



Tunisia: Silencing the Defence

The trial of lawyer Ahmed Souab in Case 12/9749



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I. Introduction

Since President Kaïs Saïed's power grab of 25 July 2021 and the executive's subsequent subordination of the judiciary,¹ the Tunisian authorities have instigated arbitrary criminal prosecutions against lawyers who have represented opposition figures or who, in the course of their legal work, have expressed profound concern at the authorities' dismantling of judicial independence and weakening of human rights protections in Tunisia.² These attacks have formed a part of the Tunisian authorities' wider crackdown on political dissent and pluralism, which in recent years has culminated in the arbitrary prosecution of political opponents,³ judges,⁴ journalists,⁵ human rights defenders⁶ and civil society actors,⁷ often as a result of their peaceful exercise of their human rights, including the right to freedom of expression.

In this context, this briefing documents⁸ the emblematic criminal proceedings against Ahmed Souab, a prominent Tunisian lawyer, former administrative judge and recipient of the 2025 Ebru Timtik Award in recognition of his work defending fair trial rights in Tunisia.⁹ In particular, the Tunisian authorities arbitrarily arrested, detained, prosecuted, convicted and sentenced Ahmed Souab (Ahmed), in Case 12/9749 of 2025, on "terrorism-related charges" based solely on public statements that he had legitimately made in his professional capacity as a defence lawyer in the so-called Conspiracy Case against State security.¹⁰

The Tunisian authorities' arrest, detention, prosecution, trial, conviction and sentencing of Ahmed took place in the context of patterns of State attacks against defence lawyers, as illustrated, for example, by the "Conspiracy Case". Indeed, Dalila Msaddek, Samir Dilou, Islem Hamza, Abdelaziz Essid, Ayachi Hammami, Ghazi Chaouachi, Najib Chebbi and Lazher Akremi,¹¹ who, like Ahmed, were all lawyers in the "Conspiracy Case", have been subjected to arbitrary prosecution, including in connection with the fulfilment of their professional obligations in that case.¹²

1. See, ICJ, The dismantling of judicial independence in Tunisia: Decree 11 on the Temporary High Judicial Council, Questions and Answers, May 2022, available at: <https://www.icj.org/resource/tunisia-qa-on-the-high-judicial-council-and-judicial-independence-in-light-of-decree-11/>; ICJ, Attacks on Judges and Prosecutors in Tunisia: Arbitrary dismissals and prosecutions, December 2023, available at: <https://www.icj.org/tunisia-authorities-must-end-attacks-on-judges-and-prosecutors/>.

2. See, ICJ and others, International legal and human rights organizations condemn the Tunisian Authorities' escalating attacks on the legal profession, the independence of the judiciary and civil society, 9 June 2026, available at: <https://www.icj.org/international-legal-and-human-rights-organizations-condemn-the-tunisian-authorities-escalating-attacks-on-the-legal-profession-the-independence-of-the-judiciary-and-civil-society/>. See also, ICJ, Tunisia: Authorities must stop using criminal law to target lawyers, 5 January 2023, available at: <https://www.icj.org/tunisia-authorities-must-stop-using-criminal-law-to-target-lawyers/>.

3. See, ICJ, Tunisia: Conspiracy Case appeal proceedings a travesty of justice, 2 December 2025, available at: <https://www.icj.org/tunisia-conspiracy-case-appeal-proceedings-a-travesty-of-justice/>.

4. See, ICJ, Tunisia: Conviction and sentence of Anas Hmedi, President of the Association of Tunisian Magistrates, must be quashed, 30 June 2026, available at: <https://www.icj.org/tunisia-conviction-and-sentence-of-anas-hmedi-president-of-the-association-of-tunisian-magistrates-must-be-quashed/>.

5. See, ICJ, End crackdown on journalists, 9 April 2024, available at: <https://www.icj.org/tunisia-end-crackdown-on-journalists/>.

6. See, ICJ, Tunisia: End sham prosecution of truth commission's former president Sihem Bensedrine, 24 June 2026, available at: <https://www.icj.org/tunisia-end-sham-prosecution-of-truth-commissions-former-president-sihem-bensedrine/>.

7. See, ICJ, Tunisia: Quash the unjust conviction of civil society actors and others for upholding migrants' and refugees' human rights and release those arbitrarily detained, 9 January 2026, available at: <https://www.icj.org/tunisia-quash-the-unjust-conviction-of-civil-society-actors-and-others-for-upholding-migrants-and-refugees-human-rights-and-release-those-arbitrarily-detained/>.

8. The ICJ's documentation and analysis on which this briefing is based have been informed by available case files and information provided by Ahmed's lawyers and family.

9. International Fair Trial Day and Ebru Timtik Award 2025 – Tunisia Edition Report, p.19, available at: https://iftdd.org/wp-content/uploads/2026/02/Report_of_International_Fair_Trial_Day_-2025.pdf.

