

URGENT ACTION

LAWYER PROSECUTED BEFORE MILITARY COURT

On 2 March, prominent lawyer Abderrazak Kilani, former president of the Tunisian Bar Association, was jailed by a military court. His prosecution stems from a verbal exchange on 2 January between him and police officers as they barred him from entering a hospital to visit his arbitrarily detained client, former Justice Minister Noureddine Bhiri. Abderrazak Kilani is accused of disturbing the public order, insulting state officials, and obstructing the work of others. He faces up to seven years imprisonment if convicted. The authorities must immediately release Abderrazak Kilani and drop the baseless charges against him and stop prosecuting civilians before military courts.

TAKE ACTION: WRITE AN APPEAL IN YOUR OWN WORDS OR USE THIS MODEL LETTER

President of the Republic Kais Saied
Route de la Goulette,
Site archéologique de Carthage, Tunisie
Email: contact@carthage.tn
Twitter: @TnPresidency

Your Excellency,

*I wish to express my grave concern over the arbitrary detention and prosecution of lawyer **Abderrazak Kilani** by the Military Court of First Instance in Tunis. Civilians should never be prosecuted before military courts, as per international law that Tunisia has ratified. In addition, his detention is an assault on the right to legal representation as he was not only prevented from seeing his client but also prosecuted for trying to do so.*

On 21 January, a military prosecutor charged Abderrazak Kilani with participating in a gathering that disturbs public order, insulting state officials, and obstructing the work of others, under Penal Code articles 79, 125 and 136 respectively. The charges are based on remarks made by Abderrazak Kilani to the police officers who barred him from entering Bougatfa Hospital, Bizerte, a city in the north of Tunis, on 2 January to visit his client, former Justice Minister, Noureddine Bhiri who had been transferred to the hospital by the authorities, a few days after his arbitrary arrest. Amnesty International has reviewed a video of the incident and considers neither Abderrazak Kilani's actions nor his words to constitute threats, incitement to violence, or obstruction of police work. Instead, the video shows him calling on the police to uphold the law and not to expose themselves to potential prosecution for following what he considered unlawful orders to deny him access to his client.

At a hearing on 2 March, an investigative judge at the Military Court of First Instance in Tunis ordered Abderrazak Kilani's imprisonment in Mornaguia prison, pending further investigation and potential trial. He faces up to seven years imprisonment if convicted.

Abderrazak Kilani's prosecution by a military court violates Article 14 of the International Covenant on Civil and Political Rights, which Tunisia has ratified. That article guarantees the right to "a fair and public hearing by a competent, independent and impartial tribunal established by law." His zealous prosecution also undermines his rights to freedom of expression and his right to exercise his profession as a lawyer seeking to have access to his client.

I urge you to immediately ensure the release of Abderrazak Kilani and end his prosecution. I also call on the Tunisian authorities to end entirely the practice of prosecuting civilians before military courts.

Yours sincerely,

ADDITIONAL INFORMATION

Abderazzak Kilani is a lawyer, former president of the Tunisian Bar Association, former minister in charge of government's relations with the parliament from 2011 to 2013, and Tunisian ambassador to the United Nations in Geneva from 2013 to 2014. He is also a member of legal defence team of Nouredine Bhiri, a former justice minister and senior official of the Ennahdha party whom authorities detained arbitrarily for 67 days before releasing him without charge on 7 March 2022. Throughout his detention, he was denied his right to have access to his lawyers.

On 31 December 2021, the authorities detained Nouredine Bhiri outside his home in Tunis and carried him off to an undisclosed location. His wife, also a lawyer, who witnessed the arrest, immediately called on fellow lawyers for help. Abderazzak Kilani began coordinating Nouredine Bhiri's legal defence team.

On 2 January, Abderazzak Kilani and Nouredine Bhiri's wife, together with other lawyers, went to Bougatfa Hospital, in the city of Bizerte, where they had learned that Bhiri had been brought by authorities, and attempted to go inside and visit him. Abderrazak Kilani and Akremi told Amnesty International how police who were deployed outside the hospital barred Akremi from entering to see Bhiri unless she agreed to sign a document whose contents she did not know, and barred Abderazzak Kilani from entering to see Bhiri entirely.

Abderrazak Kilani told the police that in barring him from the hospital they risked exposing themselves to prosecution, comparing the situation to that of security officers tried for human rights violations committed under former presidents Habib Bourguiba and Zine El Abidine Ben Ali before specialized transitional justice courts set up after the 2011 revolution that ousted Ben Ali. The exchange was filmed and posted on social media, in a [video](#) that Abderazzak Kilani confirmed to Amnesty International showed his encounter with police outside the hospital.

In the video, Abderrazak Kilani tells the police: "You are exposing yourselves, your families, and your future to danger. Who will defend you? Charfeddine (the interior minister) who understands nothing of the law? Kais Saied?... Truly, I weep for the country, I weep for the country. We have a constitution, the best constitution in the world. He (apparently President Saied) made a rag of it, made a rag of the constitution. It states...that security forces are republican, the army is republican, and security forces must treat everyone equally...According to the law, you cannot prevent a citizen from entering a hospital unless the hospital director tells you that he has closed the hospital." On 3 January, Interior Minister Taoufik Charfeddine said in a [televised press conference](#) that remarks by an individual to police outside the hospital might be grounds for prosecution by a military court, in an apparent reference to Abderrazak Kilani.

Tunisian law grants military courts jurisdiction to prosecute civilians in some circumstances, including for offenses under the penal code that are committed in certain circumstances against security personnel as per Article 22 of Law 1982-70 regulating the status of internal security forces.

Legal representation is fundamental to fair trial rights as guaranteed by treaties that Tunisia has ratified. These include the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights. According to the United Nation's Basic Principles on the Role of Lawyers, governments should ensure lawyers "are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference".

Tunisia's military courts do not fulfil the requirement of independence because the president has final say over the appointment of judges and prosecutors to military courts. In addition, both the general prosecutor who heads the military justice system, as well as all prosecutors in the military courts, who play a pivotal role in initiating proceedings, are serving members of the military and subject to military disciplinary procedures. This places them under the influence of the executive branch, since the president is also commander-in-chief of the armed forces under Tunisia's constitution.

Since President Saied's power grab on 25 July 2021, military courts have increasingly investigated and prosecuted civilians, including a journalist, a blogger and opposition politicians.

PREFERRED LANGUAGE TO ADDRESS TARGET: Arabic, French and English

You can also write in your own language.

PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL: 13 May 2022

Please check with the Amnesty office in your country if you wish to send appeals after the deadline.

NAME AND PRONOUN: Abderazzak Kilani (He/Him)