

URGENT ACTION

OPPOSITION FIGURE JUDICIALLY HARASSED

Arbitrarily detained opposition figure Abir Moussi is facing criminal investigation for the legitimate exercise of her rights to freedom of expression and peaceful assembly in two separate judicial investigations. The Independent High Authority for Elections (ISIE) has submitted four complaints against Abir Moussi following her public criticism of the electoral process. She is being investigated under the draconian cybercrimes Decree-Law 54. Abir Moussi is also facing a separate investigation for exercising her right to freedom of assembly in relation to two protests organized by her political party the Free Destourian Party (PDL). Abir Moussi has been unjustly detained since 3 October 2023 because she attempted to submit an appeal against presidential decrees ahead of local elections. The Tunisian authorities must immediately release Abir Moussi and drop the charges against her as they are based solely on the peaceful exercise of her rights to freedom of expression and peaceful assembly.

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 urge you to immediately release Abir Moussi and cease all criminal investigations that are solely based on her legitimate exercise of her human rights. She is being investigated under the Data Protection Law, and Decree-Law 2022-54 on cybercrimes. She expressed interest in participating in the next presidential elections scheduled in October 2024 [according](#) to a member of her political party.

The High Independent Authority for Elections (ISIE) has filed four complaints before the Tunis court of first instance against Abir Moussi based on social media publications, including two [videos](#) posted on her accounts in January 2023 where she criticizes the electoral process and describes the legislative elections as “rigged”. Another complaint is also based on an [open letter](#) shared by Abir Moussi on 12 June 2023 on her social media channels where she strongly criticizes President Saied unilateral actions for which she is accused of “insulting a public official and spreading false news” under Article 24 of Decree 54. On 21 February 2024, the investigative judge of the Tunis Court of First Instance ordered her pre-trial detention. Abir Moussi’s legitimate criticism of public processes and officials is protected under international law and she should not be prosecuted for voicing her opinion.

In another case, Abir Moussi is facing two complaints in connection to protests organized by the political party she is leading, the Free Destourian Party (PDL). The first complaint was submitted by the Ministry of Foreign Affairs in relation to a [protest](#) organized by the PDL in front of the Ministry in Tunis in September 2023 for exceeding the maximum duration of the protest. The second complaint was submitted by the Union of Tunisian Ulama, a religious organization, following sit-ins organized by the PDL in front of their headquarters in Tunis in August 2022 where Abir Moussi criticized the Union, President Saied and the ISIE. She is accused of spreading false information.

I urge you to immediately release Abir Moussi and drop all charges against her that stem from her peaceful political activism. Pending her release, she must be granted regular access to her family, lawyers and adequate medical care, and held in conditions that comply with international standards for the treatment of prisoners.

Yours sincerely,

ADDITIONAL INFORMATION

Abir Moussi (48) is a lawyer and the president of the Free Destourian Party (PDL) and a vocal political opponent of President Kais Saied. She was a member of the Parliament from 2019 to 2021. According to a [letter](#) shared on her social media page Abir Moussi's health is deteriorating in detention as she suffers from head, neck, legs, shoulders and back pain. She had started a 16-day hunger strike on 28 November and went on a two-day hunger and water strike from 26 to 28 January 2024 to protest her unjust detention. On 3 October 2023, 11 days after expressing her interest in running for the next presidential elections, security forces arrested Abir Moussi in front of the public administration office annexed to the Presidential Palace in Carthage, northeast of Tunis. Abir Moussi attempted to submit an appeal against presidential decrees to the relevant administration but was prevented from doing so. She protested the arbitrary denial by insisting on staying in front of the administration building and live streaming the events on Facebook.

According to eyewitnesses and her lawyers, security forces detained her and took her to an undisclosed location for about two hours before her legal representatives traced her to a police station in La Goulette, a neighbourhood in the capital Tunis. Abir Moussi's lawyers also told Amnesty International that she sustained physical injuries after the police used excessive force during her arrest. The lawyers said that the authorities had denied them access to their client during police interrogation, in clear breach of her due process rights, and were only subsequently informed of the prosecution's decision to hold her in pre-trial detention after being in police custody for 48 hours. According to her lawyers, during her first night in custody, officers detaining Abir Moussi ignored her requests for medicine she is supposed to take at a precise time daily, which resulted in health complications that landed her in the hospital days later. On 5 October, an investigative judge interrogated Abir Moussi at the Tunis Court of First Instance under charges of seeking to "change the form of government", "inciting violence on the Tunisian territory", and "attack with the aim of provoking disorder" under Article 72 of the Penal Code, and "processing of personal data without the consent of the data subject" and "interference with the freedom to work" under Articles 27 and 87 of the Data Protection Law. On 30 January, the investigative judge dropped the charges under Article 72 [according](#) to Abir Moussi's lawyer.

The UN Human Rights Committee [states](#) in General Comment 34 that "when a state party imposes restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself." Restrictions which do not comply with this test violate freedom of expression even where there is no resulting penalty. They violate not only the right to freedom of expression of those people on whom the restriction is imposed, but also the right of others to receive information and ideas. Such restrictions must never include the censorship of criticism of public figures and state officials. In fact, as regard the rights and reputation of others, international human rights law and standards require that public officials tolerate a higher degree of scrutiny and criticism than private individuals. And there should not be more severe penalties for insult or defamation of public officials. In this regard, the UN Human Rights Committee states in General Comment 34 that all public figures are legitimately subject to public criticism, and that there should be no prohibition of criticism of public institutions. The Committee said that in "circumstances of public debate concerning public figures in the political domain and public institutions, the value placed by the Covenant upon uninhibited expression is particularly high. Thus, the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties."

Additionally, according to international law, defamation should be treated as a civil, not a criminal, issue and never punished with a prison term. Public officials or others that seek redress on issues relating to defamation, should do so in a civil court not criminal court. The only purpose of defamation, libel, slander and insult laws must be to protect reputations and not to prevent criticism of governments. The use of defamation laws with the purpose or effect of inhibiting peaceful criticism of government or public officials violates the right to freedom of expression.

On 25 July 2021, President Saied claimed emergency powers that he said were granted to him by Tunisia's 2014 Constitution. Since February 2023, the human rights situation in Tunisia has been rapidly deteriorating and several opposition figures have been targeted. Authorities opened criminal investigations against at least 74 opposition figures and other perceived enemies of the president, including at least 44 people accused of crimes in connection with the peaceful exercise of their human rights.

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: 18 April 2024

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

NAME AND PRONOUN: Abir Moussi (she/her)

LINK TO PREVIOUS UA: <https://www.amnesty.org/en/documents/mde30/7517/2023/en/>