary to what prevailed in the past.

Regarding the request for an IPU mission, the Tunisian authorities continue to decline the Committee's request for various reasons, including the legislative elections in December 2022, the establishment of the new Assembly of People's Representatives and the setting up of its internal structures, and the parliamentary recess (August–September 2023). In their letter of 20 December 2023, no response to the Committee's request for a mission was forthcoming.

## B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Tunisian authorities for the information provided in their letters of 29 May and 20 December 2023; *regrets*, nevertheless, the lack of any concrete information on Ms. Moussi's case; *deplures* the fact that, despite its numerous efforts to organize a mission to Tunisia, the authorities have still not provided a clear answer as to when the mission can take place;

2. *Deplores* the detention of Ms. Abir Moussi, an alarming step backwards in this case, particularly in view of the charges against her, which should not have led to this measure; *regrets* that the former member of parliament has been imprisoned for attempting to question the validity of the presidential decrees on local elections before the Tunisian courts; and *is alarmed* at the seriousness of the charges against her and at the disproportionate sentence she faces in relation to the alleged offences, namely the death penalty;
3. *Calls on* the Tunisian authorities to release Ms. Moussi as a matter of urgency and to drop the charges against her, given that they appear to be based solely on the peaceful exercise of her rights to freedom of expression, association and assembly, which are guaranteed under the International Covenant on Civil and Political Rights, to which Tunisia has acceded;
4. *Deeply regrets* the turn of events in the case in question as, instead of holding Ms. Moussi's assailants accountable before the courts, the Tunisian authorities arrested and detained her for criticizing presidential decrees and the current government; *reiterates* that healthy democracies are based on the diversity of political opinion, which should be heard and respected; *reiterates*, also, that Tunisian women should be able to carry out their political duties in a respectful environment where their rights are defended effectively and seriously; and, to this end, *calls on* the relevant authorities to respect and protect the rights of women politicians in Tunisia;
5. *Is concerned* at the allegation that Ms. Moussi was arrested with the aim of preventing her participation in the forthcoming presidential elections; *reiterates* that the participation of women in legislative and presidential elections enriches and strengthens the democratic process in place; *encourages* the Tunisian authorities, therefore, in an election year likely to result in an exacerbation of political tensions, to take all necessary steps to guarantee the fundamental rights of all former and current parliamentarians, irrespective of their political affiliation and opinions;
6. *Reiterates its hope* that a delegation from the Committee on the Human Rights of Parliamentarians will be able to visit Tunisia in the near future in order to foster constructive and inclusive dialogue and help resolve Ms. Moussi's case and, together with the Tunisian Parliament, explore ways to combat the intimidation of women in politics; and *hopes* to receive a positive response and support from the Assembly of People's Representatives to this end to enable the mission to take place in the best possible conditions;
7. *Requests* the Secretary General to convey this decision to the Speaker of the Assembly of People's Representatives, the complainant and any third party likely to be in a position to supply relevant information;
8. *Decides* to continue examining this case.



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## Tunisia

*Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session  
(Geneva, 23 January to 7 February 2024)*



Tunisian security forces guard the entrance to the country's parliament in Tunis, Tunisia, on 1 October 2021. © Anadolu Agency via AFP

