TUNISIA

- **TUN-COLL-01**: 26 parliamentarians
- **TUN-06**: Abir Moussi (Ms.)
Tunisia

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)

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 expression and opinion
- 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**

On 25 July 2021, President Kais 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. Members of parliament Mr. Seifedine Makhlouf and Mr. Nidhal Saoudi were imprisoned for three months before being released in January 2022, 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 suspension of parliament is a cause for concern for all members of the Assembly elected for a five-year term who have been stripped of the right to perform their public duties.

After renewing the extraordinary measures in August 2021, President Saïed published Presidential Decree No. 2021-117 in September 2021, 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 government and on 13 December 2021 he established a road map that provided that parliament would remain suspended until the next legislative elections in December 2022.

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 said that Mr. Makhlouf and Mr. Saoudi were accused of offences that carry the death penalty under the Tunisian Criminal Code in the “airport case”, which 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. In their letter of 28 January 2022, the Tunisian authorities stated that the incompetence of the military court in the “airport case” had been raised by the complainants and that a decision rejecting the request to relinquish jurisdiction to the military court had been taken on 20 August 2021, in accordance with the provisions of domestic legislation. This decision was upheld on appeal on 15 September 2021 and in cassation on 7 December 2021.

The complainants also deplored the wholly arbitrary nature of a number of other measures, including the house arrest of some members of parliament for reasons unknown to them. The Tunisian authorities stated in their letter of 28 January 2022 that the decisions to place people under house arrest are administrative decisions that form part of administrative preventive supervision measures aimed at protecting public security and order. The authorities also pointed out that existing legislation provides for the possibility of appealing against decisions on house arrest to the administrative court, as was done by some members of parliament, including Mr Yosri Dali, who lodged an appeal with the

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1 For the purposes of this report, 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.
administrative court at the end of August 2021 for a stay of execution. According to the authorities, on 30 September 2021, the first president of the administrative court rejected this appeal.

On 31 December 2021, member of parliament Mr. Noureddine Bhiri was arrested without warrant or explanation and taken to several secret detention facilities. For several hours, his family and lawyers did not know where he was. Due to his pre-existing health condition and the hunger strike that he had begun to protest against his detention, Mr. Bhiri was hospitalized on 2 January 2022. A delegation composed of members of the Tunisian independent national body for the prevention of torture (l’Instance nationale pour la prévention de la torture – INPT) and the United Nations Office of the High Commissioner for Human Rights was nevertheless able to visit him in hospital.

In their letter of 28 January 2022, the Tunisian authorities provided detailed information on the situation of several members of parliament and the reasons for the suspension of parliament. No information was provided on the case of Mr. Noureddine Bhiri.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. _Notes_ that the complaint concerning Mr. Noureddine Bhiri’s situation, a member 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(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 an incumbent member of parliament at the time that the initial allegations were made; and (iii) concerns allegations of arbitrary arrest and detention and failure to respect parliamentary immunity, which are allegations that fall within the Committee’s mandate; and _decides_ to merge the examination of his situation with the present case;

2. _Thanks_ the Tunisian authorities for the information provided in their letter of 28 January 2022 and for their openness to dialogue with the Committee;

3. _Expresses concern_ at the situation of Mr. Noureddine Bhiri, in particular his arbitrary arrest and detention, which reportedly took place in the absence of an arrest warrant or formal charges and which are said to have weakened his state of health; _calls on_ the relevant authorities to establish the facts in this case with a view to releasing Mr. Bhiri or formally charging him, while guaranteeing that, should he be charged, he will receive a fair trial in accordance with relevant international standards; and _wishes_ to receive detailed information from the Tunisian authorities on Mr. Bhiri’s state of health and on the investigation launched against him in order to understand the grounds for, and content of, the suspicions against him;

4. _Notes with satisfaction_ the release of two members of parliament, Mr. Seifedine Makhlouf and Mr. Nidhal Saoudi, and the reclassification as offences some of the crimes for which they are being prosecuted, thereby reducing the sentence they would face if convicted; _calls on_ the relevant authorities to ensure that their trial, which will resume on 28 March 2022, is conducted in accordance with the relevant national and international standards;

5. _Is deeply concerned_ at the referral to the military court of a number of cases concerning members of parliament, in particular the case of Mr. Maher Zid, who is accused of having harmed the "dignity, reputation and morale of the army" by expressing his opinion on the activities of a former member of the government; _affirms_ in this respect that freedom of expression is one of the pillars of democracy, which it is essential for members of parliament, and that it encompasses all kinds of opinions, the restrictions on which are defined by the core human rights conventions and related jurisprudence; _affirms_ that these situations highlight the fact that military courts should not have cases involving civilians referred to it, despite the guarantees put in place for a fair trial, including recognition by military courts of the principle of the right of appeal; and _hopes_ that the Tunisian authorities will review these provisions to ensure that military courts cannot take up cases governed by civil law;

6. _Notes_ in addition, the recent measures taken by the Tunisian authorities, in particular the establishment of a political road map and the organization of future legislative elections in December 2022; _considers_, nevertheless, that this does not resolve the situation of parliament,
the suspension of which continues to directly affect the individual rights of members of parliament and deprive Tunisian citizens of political representation;

7. **Reiterates the wish** for a delegation of the Committee on the Human Rights of Parliamentarians to be able to visit Tunisia in the near future in order to gather information on the situation of parliamentarians and to meet with the relevant Tunisian authorities with a view to finding satisfactory solutions; also **suggests** that, during this mission, the question of the assistance that the Inter-Parliamentary Union could provide to the Tunisian authorities in their efforts to return the work of the Tunisian Parliament to normal and promote inclusive dialogue should be discussed; and **hopes** to receive a positive response and assistance from the authorities to this end, so that the mission can go ahead without hindrance;

