

TUNISIA

- **TUN-06:** Abir Moussi (Ms.)
- **TUN-COLL-01:** 56 parliamentarians



Inter-Parliamentary Union
For democracy. For everyone.

Tunisia

Decision adopted unanimously by the IPU Governing Council at its 210th session (Kigali, 15 October 2022)



Abir Moussi (centre), President of the Free Destourian Party (PLD), lifts her face mask as she gestures during a parliamentary session as Tunisian lawmakers debate ahead of a confidence vote 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 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 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 elected in 2019, Mr. Seifeddine Makhlof and Mr. Sahbi Smara. The latter physically assaulted the member of parliament during Assembly proceedings on 30 June 2021. The two parliamentarians were apparently not punished, as before the suspension of the Tunisian parliament on 25 July 2021 no

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: November 2021

Recent 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: Letter from the executive authorities (January 2022 and June 2022)
- Communication from the complainant: October 2022
- Communication to the authorities: Letter to the President of the Republic (September 2022)
- Communication to the complainant: October 2022

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 in order to remove her from political life.

In their letters of November 2020 and April and May 2021, the parliamentary authorities pointed out that they had strongly condemned the actions of Mr. Makhlouf, as had the parliamentary committee set up by the Speaker of Parliament elected in 2019 for this purpose. In their letter dated 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 elected in 2019, allegations which were refuted by the complainant.

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.

In their letter of 28 January 2022, the executive authorities stated that a security escort was provided by the Ministry of the Interior to Ms. Moussi (when travelling to and from work). The authorities stated that the acts of violence to which Ms. Moussi had been subject on the Assembly premises in June 2021 were due to the decision of the Bureau of the Assembly to prohibit access to the security escort inside the Assembly. In their letter of 28 January 2022, the Tunisian authorities added that the failure of the Bureau of the Assembly to take measures to prevent the assaults against Ms. Moussi was evidence of the deterioration and paralysis of the National Assembly. Finally, the authorities confirmed that Ms. Moussi had filed two complaints against the Speaker of the Assembly elected in 2019, which were reportedly forwarded to the judicial police. Similarly, four complaints were also filed against her by the Speaker of the Assembly elected in 2019 and the State General Counsel, accusing her of disrupting Assembly sittings and contempt of the complainants.

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 granted himself all state powers. After renewing the exceptional measures in August 2021, President Saïed issued a presidential decree (Decree No. 2021-117) in September 2021 granting him all state powers. The President can thus legislate by means of presidential decrees, which are not subject to judicial review, given the absence of a Constitutional Court. Although their parliamentary immunity has been lifted, none of the members of parliament elected in 2019 who were guilty of the acts of violence have been apprehended to answer for their actions towards Ms. Moussi.

Despite the provisions of Article 80 of the Constitution, according to which parliament is considered to be in a permanent state of assembly during any exceptional measure taken by the President, the suspension of the legislative body led to its effective dissolution on 30 March 2022. The President also announced a road map, which included plans for legislative elections on 17 December 2022 and a constitutional referendum on 25 July 2022, the ratification of a new constitution on 30 June 2022 and the publication of a new electoral law on 15 September 2022. The new constitution would expand the powers of the President and limit the role of parliament, while the new electoral law would reduce the roles of political parties. President Saïed's draft reform has been marked by a lack of inclusive national dialogue and the marginalization of stakeholders involved in the Tunisian political landscape.

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

According to the allegations forwarded by the complainant in October 2022, the presidential decrees are prejudicial to Ms. Moussi and to the members of her political party, who were allegedly prevented from demonstrating peacefully against the holding of the constitutional referendum, the draft constitution, and the new electoral law. They were also allegedly subjected to acts of violence by the police, whose neutrality was called into question by the complainant in view of the violence committed against Ms. Moussi and members of her party.