- |                                       |                                |
|---------------------------------------|--------------------------------|
| TUN-07 - Seifedine Makhoulf           | TUN-39 - Noomane El Euch       |
| TUN-08 - Maher Zid                    | TUN-40 - Abdelhamid Marzouki   |
| TUN-09 - Maher Medhioub               | TUN-41 - Ayachi Zammal         |
| TUN-10 - Yosri Dali                   | TUN-42 - Samir Dilou           |
| TUN-11 - Fethi Ayadi                  | TUN-43 - Habib Ben Sid'hom     |
| TUN-12 - Awatef Ftirch (Ms.)          | TUN-44 - Mabrouk Khachnaoui    |
| TUN-13 - Omar Ghribi                  | TUN-45 - Bechir Khelifi        |
| TUN-14 - Faiza Bouhlel (Ms.)          | TUN-46 - Nouha Aissaoui (Ms.)  |
| TUN-15 - Samira Smii (Ms.)            | TUN-47 - Latifa Habachi (Ms.)  |
| TUN-16 - Mahbouba Ben Dhifallah (Ms.) | TUN-48 - Ferida Laabidi (Ms.)  |
| TUN-17 - Mohamed Zrig                 | TUN-49 - Mohamed Affas         |
| TUN-18 - Issam Bargougui              | TUN-50 - Abdellatif Aloui      |
| TUN-19 - Samira Chaouachi (Ms.)       | TUN-51 - Mehdi Ben Gharbia     |
| TUN-20 - Belgacem Hassan              | TUN-52 - Rached Khiari         |
| TUN-21 - Kenza Ajela (Ms.)            | TUN-53 - Lilia Bellil (Ms.)    |
| TUN-22 - Emna Ben Hmayed (Ms.)        | TUN-54 - Moussa Ben Ahmed      |
| TUN-23 - Bechr Chebbi                 | TUN-55 - Oussama Khelifi       |
| TUN-24 - Monjia Boughanmi (Ms.)       | TUN-56 - Ghazi Karoui          |
| TUN-25 - Wafa Attia (Ms.)             | TUN-57 - Mohamed Fateh Khelifi |
| TUN-26 - Jamila Jouini (Ms.)          | TUN-58 - Ziad El Hachemi       |
| TUN-27 - Mohamed Lazher Rama          | TUN-59 - Sofiane Makhoulfi     |
| TUN-28 - Nidhal Saoudi                | TUN-60 - Majdi Karbai          |
| TUN-29 - Neji Jmal                    | TUN-61 - Anouar Ben Chahed     |
| TUN-30 - Zeinab Brahmi (Ms.)          | TUN-62 - Yassine Ayari         |
| TUN-31 - Mohamed Al Azhar             | TUN-63 - Ghazi Chaouachi       |
| TUN-32 - Noureddine Bhiri             | TUN-64 - Ahmed Mechergui       |
| TUN-33 - Rached Ghannouchi            | TUN-65 - Mohamed Ben Salem     |



TUN-34 - Tarek Fetiti  
TUN-35 - Imed Khemiri  
TUN-36 - Walid Jalled  
TUN-37 - Safi Said  
TUN-38 - Iyadh Elloumi

TUN-66 - Lazhar Akremi  
TUN-67 - Ali Laraiedh  
TUN-68 - Ahmed Ameri  
TUN-69 - Sayed Ferjani  
TUN-70 - Sahbi Atig

### Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage and of fair trial proceedings
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity
- ✓ Other acts obstructing the exercise of the parliamentary mandate

#### A. Summary of the case

This case concerns 64 members of the Assembly of People's Representatives of Tunisia elected in 2019 who, according to the complainants, are victims of arbitrary prosecutions after expressing their opposition to the exceptional measures adopted by President Kaïs Saïed since 25 July 2021.

More generally, the suspension of parliament on 25 July 2021 by President Saïed had an impact on the 217 members of the Assembly of People's Representatives elected in 2019, who were deprived of their parliamentary immunity, allowances, medical insurance and freedom of movement, including for the purposes of receiving medical treatment.

On 30 March 2022, 120 members of parliament elected in 2019 took part in an online plenary session to discuss the presidential decrees. A few hours after the plenary session, President Saïed officially dissolved parliament and the Public Prosecutor opened an investigation into the members of parliament for an attempted coup d'état and conspiracy against justice. For fear of reprisal, only nine of the 120 members of parliament concerned, including the former Speaker of the National Assembly, Mr. Rached Ghannouchi, submitted a complaint to the Committee. Mr. Ghannouchi was summoned for questioning at great length on 1 April 2022 about this case.

Moreover, the dissolution of parliament had, according to the complainants, additional consequences for some members of parliament elected in 2019 from the *Ennahda* and *Al Karama* blocs, who were directly targeted because of their opposition to President Saïed and were imprisoned before being released, including Mr. Seifedine Makhoulouf and Mr. Nidhal Saoudi. Mr. Nourredine Bhiri, who had initially been arrested and detained on 31 December 2021 before being released on 8 March 2022, was again arrested on 13 February 2023 by officers from the national terrorist crimes investigation unit. Mr. Bhiri is still being held in pretrial detention. The cases concerning certain members of parliament are also being examined in the military courts, as provided for by Tunisian law.

In the same context, Mr. Rached Khiari, who has been charged in other cases, has been detained since 3 August 2022 on a charge of defamation against another person on social media brought by the Ministry of Education. Mr. Khiari is also alleged to have accused President Saïed of receiving foreign funding for his 2019 election campaign and is now facing the military courts on these charges. Similarly, Mr. Mehdi Ben Gharbia has been held in pretrial detention since 20 October 2021, accused of money laundering, and is allegedly still being held despite the detention exceeding the legal six-month limit. In its