8. **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;

9. **Decides** to continue examining this case.
Tunisia

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

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, 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 hand, on her gender. Ms. Moussi has also received death threats, which she has taken seriously and 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 majority party in the Assembly, Mr. Seifeddine Makhlouf and Mr. Sahbi Smara. The latter physically assaulted her during Assembly proceedings on

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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 2021
IPU mission(s): - - -
Recent Committee hearing: Hearing with the complainant at the IPU’s 143rd Assembly (November 2021)
Recent follow-up:
- Communications from the authorities:
  Letters from the Chief of Staff of the Speaker of the Assembly of People’s Representatives (April and May 2021); meeting between the IPU Secretary General and the Permanent Representative of Tunisia to the United Nations Office in Geneva (November 2021)
- Communication from the complainant: September 2021
- Communications to the authorities:
  Letter to the Speaker of the Assembly of People’s Representatives (August 2021); and letter to the President of the Republic (October 2021)
- Communication to the complainant: November 2021

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1 The acts of violence suffered by Ms. Moussi were reportedly gender-based, that is, "violence which is directed against a woman because she is a woman or that affects women disproportionately". For a full definition, see general recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 of the Committee on the Elimination of Discrimination against Women (CEDAW), United Nations.
30 June 2021. The two members of parliament were apparently not punished, as before the suspension of the Tunisian parliament on 25 July 2021 no disciplinary measures had been taken by the parliamentary authorities against either of them or against other members of the same political party accused of harassing Ms. Moussi. According to the complainant, these attacks are aimed at intimidating the member of parliament in order to remove her from political life.

In their letters of November 2020 and April and May 2021, the parliamentary authorities stated that they had strongly condemned the actions of member of parliament Mr. Makhlouf, as had the parliamentary committee set up by the Speaker of Parliament in this regard. In their letter, received on 14 April 2021, the parliamentary authorities stated that an initiative to create a code of parliamentary ethics and conduct as a mechanism to eliminate violence in parliament is under discussion. The authorities also expressed their willingness to cooperate with the Inter-Parliamentary Union in order to restore a climate of peace and eliminate all forms of violence in parliament. In their letter of May 2021, the parliamentary authorities nevertheless pointed out that Ms. Moussi had allegedly caused disturbances and verbally abused other members of the Assembly, allegations which were refuted by the complainant.

After months of prolonged political crisis in the country, President Kaïs Saïed suspended parliament on 25 July 2021, invoking Article 80 of the Constitution. President Saïed also lifted the parliamentary immunity of all members of parliament, dismissed the Prime Minister and his government and assumed all state powers. Although their parliamentary immunity was lifted, none of the members of parliament guilty of the acts of violence were apprehended to answer for their actions towards Ms. Moussi.

At the hearing with the IPU Committee on the Human Rights of Parliamentarians on 26 November 2021, during the 143rd IPU Assembly (November 2021) in Madrid, the complainant explained that Ms. Moussi had been the victim of serious harassment and threats for several years, which justified the police protection provided by the Ministry of the Interior that she had enjoyed long before she became a member of parliament. However, the threats against her reportedly intensified when she became a member of parliament in 2019. According to the complainant, the police protection provided to her is ineffective given the recent assaults she suffered. The complainant added that the parliamentary authorities had no mechanism to review disputes between members of parliament. However, the acts of violence suffered by Ms. Moussi were, rather, offences punishable by law, meaning that the parliamentary authorities should have forwarded her complaints to the Public Prosecutor, which was not done.

The complainant also pointed out that Ms. Moussi, like all members of the Assembly of People’s Representatives, was suffering from the consequences of the suspension of parliament and the campaign of defamation and harassment against all members of parliament.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. Notes that the complaint concerning Ms. Moussi’s situation, a member of the Assembly of People’s Representatives of Tunisia at the time she received threats and suffered sexist acts of intimidation and verbal and physical violence, was declared admissible by the Committee on the Human Rights of Parliamentarians under its Procedure in February 2021;

2. Thanks the Tunisian parliamentary authorities for the information they provided in their letters received in November 2020 and April and May 2021 respectively; and welcomes the willingness of the parliamentary authorities to settle Ms. Moussi’s case and to cooperate with the Committee;

3. Regrets, nevertheless, that, despite the exchanges held on Ms. Moussi’s situation with the parliamentary authorities when they were still in office, they did not take the necessary steps to prevent the assaults committed against her on 30 June 2021 by two other members of parliament on parliamentary premises; also regrets the decision of the Bureau of the Assembly to remove Ms. Moussi’s security escort within parliament, given the real and serious threats against her and the prevailing general climate of violence in parliament;
4. **Strongly condemns** the acts of violence committed against Ms. Moussi and all other forms of violence suffered by her, as well as all demeaning practices aimed against female parliamentarians; **stresses** that such attacks are a step backwards and represent a danger both to women's political rights and to the proper functioning of parliament; and **calls on** the competent authorities to take appropriate action to hold to account those responsible for the acts of violence against Ms. Moussi;

5. **Affirms** that all parliamentarians, in particular female Tunisian parliamentarians, should be able to perform their political duties in a respectful environment in which their rights are effectively and seriously defended; **wishes**, with the support of the Inter-Parliamentary Union, to assist the Assembly of People's Representatives, when it resumes its functions, in strengthening democracy, promoting parliamentary dialogue and combating the intimidation of women in politics; and **sincerely hopes** to be able to help in the drafting of the code of parliamentary ethics and conduct;

6. **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 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;

7. **Requests** the Secretary General to convey this decision to the President of the Republic, the complainant and any third party likely to be in a position to supply relevant information to assist it in its work;

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