Regarding the request for an IPU mission, the Tunisian authorities stated in their letter of 20 June 2022 that they could not respond favourably to this request and that it would be examined after the next legislative elections in December 2022.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Tunisian authorities for the information they provided in their letter dated 28 January 2022 on Ms. Abir Moussi's situation;
2. *Regrets*, once more, the lack of specific measures taken by the parliamentary authorities when they were still in office to prevent the assaults committed against Ms. Moussi, especially the assault against her on parliamentary premises on 30 June 2021 by two other members of parliament;
3. *Strongly reaffirms* that the assaults to which Ms. Moussi was subject are a step backwards and represent a danger both to women's political rights and to the proper functioning of parliament; *condemns*, once more, the acts of violence committed against her and all other forms of violence suffered by her, as well as all demeaning practices aimed against female parliamentarians; and *calls on* the competent authorities once more to take appropriate action to hold to account those responsible for the acts of violence against Ms. Moussi;
4. *Expresses its concern* about the fresh attacks suffered by Ms. Moussi, which appear to stem from her openly expressed opposition to the exceptional measures adopted by the President of the Republic; *underlines* that the rights to freedom of opinion, expression and assembly are guaranteed under the International Covenant on Civil and Political Rights to which Tunisia is a party; *affirms*, once again, that Tunisian women should be able to perform their political duties in a respectful environment in which their rights are effectively and seriously defended; *calls on* the competent authorities, to this end, to respect Ms. Moussi's rights and to better ensure her security when she is on the move;
5. *Notes* the recent measures taken by the Tunisian authorities, in particular the adoption of a new electoral law for the organization of future legislative elections in December 2022; *notes* that the new law could marginalize some candidates from the current political parties, since they are the subject of investigations and legal proceedings; *calls on* the Tunisian authorities to ensure that the members of parliament elected in 2019 who decide to take part in the next legislative elections are not prevented from doing so in an arbitrary manner;
6. *Regrets* the refusal of the Tunisian authorities to receive a delegation of the Committee on the Human Rights of Parliamentarians in Tunisia before the legislative elections in December 2022; *considers* that the mission could have fostered constructive and inclusive dialogue and assisted efforts to return the work of the Tunisian Parliament to normal; *hopes*, nevertheless, that this mission can take place in the near future, in order to find a satisfactory solution to Ms. Moussi's case and explore ways to combat intimidation against women in politics;
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;
8. *Requests* the Committee to continue examining this case and to report back to it in due course.



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Tunisia

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(Kigali, 15 October 2022)**



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

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|---------------------------------------|-------------------------------|
| TUN-07 - Seifedine Makhlof | TUN-35 - Imed Khemiri |
| TUN-08 - Maher Zid | TUN-36 - Walid Jalled |
| TUN-09 - Maher Medhioub | TUN-37 - Safi Said |
| TUN-10 - Yosri Dali | TUN-38 - Iyadh Elloumi |
| TUN-11 - Fethi Ayadi | TUN-39 - Noomane El Euch |
| TUN-12 - Awatef Ftirch (Ms.) | TUN-40 - Abdelhamid Marzouki |
| TUN-13 - Omar Ghribi | TUN-41 - Ayachi Zammal |
| TUN-14 - Faiza Bouhlel (Ms.) | TUN-42 - Samir Dilou |
| TUN-15 - Samira Smii (Ms.) | TUN-43 - Habib Ben Sid'hom |
| TUN-16 - Mahbouba Ben Dhifallah (Ms.) | TUN-44 - Mabrouk Khachnaoui |
| TUN-17 - Mohamed Zrig | TUN-45 - Bechir Khelifi |
| TUN-18 - Issam Bargougui | TUN-46 - Nouha Aissaoui (Ms.) |
| TUN-19 - Samira Chaouachi (Ms.) | TUN-47 - Latifa Habachi (Ms.) |
| TUN-20 - Belgacem Hassan | TUN-48 - Ferida Laabidi (Ms.) |
| TUN-21 - Kenza Ajela (Ms.) | TUN-49 - Mohamed Affas |
| TUN-22 - Emna Ben Hmayed (Ms.) | TUN-50 - Abdellatif Aloui |
| TUN-23 - Bechr Chebbi | TUN-51 - Mehdi Ben Gharbia |
| TUN-24 - Monjia Boughanmi (Ms.) | TUN-52 - Rached Khiari |
| TUN-25 - Wafa Attia (Ms.) | TUN-53 - Lilia Bellil (Ms.) |
| TUN-26 - Jamila Jouini (Ms.) | TUN-54 - Moussa Ben Ahmed |
| TUN-27 - Mohamed Lazher Rama | TUN-55 - Oussama Khlifi |
| TUN-28 - Nidhal Saoudi | TUN-56 - Ghazi Karoui |
| TUN-29 - Neji Jmal | TUN-57 - Mohamed Fateh Khlifi |
| TUN-30 - Zeinab Brahmi (Ms.) | TUN-58 - Ziad El Hachemi |
| TUN-31 - Mohamed Al Azhar | TUN-59 - Sofiane Makhloffi |

