THE HUMAN RIGHTS COUNCIL SHOULD ADDRESS THE RAPIDLY GROWING HUMAN RIGHTS CRISIS IN TUNISIA

Dear Excellency,

We, the undersigned organizations, write to alert you to the increasingly deteriorating human rights situation in Tunisia in view of the upcoming 53rd session of the Human Rights Council (HRC). We are seriously concerned about the rule of law crisis in the country. We have documented an escalating pattern of human rights violations about which we urge you to express concern. The rapidly worsening situation in Tunisia must be addressed during the next Council's session.

Since President Kais Saied's power grab on 25 July 2021, Tunisia has witnessed a significant rollback of the human rights progress following the 2011 Revolution. Since July 2021, President Saied has further entrenched far-reaching executive powers through a new constitution drafted under his supervision and has effectively dismantled most existing institutional human rights safeguards.

Ruling by decree, he has seized considerable control over the judiciary and issued repressive decree-laws that allow the authorities to prosecute and imprison people simply for their legitimate exercise of their rights to freedom of expression, freedom of the press, and the right to privacy.

In his oral update to the HRC in March 2023, the High Commissioner for Human Rights denounced the "trajectory of shrinking civic space, and the space for trade unions to defend workers' rights." He expressed further concern over the then "recent harsh crackdowns in which judges, media, civil society actors, opposition members and labor leaders have been prosecuted – including before military courts – for allegations that include national security crimes and terrorism."

- Erosion of the Rule of Law and attacks on the independence of the judiciary:

Our organizations have documented successive measures aimed at dismantling judicial independence, through the Decree-Law 2022-11 on the establishment of a Temporary High Judicial Council and reprisals against judges and judges' associations and lawyers who have protested against State policies that undermine the independence of the judiciary. On 1 June 2022, President Saied granted himself the power to dismiss judges summarily through Decree-Law 2022-35; the same day, he used that power to arbitrarily dismiss 57 judges through Presidential Decree 2022-516. On 9 August 2022, the President of the Tunis Administrative Court issued an interim decision in favor of 49 dismissed judges suspending the President's order until the Court rules on the merits of their requests to annul their dismissal. The Ministry of Justice has thus far failed to reinstate the 49 judges.

The authorities have also taken steps to open criminal investigations against all 57 of the judges who were dismissed on 1 June 2022, including against at least 13 of them on terrorism-related charges.

- Attacks on freedom of expression:

On 13 September 2022, President Saied unilaterally issued Decree-law 2022-54 on "fighting offences related to information and communication systems", which imposes heavy prison sentences (up to 10 years) and hefty fines upon conviction for "maliciously spreading false information online and via digital networks" based on ambiguous terms, such as "fake news" and "rumors." The decree-law also grants law enforcement the power to access and collect data stored in any information system or device or data pertaining to telecommunications traffic and, with prior judicial authorization, to intercept communications based on vague criteria, such as the possibility that such information "might help reveal the truth" about suspected crimes. Several UN Human Rights Council Special Procedures mandate holders, as well as national and international organizations, have condemned the decree-law as a serious threat to the rights to freedom of expression and privacy.

Since Decree-Law 2022-54's promulgation, prosecutors have opened criminal investigations against at least 11 people, including several journalists, political opponents, lawyers, and activists. Some of these investigations were initiated by the Minister of Justice for comments critical of the authorities (including President Saied, the Prime Minister and the Minister of Justice herself) that the accused are alleged to have made online or during media interviews.

- Crackdown on peaceful political opposition and abusive use of "counter-terrorism" law:

Since February 2023, a wave of arrests targeted political opponents and perceived critics of President Saied. In the absence of credible evidence of any offences, judges are investigating at least 30 people, such as dissidents, opposition figures, and lawyers, for conspiring against the State or threatening State security, among other charges, including at least 17 of them under Tunisia's 2015 counter-terrorism law. In particular, the authorities have targeted members of Ennahda, Tunisia's largest opposition party. According to Ennahda, the authorities have also ordered the party to stop holding meetings at its offices. On 15 May, a Court sentenced Ennahda's leader to one year in prison under the "counter-terrorism law", in connection with his public remarks at a funeral in 2022 (in which he praised the deceased as a "courageous man" who did not fear "a ruler or tyrant").

In March 2023, Tunisia failed to accept key recommendations from States and the Universal Periodic Review working group following its fourth UPR cycle in November 2022. In particular, the Tunisian government rejected all recommendations calling for the revocation of Decree-Law 2022-54 and recommendations calling for an end to the use of military courts to try civilians, including journalists, lawyers and political opponents.

In April 2023, the Tunisian government postponed without explanation a visit to Tunisia by the United Nations' Special Rapporteur on the Independence of Judges and Lawyers that had been

scheduled for 16 to 26 May. The Special Rapporteur has proposed a new set of dates in September and in October, but the authorities have thus far not replied.

- Persecution of Black African foreign nationals, including migrants, asylum seekers and refugees:

On 21 February 2023, President Saied made inflammatory comments that triggered a wave of anti-Black violence and persecution – including assaults and summary evictions – against Black African foreign nationals, including migrants, asylum seekers and refugees. Between February and early March 2023, police indiscriminately arrested at least 850 Black African foreign nationals, apparently based on racial profiling. So far, the authorities have not announced measures to investigate and hold to account anyone found responsible for human rights abuses against Black African foreign nationals in Tunisia.

The UN Committee on the Elimination of Racial Discrimination has condemned what it has described as "racist hate speech" in Tunisia, including President Saied's remarks on 21 February, and urged the authorities to combat all forms of discrimination and racist violence against Black Africans.

In light of these concerns, and to prevent a further escalation of human rights violations, we urge your government to address the human rights situation in Tunisia, and specifically to make a joint statement at the 53rd session of the Human Rights Council calling on the Tunisian authorities to:

- **Immediately release all those arbitrarily detained;**
- **Refrain from using criminal investigations and prosecutions as a form of reprisal against political opponents, human rights activists and others for having legitimately exercised their right to freedom of expression or freedom of peaceful assembly;**
- **Revoke Decree-Law 2022-11 on the establishment of a Temporary High Judicial Council, which allows for executive interference in the nomination, appointment, promotion, transfer, and disciplining of judges, and Decree-Law 2022-35, which gives the President the authority to summarily dismiss judges; and reinstate the judges who were dismissed by Presidential Decree 2022-516 on 1 June 2022;**
- **End all forms of harassment or reprisal against Tunisian judges and lawyers for asserting their independence, and respect the rights of all members of the judiciary to freedom of expression, association and peaceful assembly;**
- **End the use of military courts to try civilians, as repeatedly recommended during the last cycle of the UPR;**
- **Repeal Presidential Decree-Law 2022-54, repeal or amend all the other laws that criminalize the legitimate exercise of the right to freedom of expression, end all investigations and prosecutions based solely on the legitimate exercise of the rights to freedom of expression, freedom of peaceful assembly and of association, and guarantee**

the full and unhindered exercise of the right to freedom of expression in accordance with international human rights law and standards; and

- **Investigate the persecution of Black African foreign nationals, including migrants, asylum seekers and refugees, protect their human rights as guaranteed by international law and hold to account anyone found responsible for human rights abuses committed against them.**

We stand ready to meet you at your convenience to discuss our concerns detailed above. In addition, we remain at your disposal to provide any further information.

Yours sincerely.

<u>Signatories</u>:

1. **International Commission of Jurists (ICJ)**
2. **International Service for Human Rights (ISHR)**
3. **Amnesty International**
4. **Human Rights Watch (HRW)**