TUNISIA

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

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)

Case 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 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 Makhlouf and Mr. Sahbi Smara. The latter physically assaulted Ms. Moussi 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 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. To date, Ms. Moussi’s complaints to the Public Prosecutor’s Office and the police to initiate criminal proceedings against these members of parliament have not been acted on and no criminal sanctions have been taken against them.

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 for this purpose by the Speaker of Parliament elected in 2019. In their letter dated 14 April 2021, the parliamentary authorities stated that an initiative to create a code of parliamentary ethics to use as a mechanism to eliminate violence in parliament was 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 against her. 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 had not happened.

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 executive authorities stated that the acts of violence to which Ms. Moussi had been subjected 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. Lastly, the authorities confirmed that Ms. Moussi had filed two complaints against the Speaker of the Assembly elected in 2019, which had reportedly been forwarded to the judicial police. Similarly, four complaints had also been 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 Kais 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 in the absence of a Constitutional Court. Although their parliamentary immunity had 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. Following the constitutional referendum, the new constitution would expand the powers of the President and limit the role of parliament, while the new electoral law adopted by presidential decree 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 considered after the next legislative elections, the first round of which was held on 17 December 2022. According to the results published by the Independent High Electoral Authority (ISIE), the participation rate was approximately 11 per cent. Several political parties, civil society organizations and the Tunisian General Labour Union (UGTT) – the country’s most powerful union – boycotted the legislative elections, as they considered the whole constitutional process initiated by President Saïed not to have been free or fair. Those stakeholders therefore rejected the results of the elections, considering them to be illegitimate.

A communication received from the complainant in January 2023 stated that Ms. Moussi’s party was allegedly prohibited from demonstrating freely, in particular in a march organized on 14 January 2023 from the building housing the Carthage Cantonal Court to the presidential palace to demonstrate their opposition to the decisions taken by President Saïed. According to the complainant, the Governor of Tunis had banned the demonstration on the grounds that the Carthage area was a secure area in which demonstrations were prohibited. In defiance of the ban, Ms. Moussi and her supporters were allegedly violently prevented by officers from a police squad from going ahead with their march on 14 January 2023. Ms. Moussi is also reportedly the subject of a smear campaign by President Saïed’s supporters.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. **Reaffirms**, once more, that the assaults against Ms. Moussi are a step backwards and represent a danger both to women’s political rights and to the proper functioning of parliament; **strongly condemns** 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;

2. **Fails to understand** why the continued absence of judicial proceedings and criminal sanctions against the individuals who repeatedly assaulted Ms. Moussi, in particular Mr. Seifeddine Makhlouf, who has been tried and convicted in a civil court in other cases brought against him; **stresses** that impunity, which amounts to shielding those responsible from justice and accountability, decisively encourages the commission of other serious violations of women’s rights, and that attacks on the physical and psychological integrity of women parliamentarians, when they go unpunished, violate their fundamental rights and threaten their participation in political life, especially when they are in the opposition and are targeted in a context of generalized regression, as in the present case; **calls on**, once again, the competent authorities to take appropriate measures to hold to account those responsible for the acts of violence against Ms. Moussi;

3. **Expresses its concern** about the fresh allegations of harassment suffered by Ms. Moussi and the violation of her right to protest, which appear to stem from her openly expressed opposition to the exceptional measures adopted by the President of the Republic; **stresses** that the right to peaceful assembly and association is guaranteed under the Universal Declaration of Human Rights, to which Tunisia is a party; **reaffirms** that Tunisian women should be able to perform their civil and political rights without hindrance and intimidation; to that end, **calls on** the competent authorities to respect Ms. Moussi’s rights;

4. **Reiterates** its request to carry out a mission to Tunisia and **hopes sincerely** that the Tunisian authorities will be able to welcome a delegation of the Committee on the Human Rights of Parliamentarians to Tunisia in the near future in order to find a satisfactory solution to Ms. Moussi’s case, to foster a constructive and inclusive dialogue, and to explore ways to combat intimidation against women in politics;
5. *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;

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

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session
(Geneva, 21 January to 2 February 2023)

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 Flirch (Ms.)
TUN-13 - Omar Ghribi
TUN-14 - Faiza Bouhlal (Ms.)
TUN-15 - Samira Smii (Ms.)
TUN-16 - Mahboubâ Ben Dhiballah (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 - Bechir Chebbi
TUN-24 - Monjia Boughani (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.)
TUN-31 - Mohamed Al Azhar
TUN-32 - Noureddine Bhiri
TUN-33 - Rached Ghannouchi
TUN-34 - Tarek Feltiti
TUN-35 - Imed Khemir
TUN-36 - Walid Jalled
TUN-37 - Safi Said
TUN-38 - Iyadh Elloumi
TUN-39 - Noomane El Euch
TUN-40 - Abdelhamid Marzouki
TUN-41 - Ayachi Zammal
TUN-42 - Samir Dilou
TUN-43 - Habib Ben Sid'hom
TUN-44 - Mabrouk Khachnaoui
TUN-45 - Bechir Khelfi
TUN-46 - Nouha Aissaoui (Ms.)
TUN-47 - Latifa Habachi (Ms.)
TUN-48 - Ferida Laabidi (Ms.)
TUN-49 - Mohamed Affas
TUN-50 - Abdellatif Aloui
TUN-51 - Mehdi Ben Gharbia
TUN-52 - Rached Khiairi
TUN-53 - Lilia Bellil (Ms.)
TUN-54 - Moussa Ben Ahmed
TUN-55 - Oussama Khelifi
TUN-56 - Ghazi Karoui
TUN-57 - Mohamed Fateh Khelifi
TUN-58 - Ziad El Hachemi
TUN-59 - Sofiane Makhloufi
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 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