TUN-32 - Nouredine Bhiri
TUN-33 - Rached Ghannouchi
TUN-34 - Tarek Fetiti

TUN-60 - Majdi Karbai
TUN-61 - Anouar Ben Chahed
TUN-62 - Yassine Ayari

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage and lack 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 case¹

The present case concerns 56 members of the Assembly of People's Representatives of Tunisia elected in 2019 who, according to the complainants, are victims of arbitrary prosecutions after having expressed 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 coverage and freedom of movement, including for the purposes of 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 reprisals, only nine of the 120 members of parliament concerned, including the Speaker of the National Assembly, Rached Ghannouchi, submitted a complaint to the Committee. Mr. Ghannouchi was questioned at great length on 1 April 2022 about this case.

Moreover, the dissolution of parliament would have 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. Mr. Seifedine Makhlouf and Mr. Nidhal Saoudi were imprisoned for several months before being released in January 2022, while three other individuals were placed under house arrest until early October 2021. Cases concerning members of parliament are examined by military courts under Tunisian law. On 31 December 2021, Mr. Nouredine Bhiri was arrested without warrant or explanation and placed under house arrest as a preventive measure before being released on 8 March 2022. Charged in connection with a number of cases, Mr. Rached Khiari has been detained since 3 August 2022 in connection with a case where he is

Case TUN-COLL-01

Tunisia: Parliament affiliated to the IPU

Victim: 56 members of the opposition (43 men and 13 women)

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

Submission of complaints: August, September and October 2021

Recent IPU decision: February 2022

IPU mission(s): - - -

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

Recent follow-up:

- Communications from the authorities: Letters from the executive authorities (June and October 2022)
- Communication from the complainants: September 2022
- Communication to the authorities: Letter to the President of the Republic (September 2022)
- Communication to the complainants: September 2022

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.

accused by the Ministry of Education of defamation on social media networks. Similarly, Mr. Mehdi Ben Gharbia has been held in pretrial detention since 20 October 2021, accused of money laundering. Mr. Mehdi Ben Gharbi is allegedly still being held in pretrial detention, despite that detention exceeding the legal six-month limit. As for Mr. Rached Ghannouchi, he is allegedly the target of politically motivated persecution, as he has been charged in several cases that are, according to the complainants, politically motivated.

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. President Saïed invoked Article 80 of the Constitution to suspend and dissolve parliament, lift the parliamentary immunity of members of parliament, dismiss the Prime Minister and his government and assume executive power after months of prolonged political crisis in the country. After renewing the exceptional measures in August 2021, President Saïed issued a presidential decree (Decree No. 2021-117) in September 2021 that gives him all state powers. The President can thus legislate by means of presidential decrees, which are not subject to judicial review in the absence of the Constitutional Court.