10. See, ICJ, Denial of Justice, Tunisia's "Conspiracy" Case 36/6835, An analysis of pre-trial proceedings, 3 March 2025, available at: <https://www.icj.org/wp-content/uploads/2025/03/ICJ-denial-of-justice-EN.pdf>.

11. ICJ, Tunisia: Conspiracy Case Appeal Proceedings a Travesty of Justice, *supra* note 3.

12. See, ICJ, Tunisia: End judicial harassment of lawyers, 5 October 2023, available at: <https://www.icj.org/tunisia-end-judicial-harassment-of-lawyers/>.

In addition, as a result of Ahmed's arrest, detention and prosecution, at the conclusion of the first instance trial in the Conspiracy Case, he was no longer able to act as counsel for the purpose of the appeal proceedings before the Court of Appeal and Court of Cassation in that case. Through this systematic targeting of defence lawyers in the Conspiracy Case, including Ahmed, the Tunisian authorities have, in addition to a myriad other fair trial violations in the case,¹³ egregiously violated the defendants' rights to adequate time to prepare their defence and to access counsel of their own choosing.¹⁴

With respect to the Tunisian authorities' arrest, detention, prosecution, trial, conviction and sentencing of Ahmed Souab, the International Commission of Jurists (ICJ) is gravely concerned that:

1. The arrest, detention, prosecution, trial, conviction and sentencing of Ahmed were based solely on his legitimate exercise of his right to freedom of expression, specifically regarding statements that he made in his capacity as a defence lawyer in the "Conspiracy Case". Consequently, these measures constitute not only a violation of his right to freedom of expression, but also an unlawful obstruction of his professional duties as a defence lawyer, and a direct assault on the independence of the legal profession;
2. The politicized and persecutory nature of the measures taken against Ahmed resulted in his wrongful conviction on spurious charges, and his arbitrary unjust, unfair and unlawful deprivation of liberty;
3. The executive's systematic dismantling of judicial independence has given rise to a situation where Ahmed was denied the right to be tried before an independent and impartial tribunal to which he was entitled under international human rights law binding on Tunisia; and
4. The prosecution, trial, conviction and sentencing of Ahmed failed to meet internationally recognized fair trial rights standards, particularly with regard to the right to communicate with counsel; to legal assistance; to defend oneself; and to be present at and participate in one's trial.

II. Overview of the criminal proceedings against Ahmed Souab in Case 12/9749 of 2025

Between February 2023 and April 2025, the Tunisian authorities subjected 40 opposition figures, several of whom were represented by Ahmed, to arbitrary criminal prosecutions based on spurious charges, including of "planning an attack intended to change the nature of the State",¹⁵ in what has since become known as the "Conspiracy Case" against State security. Throughout the criminal proceedings in the case, serious fair trial rights violations were documented, including violations of the defendants' right to a fair and public hearing before an independent, impartial and competent tribunal, resulting from the Tunisian executive's subordination of the judiciary, including through President Kaïs Saïed's direct interference in the initiation and direction of the case.¹⁶

On 18 April 2025, the first instance trial of the "Conspiracy Case" concluded at the Tunis Court of First Instance. Following the final trial hearing, Ahmed made a public statement outside of the Court, in which he strongly criticized the Ministry of Justice's undue pressure on the trial judge throughout the proceedings, highlighting the erosion of judicial independence in Tunisia.¹⁷

13. ICJ, Denial of Justice, Tunisia's "Conspiracy" Case 36/6835, An analysis of pre-trial proceedings, 3 March 2025, *supra* note 10.

14. Article 14(3)(b) and (d) International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force on 23 March 1976; Tunisia ratified the ICCPR on 18 March 1969.

15. Article 72 of Tunisia's 1913 Penal Code, available at: https://www.icnl.org/research/library/tunisia_crim-fr/.

16. See, ICJ, Denial of Justice, Tunisia's "Conspiracy" Case 36/6835, An analysis of pre-trial proceedings, 3 March 2025, *supra* note 10, pp.15 to 17.

17. See, Facebook, What Professor Ahmed Souab Said..., 21 April 2025, available at: <https://www.facebook.com/watch/?v=1690651701539962>.

During this speech, Ahmed made a brief gesture with his hand to simulate “a knife to the throat” when referring to the existence of “many other cases” (“barsha dosieyet”) in which the executive had threatened judges with retaliatory measures should they fail to convict particular defendants. Later that day, the Tunis Court of First Instance convicted 34 of the 40 defendants in the “Conspiracy Case” and handed-down sentences of imprisonment, including some very lengthy terms, on each convicted defendant. A few days later, commenting on the case, the UN High Commissioner for Human Rights condemned the verdict as a further “setback to justice and the rule of law” in Tunisia.¹⁸

On 19 April 2025, pro-government social media accounts circulated a video excerpt of Ahmed’s public speech, taking his metaphorical hand gesture out of context to falsely portray it as a physical threat against the trial judge.