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 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 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 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. The cases concerning these members of parliament are also being examined in the military courts, as provided for by Tunisian law. In this regard, it should be noted that, according to the complainants, Mr. Seifeddine Makhlouf, Mr. Nidhal Saoudi, Mr. Mohamed Affas and Mr. Maher Zid were first prosecuted in the so-called “airport” case in the civil courts, which in March 2022 sentenced them to a three-month suspended prison term. In May 2022, the Permanent Military Court of Tunis sentenced them again to five months’ imprisonment. On 20 January 2023, the Criminal Chamber of the Military Court of Appeal handed down its final verdict in the case, sentencing Mr. Makhlouf to one year and two months’ imprisonment, Mr. Saoudi to seven months’ imprisonment and Mr. Affas and Mr. Zid to five months’ imprisonment. The complainants have requested a hearing to express their opposition to the verdict, which will take place on 10 February 2023.

On 31 December 2021, Mr. Noureddine Bhihi 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 accused by the Ministry of Education of defamation on social media networks. Mr. Khiari is also alleged to have accused President Saïed of receiving foreign funding for his 2019 election campaign, a case that was referred to the military courts. According to 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.
complainants, on 17 January 2023, Mr. Khiari appeared in this case before the Criminal Chamber of the Military Court, which dismissed the case for lack of jurisdiction. However, the prosecution has reportedly appealed this decision and Mr. Khiari remains in prison. The complainants alleged that Mr. Khiari’s right of access to health care had been violated, as his health condition required medical treatment outside his place of detention. Similarly, Mr. Mehdi Ben Gharbia has been held in pretrial detention since 20 October 2021, accused of money laundering. Mr. Ben Gharbi is allegedly still being held in pretrial detention, despite that detention exceeding the legal six-month limit. The new request for release submitted by his lawyers was again reportedly rejected without grounds. The complainants also allege that the proceedings against Mr. Ben Gharbia are aimed solely at keeping him in detention. The Criminal Chamber of the Court of First Instance of Sousse decided to postpone the hearing until 16 February 2023. 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 granting 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 adopted by presidential decree 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 2022 that they could not respond favourably to this request and that it would be considered after the next legislative elections, the first round of which was held on 17 December 2022. According to the results published by the Independent High Electoral Authority (ISIE), the participation rate was approximately 11 per cent. Several political parties, civil society organizations and the Tunisian General Labour Union (UGTT) – the country’s most powerful union – boycotted the legislative elections, as they considered the whole constitutional process initiated by President Saïed not to have been free or fair. Those stakeholders therefore rejected the results of the elections, deeming them to be illegitimate.
B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Regrets* the lack of detailed official information concerning the situation of the members of parliament elected in 2019 who are subject to judicial proceedings; and *calls* on the Tunisian authorities to continue the dialogue with the Committee by providing the requested information;

2. *Expresses its deep concern* at the double conviction of the members of parliament elected in 2019, of Mr. Seifeddine Makhlouf, Mr. Nidhal Saoudi, Mr. Mohamed Affas and Mr. Maher Zid by the military and civilian courts in the same case; *stresses* that, according to Article 14(7) of the International Covenant on Civil and Political Rights, to which Tunisia is a party, “No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country”; *reiterates* in this respect its concern about the use of the military courts in cases concerning civilians; *calls* on the Tunisian authorities to ensure that military courts are not used in cases concerning the members of parliament elected in 2019 and to review the provisions of Tunisian law that allow this practice;

3. *Calls on* the Tunisian authorities 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; *wishes* to receive detailed information on the situation of Mr. Seifeddine Makhlouf, Mr. Nidhal Saoudi, Mr. Mohamed Affas, Mr. Maher Zid, Mr. Rached Khari and, in particular, on the situation of Mr. Mehdi Ben Gharbia, with a view to gaining an understanding of the reasons why he has been kept in detention since 20 October 2021;

4. *Reiterates 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 once more *calls* on the authorities to abandon the proceedings against them;

5. *Remains 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. *Reiterates* its request to carry out a mission to Tunisia and *hopes sincerely* that the Tunisian authorities will be able to welcome a delegation of the Committee on the Human Rights of Parliamentarians to Tunisia in the near future, so that satisfactory solutions can be found to the cases at hand, to foster a constructive and inclusive dialogue, and to discuss the kind of assistance the Inter-Parliamentary Union could provide to the Tunisian Parliament;

7. *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;

8. *Decides* to continue examining this case.