Despite the provisions of Article 80 of the Constitution, according to which parliament is considered to be in a permanent state of assembly during any exceptional measure taken by the President, the suspension of the legislative body was replaced by its effective dissolution on 30 March 2022. The road map announced by the President provided for the organization of parliamentary elections on 17 December 2022, a constitutional referendum to be held on 25 July 2022, a new Constitution ratified on 30 June 2022 and a new electoral law published on 15 September 2022. The new Constitution reportedly extends the powers of the President and limits the role of parliament, while the new electoral law reportedly reduces the roles of the political parties. President Saïed's reform plan was marked by the absence of an inclusive national dialogue and the marginalization of relevant actors in the Tunisian political landscape.

In their letter of 28 January 2022, the executive authorities stated that all members of parliament, whose functions had been frozen, enjoyed freedom of movement and travel, apart from those covered by a legal decision 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 the situation of Mr. Ben Gharbia, 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. The requests for him to be freed were refused.

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

Concerning the request for an IPU mission, the Tunisian authorities indicated in their letter of 20 June that they could not respond favourably to this request and that it would be examined after the next legislative elections in December 2022.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning the situation of the members of parliament who are the subject of cases TUN-33 to TUN-62, members of the Assembly of the representatives of the Tunisian people elected in 2019, 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 incumbent members of

parliament at the time that the initial allegations were made; and (iii) concerns allegations of failure to respect parliamentary immunity; violations of freedom of opinion and expression, freedom of movement, and freedom of assembly and association; arbitrary arrest and detention; and threats and acts of intimidation, which are allegations that fall within the Committee's mandate; and *decides* to merge the examination of their situations with the present case;

2. *Thanks* the Tunisian authorities for the information provided in their letter of 11 October 2022; *regrets*, however, the absence of detailed information on the situation of the members of parliament concerned;
3. *Takes note* of the release on bail of Mr. Noureddine Bhiri, who continues to be under investigation, and *wishes* to receive information on the situations of Mr. Rached Khiari and Mr. Ben Gharbia; *calls on* the competent authorities to ensure that their trials are conducted in compliance with relevant applicable national and international standards;
4. *Expresses its concern* at the situation of the 120 members of parliament elected in 2019 who took part in the online plenary session of 30 March 2022 and who are consequently being investigated for attempted conspiracy and endangering state security; *stresses* that the members of parliament at the online meeting appear to have discussed the presidential decrees adopted since 25 July 2021 in order to examine their constitutionality, in the exercise of their parliamentary duties; *is deeply concerned* that the plenary session led to the dissolution of parliament by the President of the Republic; *affirms* that, despite the suspension of parliament by the President, and bearing in mind the general political situation, the meeting of those members of parliament should not lead to legal proceedings and criminal sanctions against them; and *calls on* the authorities to abandon the proceedings against them;
5. *Is very concerned* at the situation of all members of the Assembly of People's Representatives elected in 2019 and the restrictions to which they have been subjected, including lifting of immunity, travel ban, withdrawal of allowances and, in particular, health-care cover, which constitutes a major obstacle for some members of parliament who need expensive medical care; and *calls on* the authorities to lift this restriction and allow those members of parliament requiring medical care abroad to travel;
6. *Notes* the recent measures taken by the Tunisian authorities, in particular the adoption of a new electoral law for the organization of future legislative elections in December 2022; *notes* that the new law could marginalize some candidates from the current political parties, since they are the subject of investigations and legal proceedings; and *calls on* the Tunisian authorities to ensure that the members of parliament elected in 2019 who decide to take part in the next legislative elections are not prevented from doing so in an arbitrary manner;
7. *Regrets* the refusal of the Tunisian authorities to receive a delegation of the Committee on the Human Rights of Parliamentarians in Tunisia before the legislative elections in December 2022; *considers* that the mission could have fostered constructive and inclusive dialogue and assisted efforts to return the work of the Tunisian Parliament to normal; *hopes*, nevertheless, that this mission can take place in the near future, so that satisfactory solutions can be found to the cases at hand, and discussions can take place on the assistance that the Inter-Parliamentary Union could provide to the Tunisian Parliament;
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. *Requests* the Committee to continue examining this case and to report back to it in due course.