Inter-Parliamentary Union
For democracy. For everyone.

Tunisia

Decision adopted unanimously by the IPU Governing Council at its 208th session (Madrid, 30 November 2021)

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 Makhlouf
TUN-08 - Maher Zid
TUN-09 - Maher Medhioub
TUN-10 - Yosri Dali
TUN-11 - Fethi Ayadi
TUN-12 - Awatef Ftirch (Ms.)
TUN-13 - Omar Ghribi
TUN-14 - Faiza Bouhlel (Ms.)
TUN-15 - Samira Smii (Ms.)
TUN-16 - Mahbouba Ben Dhifallah (Ms.)
TUN-17 - Mohamed Zrig
TUN-18 - Issam Bargougui
TUN-19 - Samira Chaouachi (Ms.)
TUN-20 - Belgacem Hassan
TUN-21 - Kenza Ajela (Ms.)
TUN-22 - Emna Ben Hmayed (Ms.)
TUN-23 - Bechr Chebbi
TUN-24 - Monjia Boughanmi (Ms.)
TUN-25 - Wafa Attia (Ms.)
TUN-26 - Jamila Jouini (Ms.)
TUN-27 - Mohamed Lazher Rama
TUN-28 - Nidhal Saoudi
TUN-29 - Neji Jmal
TUN-30 - Zeinab Brahmi (Ms.)

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[1]

Case TUN-COLL-01

Tunisia: Parliament affiliated to the IPU

Victim: 24 members of the opposition (13 men and 11 women)

Qualified complainants: Section I.1 (a) and (b) of the Committee Procedure (Annex I)

Submission of complaints: August, September and October 2021

Recent IPU decision(s): - - -

IPU mission(s): - - -

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

Recent follow-up:
- Communication(s) from the authorities: - - -
- Communication from the complainant: November 2021
- Communication to the authorities: Letter to the President of the Republic (October 2021)
- Communication to the complainants: November 2021

On 25 July 2021, President Kaïs Saïed invoked Article 80 of the Constitution to suspend parliament, lift the parliamentary immunity of members of parliament, remove the Prime Minister and his government from office and take on executive power after months of protracted political crisis in the country.

This suspension has had additional implications for a number of members of parliament from the *Ennahda* and *Al Karama* groups who were targeted directly because of their opposition to President Saïed. In addition to being stripped of their parliamentary immunity, salary, medical insurance, and freedom of movement that all members of parliament enjoy, some members of parliament are being prosecuted for matters that occurred before the events of 25 July 2021. Currently, the members of parliament Mr. Seifedine Makhlouf et Mr. Nidhal Saoudi are in prison while three others were placed under house arrest until the beginning of October 2021. Other members of parliament are abroad and do not wish to return to Tunisia for fear of reprisals. The uncertain future of parliament is a cause for concern for all members of parliament elected for a five-year term who have now been stripped of the right to exercise their parliamentary mandate.

A vigorous smear campaign has allegedly been waged against all members of parliament, especially those from the two groups above, who are said to have been branded incompetent or deemed traitors, which has exacerbated the threats and hate speech against them. In this context, it should be stressed that the repeated acts of violence in parliament have sparked a widespread public mood of frustration with members of parliament.

On 24 August 2021, President Saïed renewed the extraordinary measures in place and on 22 September 2021 he published presidential decree No. 2021-117, which granted him all powers of the State. The instrument allows the President to legislate by issuing presidential decrees, none of which are subject to judicial review. Parliament remains suspended despite the provisions of Article 80 of the Constitution, which provide that parliament is deemed to be continuously in session whenever the President invokes extraordinary measures. On 11 October 2021, President Saïed announced a new 25-member government led by Ms. Najla Bouden Romdhan.