#### Case TUN-COLL-01

**Tunisia:** Parliament affiliated to the IPU

**Victims:** 64 members of the opposition (51 men and 13 women)

**Qualified complainant(s):** Sections I.1(a) and (b) of the Committee Procedure (Annex I)

**Submission of complaints:** August, September and October 2021

**Recent IPU decision:** February 2023

**Recent IPU mission(s):** - - -

**Recent Committee hearing:** Hearing of the complainants at the 143rd IPU Assembly (November 2021)

#### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the Assembly of People's representatives (December 2023)
- Communication from the complainants: January 2024
- Communication to the authorities: Letter to the President of the Republic (December 2023)
- Communication to the complainants: December 2023

Opinion No. 50/2023 of 26 September 2023 concerning the case of Mr. Ben Gharbia, the Working Group on Arbitrary Detention stated that Mr. Ben Gharbia's detention was arbitrary based on the information provided by the source. The working group also called on the Tunisian authorities, who have not sent their official observations to the UN mechanism, to release Mr. Ben Gharbia immediately and grant him the right to obtain compensation.

As for Mr. Rached Ghannouchi, he is allegedly the target of politically motivated persecution, as he has been charged in several cases that the complainants maintain are politically motivated. On 15 May 2023, he was sentenced by Tunisia's anti-terrorism court to one year's imprisonment and a fine for public statements he had made in 2022.

In their letter of 28 January 2022, the executive authorities stated that all members of parliament, whose mandates had been suspended, enjoyed freedom of movement and travel, apart from those subject to a legal ruling prohibiting them from leaving the country. In a more recent communication of 11 October 2022, the executive authorities confirmed that the members of parliament who had taken part in the online session of 30 March 2022 were being investigated. As for Mr. Ben Gharbia's situation, the authorities stated that he was currently the subject of a criminal prosecution; his first hearing of 7 July 2022 had been deferred to 13 October 2022. Requests for his release had been refused.

In May and June 2023, the complainants referred eight new complaints to the Committee concerning the cases of eight former Tunisian members of parliament who were subject to arbitrary prosecutions because of their opposition to the measures taken by the President of the Republic. These include Mr. Sayed Ferjani and Mr. Ahmed Mechergui, who were allegedly arrested on 27 February and 19 April 2023, respectively, in connection with the investigation against Mr. Ghannouchi in the Instalingo case. Similarly, Mr. Ahmed Laâmari and Mr. Mohamed Ben Salem were reportedly arrested in March 2023 for organizing an illegal border crossing and illegally holding currency. Mr. Lazhar Akremi and Mr. Ghazi Chaouachi were reportedly arrested in February 2023 in connection with a plot against state security. Mr. Ali Laraiedh, the former Prime Minister, was arrested on 19 December 2022 on vague terrorism charges. The complainants state that he is being held in detention without having appeared before a judge. Finally, former member of parliament Mr. Sahbi Atig was allegedly arrested on 6 May 2023 and prosecuted for "corruption" and "money laundering". According to the complainants, the aim of all these cases is to silence former members of parliament who had publicly criticized the Head of State. In a recent communication, the complainants also indicated that Ms. Lilia Bellil wished to have her name removed from the present case, on the grounds that she had never expressed the wish for the Committee to examine her case.

In their letters of July and December 2023, the authorities stated that they were not in a position to provide information on the judicial proceedings under way because of the principle of the separation of powers. Furthermore, according to the parliamentary authorities, these cases are also subject to the principle of confidentiality of the investigation in order to ensure the proper conduct of investigations and protection of personal data. In the same letter of 20 December 2023, the parliamentary authorities refuted the allegations that the proceedings initiated against the former members of parliament were political in nature, stating that these allegations were unfounded, without, however, providing any arguments to that effect. According to the authorities, the current proceedings are based on laws applicable to all citizens, who remain equal before the law, and that involvement in politics does not guarantee immunity for those who break the law, contrary to what prevailed in the past.

Concerning the request for an IPU mission, the Tunisian authorities continue to decline the Committee's request for various reasons, including the legislative elections in December 2022, the establishment of the new Assembly of People's Representatives and the setting up of its internal structures, and the parliamentary recess (August–September 2023). In their letter of 20 December 2023, no response to the Committee's request for a mission was forthcoming.

Although this case includes individual situations, some of which relate to events prior to the dissolution of parliament, the violations suffered by all the members of parliament concerned, belonging to the Assembly of People's Representatives elected in 2019, are part of the exceptional measures taken by President Saïed since 25 July 2021. The latter invoked Article 80 of the Constitution to suspend and dissolve parliament, lifting the parliamentary immunity of members of parliament and granting himself the power to legislate by presidential decrees, which are not subject to judicial appeal given the absence of a Constitutional Court. On 30 March 2022, the President officially dissolved parliament, announcing a road map for 2022 that included the organization of

legislative elections and adoption of a new Constitution. According to the results published by the *Instance supérieure indépendante pour les élections*, ISIE (Independent High Authority for Elections), the turnout for the legislative elections, which finally took place in December 2022 and January 2023, was around 11%. Several political parties, civil society organizations and the Tunisian General Labour Union (UGTT), a powerful national trade union organization, boycotted these elections on the grounds that the whole constitutional process initiated by President Saïed had been neither free nor fair. The parties involved therefore rejected the election results as illegitimate.

