

Press Release

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Complaint to the UN Human Rights Committee: Tunisia must answer for attacks on judicial independence

Geneva, 12 February 2024. Today, with the support of the International Commission of Jurists (ICJ) and Human Rights *in Practice*, Judge Youssef Bouzakher, President of the [dissolved High Judicial Council \(HJC\)](#) and one of the 57 judges and prosecutors [arbitrarily dismissed](#) by President Kais Saied, submitted an individual communication against Tunisia to the UN Human Rights Committee (HRC).

Judge Bouzakher seeks redress, including restoration to his position, for the multiple violations of his human rights resulting from his arbitrary dismissal, removal from the HJC and the arbitrary resort to criminal law and process against him.

“My rights and the right of Tunisians to an independent judiciary have been violated,” said Judge Bouzakher. “After exhausting every available domestic remedy, I am seeking redress before the Human Rights Committee, under a treaty that was duly ratified by Tunisia.”

The ICJ considers that the measures which have served to violating Judge Bouzakher’s human rights must be seen as part of a broader attack on the rule of law and judicial independence in Tunisia.

“The case filed today demonstrates the extent to which judicial independence and the rule of law are under siege in Tunisia, and the serious implications for the rights of judges and the population they serve. Punishing our client for the exercise of his independent judicial function, to remove checks on presidential power, is a flagrant violation of his human rights and devastating for access to justice for all in Tunisia.” said Helen Duffy of Human Rights *in Practice* and counsel for Judge Bouzakher.

On 12 February 2022, pursuant to the powers that he granted himself under the “state of exception” declared on 25 July 2021, Tunisia’s President promulgated Decree Law 2022-11, dissolving the HJC, the constitutional body responsible for overseeing judicial independence, and replacing it with a Temporary HJC under his control. As a consequence, Judge Bouzakher was immediately removed from his role as elected HJC President and as an elected HJC member, before the end of his term.

The complaint submits that the measure was a reprisal for Judge Bouzakher's opposition, as President of the now-dissolved HJC, to the Tunisia's President's attempts to interfere with judicial and prosecutorial independence, and for his insistence on respect of the rule of law.

On 1 June 2022, after having also assumed the power to summarily dismiss magistrates through Decree-Law 2022-35, the President publicly announced the dismissal of 57 judges and prosecutors, purportedly for misconduct, corruption and abuse of power. Judge Bouzakher was one of those subsequently dismissed by Presidential Order 2022-516, without prior notice or any due process, and he was not informed of any reason for the decision. Although the First President of the Administrative Court ordered the suspension of his dismissal on 9 August 2022, the Ministry of Justice has not implemented this ruling.

"Judge Bouzakher has defended the Constitution, the rule of law and judicial independence with courage, resolve and integrity," said Said Benarbia, Director of the ICJ's Middle East and North Africa Programme. "Instead of subjecting him to arbitrary dismissal and prosecution, the Tunisian authorities must reinstate him and end its frontal assault on judicial independence in the country."

In addition to their loss of position, Decree-Law 2022-35 provided that the dismissal automatically triggered criminal prosecution and that the dismissal was not appealable until the completion of these criminal proceedings. Since then, Judge Bouzakher has been informed of two sets of criminal investigations instigated in September 2022 against him, in connection with "terrorism-related" and "economic and financial" crimes. These unfounded criminal proceedings against Judge Bouzakher are illustrative of a pattern of the [arbitrary use of criminal processes](#) in Tunisia against those who have been critical of the undermining of the rule of law.

The Complaint

Judge Bouzakher submits in his complaint, these actions have violated several of his rights protected by the International Covenant on Civil and Political Rights, including rights to: the protection of judicial independence, fair process, the presumption of innocence and freedom from arbitrary criminal prosecution (ICCPR article 14); respect for private and professional life, honor and reputation (article 17); freedom of expression (article 19), take part in the conduct of public affairs (article 25), equal protection of law (article 26) and effective remedy (article 2(3)).

The remedies sought by Judge Bouzakher in this case include:

- public acknowledgement of the violations of his rights;
- termination of the criminal investigations and annulment of any charges;
- restitution, including reinstatement in his judicial role;
- compensation; and
- guarantees of non-repetition, necessary to undo the serious harm that has been inflicted on human rights, the rule of law and judicial independence in Tunisia.

The [Human Rights Committee](#) (HRC) is a body of independent experts that monitors the implementation of the [International Covenant on Civil and Political Rights](#) (ICCPR). The Committee is composed of 18 experts elected by the States Parties to the ICCPR, from a list of persons of "high moral character and recognized competence" (ICCPR article 38).

Tunisia has been a State Party to the ICCPR since 1969. As a Party also to the first Optional Protocol to the ICCPR since 2011, Tunisia has given the HRC jurisdiction to rule on complaints, such as this one, from individuals under the jurisdiction of Tunisia who claim that their rights guaranteed by the ICCPR have been violated.

Background on the Tunisian Context

Since July 2021, the rule of law has effectively been in abeyance in Tunisia. On 25 July 2021, invoking article 80 of the 2014 Constitution on exceptional measures, President Kais Saied [declared](#) himself the head of the executive branch and suspended the Parliament. On 22 September 2021, President Saied issued Presidential Decree 2021-117 suspending most of the 2014 Constitution, prolonging the suspension of Parliament and empowering himself to rule by decree with full executive and legislative prerogatives.

On multiple occasions since July 2021, the President has attacked the judiciary and called for the “cleansing” and “purification” of the judiciary, as part of the cleansing of Tunisian society more broadly. Since then, the President has taken successive measures to dismantle the judiciary’s institutional and individual independence, including those actions in violation of a number of rights guaranteed under the ICCPR as set out in the complaint

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