At a hearing with the Committee on the Human Rights of Parliamentarians on 26 November 2021 during the 143rd IPU Assembly in Madrid, the complainants stated that the members of parliament in the *Al Karama* political coalition were victims of a campaign of defamation and humiliation designed to tarnish their image. The members of parliament were said to be liars, looters of public property and traitors. Mr. Makhlouf and Mr. Saoudi are accused of offences that carry the death penalty under the provisions of the Tunisian Criminal Code. In addition, the complainants highlighted that certain measures were entirely arbitrary, as some members of parliament who had been placed under house arrest without knowing why were no longer subject to this restriction, even though the authorities had provided no explanation.

Regarding the two members of parliament currently in detention, the complainants said that the legal proceedings in the airport case had started before their parliamentary immunity was lifted on 25 July 2021. These cases reportedly came before the civil investigating judge at first, and the Public Prosecutor and the Bureau of the Assembly had corresponded about their immunity. However, the measures of 25 July 2021 were said to have accelerated the processing of these cases as they were referred to a military court in light of the alleged offences committed by the two members of parliament. Their continued detention appeared to be arbitrary and designed to weaken their morale. In this regard, the

1 For the purposes of this decision, the term “opposition” relates to members of parliament from political groups or parties whose decision-making power is limited and who are opposed to the ruling power.

hearing scheduled for Mr. Makhlouf's case was said to have been initially postponed until 14 December before being brought forward to 7 December 2021. The complainants pointed out that the military judges used provisions from the presidential decrees to support decisions against certain members of parliament.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. *Notes* that the collective complaint concerning 24 parliamentarians, who are all members of the Assembly of the representatives of the Tunisian people, 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 incumbent members of parliament at the time that the initial allegations were made; (iii) concerns allegations of threats and acts of intimidation, arbitrary arrest and detention, lack of due process at the investigation stage and fair trial proceedings, violations of freedom of opinion and expression, of freedom of assembly and association and of freedom of movement, abusive revocation or suspension of the parliamentary mandate, failure to respect parliamentary immunity, and other acts obstructing the exercise of the parliamentary mandate, which are all allegations that fall within the Committee's mandate;

2. *Expresses concern* that the cases of Mr. Seifedine Makhlouf and Mr. Nidhal Saoudi were referred to a military court, as they are both members of parliament entitled to parliamentary immunity; *questions* whether it is within the jurisdiction of a military court to try cases involving civilians, notwithstanding that this is authorized under the provisions of Tunisian law; and *invites* the Tunisian authorities to review those provisions to ensure that military courts are not used in cases relating to the civilian legal system;

3. *Notes with concern* that, since the suspension of parliament on 25 July 2021, all Tunisian members of parliament have been subjected to a campaign of defamation and demonization, particularly those from the *Al Karama* coalition; and *considers* that this campaign violates their physical and moral integrity;

4. *Highlights* that this campaign of defamation and demonization must not deprive the indicted members of parliament, including Mr. Makhlouf and Mr. Saoudi, of their right to be tried in accordance with international standards that guarantee equitable and due process; and *wishes* in that regard to receive from the Tunisian authorities detailed information on the two cases of the members of parliament to understand the basis and substance of the charges against them;

5. *Expresses its concern* about the suspension of the Tunisian Parliament under extraordinary measures, which were supposed to be of limited duration but which are still in place, thereby plunging the Tunisian Parliament into a situation of total uncertainty; *stresses* that this suspension directly affects the individual rights of members of parliament and deprives Tunisian citizens of political representation; *points* out in this respect that that the achievements of the young Tunisian democracy that emerged from the Arab Spring should be maintained by all possible means, and *looks forward* to the resumption of the work of the Tunisian Parliament as soon as possible in a climate of peace that promotes dialogue and respect for the rights of all parliamentarians and in which members of parliament can carry out their functions free from violence;

6. *Requests* the Secretary General to convey this decision to the President of the Republic, the complainants and any third party likely to be in a position to supply relevant information;

7. *Requests* the Committee to continue examining this case and to report back to it in due course.