On 22 September 2022, the African Court on Human and Peoples' Rights adopted a decision against Tunisia, in which it deemed that the President of the Republic's power to take exceptional measures was limited by the procedural requirements of Article 80 of the Constitution. The Court found that the measures adopted were not only disproportionate to their stated objectives, but also to the laws of Tunisia.

## B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint concerning the situation of eight members of the Tunisian Assembly of People's Representatives elected in 2019, which are the subject of cases TUN-63 to TUN-70, is admissible, considering that the complaint: (i) was submitted in due form by qualified complainants under section I.1(a) and (b) of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns members of parliament whose mandate was arbitrarily suspended at the time the initial allegations were made; and (iii) concerns allegations of failure to respect parliamentary immunity, violations of the freedom of opinion and expression, freedom of movement and freedom of assembly and association, arbitrary arrest and detention, and threats and acts of intimidation, allegations which fall under the Committee's mandate; and *decides* to merge the examination of their situation with the present case; *notes*, also, the information concerning Ms. Lilia Bellil; and *decides* to close her case under section IX, paragraph 25(c), of its Procedure for the examination and treatment of complaints;
2. *Thanks* the Tunisian authorities for the information provided in their letters of 29 May, 24 July and 20 December 2023; *regrets*, nevertheless, the lack of any detailed official information on the situation of former members of parliament subject to judicial proceedings; and *deplores* the fact that, despite its numerous efforts to organize a mission to Tunisia, the authorities have still not provided a clear answer as to when the mission can take place;
3. *Expresses its deep concern* at the new arrests and detentions of several former Tunisian members of parliament for criticizing the current government and the President of the Republic; and *is alarmed* at the seriousness of the charges brought against them and the disproportionate sentences they face in relation to the alleged offences, namely the death penalty;
4. *Reaffirms* that healthy democracies are based on the diversity of political opinion, which should be heard and respected; and, to this end, *calls on* the Tunisian authorities to release as a matter of urgency any former members of parliament detained for expressing their opposition to the exceptional measures adopted by the President of the Republic and to drop the charges against them and the 120 former members of parliament who met on 30 March 2022, given that these proceedings appear to be based solely on the peaceful exercise of their rights to freedom of expression, association and assembly, which are guaranteed under the International Covenant on Civil and Political Rights to which Tunisia has acceded;
5. *Stresses* that the absence of detailed information in this collective case from the relevant Tunisian authorities reinforces the complainants' allegations that the judicial proceedings brought against these former members of parliament are political in nature; *reaffirms* that the principle of the separation of powers, respect for which remains crucial to the proper functioning of the judiciary, does not exempt the parliamentary authorities from their duty of oversight; and *calls on* the Assembly of People's Representatives, the guardian of the human rights of parliamentarians, to closely monitor the ongoing cases and to demand clear answers



from the government authorities on the charges against the former members of parliament, and to take the necessary steps to ensure fair trials in accordance with the relevant national and international standards for all individuals subject to criminal proceedings;

6. *Reiterates its concern* about the use of military courts in cases concerning civilians; *urges* the Tunisian authorities to ensure that military courts are not used in cases concerning members of parliament elected in 2019 and to review the provisions of Tunisian law that allow this practice; and *wishes* to receive detailed information on the situation of all the former members of parliament included in this case;
7. *Encourages* the Tunisian authorities, in an election year likely to result in an exacerbation of political tensions, to take all necessary steps to guarantee the fundamental rights of all former and current parliamentarians, irrespective of their political affiliation and opinions;
8. *Reiterates the hope* that a delegation from the Committee on the Human Rights of Parliamentarians will be able to visit Tunisia in the near future in order to find satisfactory solutions to the cases under examination, foster constructive and inclusive dialogue and discuss the matter of the possible provision of IPU assistance to the Tunisian Parliament; and *hopes* to receive a positive response and support from the Assembly of People's Representatives to this end to enable the mission to take place in the best possible conditions;
9. *Requests* the Secretary General to convey this decision to the Speaker of the Assembly of People's Representatives, the complainants and any third party likely to be in a position to supply relevant information;
10. *Decides* to continue examining this case.