On 20 April 2025, the “Counter-Terrorism” Brigade notified the Public Prosecutor in writing regarding the aforementioned video of Ahmed’s public speech outside of the Tunis Court of First Instance.

On 21 April 2025, the Public Prosecutor’s Office of the “Counter-Terrorism” Judicial Pole notified the General Prosecutor’s Office at the Tunis Court of Appeal and the Tunisian National Bar Association that criminal proceedings against Ahmed were to be initiated, and issued a warrant for his arrest in connection with “terrorism-related offences”.¹⁹ On the same day, “Counter-Terrorism” Brigade officers arrested Ahmed at his home in Tunis and seized personal electronic devices belonging to him and his family. Following his arrest, Ahmed was detained at Bouchoucha police detention facility, Central Tunis. Officers from the “Counter-Terrorism” Brigade then interrogated Ahmed about his speech at the conclusion of the first instance trial of the “Conspiracy Case”. During his detention and interrogation, the “Counter-Terrorism” Brigade relied on article 57 of the Criminal Procedure Code, which permits the delay of legal assistance for those arrested on suspicion of «terrorism-related» offences for 48 hours after the initiation of the police custody period,²⁰ to deny Ahmed access to a lawyer. During his interrogation, Ahmed maintained that his speech did not constitute incitement to violence against the trial judge, whom he had not named in his statement. He also denied that his speech was an endorsement of “terrorist activity”. He clarified that his remarks were aimed at denouncing the gross injustice suffered by the defendants in the “Conspiracy Case” given the Court’s lack of independence and impartiality, while his gesture simply referred to the existence of other cases in which the executive had threatened judges with retaliatory measures should they fail to convict particular defendants.

On 23 April 2025, Ahmed appeared before the Investigating Judge at the “Counter-Terrorism” Judicial Pole for interrogation.²¹ Ahead of the hearing, members of Ahmed’s legal team submitted requests to represent Ahmed. However, the Investigating Judge barred all but four of the lawyers from attending the session. According to Ahmed’s defence team, the decision of the Investigating Judge to deny some members of Ahmed’s legal team access to the hearing lacked any legal justification.

18. OHCHR, Tunisia: Türk says rulings in “conspiracy” case are a setback to justice and rule of law, 24 April 2025, available at: <https://www.ohchr.org/en/press-releases/2025/04/tunisia-turk-says-rulings-conspiracy-case-are-setback-justice-and-rule-law>. See also, ICJ, Tunisia: Mass guilty verdicts and draconian sentences the ultimate travesty of justice in the “Conspiracy Case”, 23 April 2025, available at: <https://www.icj.org/tunisia-mass-guilty-verdicts-and-draconian-sentences-the-ultimate-travesty-of-justice-in-the-conspiracy-case/>.

19. In the event of criminal proceedings against a lawyer, the president of the competent regional section of the Bar Association must be notified immediately in accordance with article 46 of Decree-Law No 2011-79 of 20 August 2011 on the organization of the legal profession, available in French at: <https://legislation-securite.tn/latest-laws/decret-loi-n-2011-79-du-20-aout-2011-portant-organisation-de-la-profession-davocat/>.

20. Article 57 of the Tunisian Criminal Procedure Code stipulates that people purportedly suspected of involvement in “terrorism”, but who are yet to be charged, may be denied access to a lawyer for the first 48 hours of police custody: see 1968 Tunisian Criminal Procedure Code, available in French at: <https://legislation-securite.tn/latest-laws/loi-n-68-23-du-24-juillet-1968-portant-refonte-du-code-de-procedure-penale/>.

21. The “Counter-Terrorism” Judicial Pole, established within the jurisdiction of the Tunis Court of Appeal, handles “terrorist” offences as defined by article 40 of Organic Law No. 2015-26 of 7 August 2015 on “combating terrorism and money laundering”, hereinafter “Counter-Terrorism” Law, available in French at: <https://legislation-securite.tn/latest-laws/loi-organique-n-2015-26-du-7-aout-2015-relative-a-la-lutte-contre-le-terrorisme-et-a-la-repression-du-blanchiment-dargent/>.

Consequently, the president of the Tunis section of the Tunisian National Bar Association and Ahmed's legal team collectively refused to attend the interrogation session in protest. Ahmed then refused to be interrogated by the Investigating Judge in the absence of his defence team. On the same day, despite the fact that Ahmed had not been interrogated, the Investigating Judge charged Ahmed with the following offences under the "Counter-Terrorism" Law:²²

- i. Committing an act intended, by its nature or context, to spread terror amongst the population (article 13 new);
- ii. Threatening to commit a terrorist offence with the aim of compelling a natural or legal person to perform or refrain from performing an act (article 30). Under article 14, murder is defined as a terrorist offence;
- iii. Forming a terrorist organization intended to commit terrorist offences (article 32);
- iv. Assisting terrorist offences by providing information or omitting to report information to the authorities (articles 34 and 37); and
- v. Endangering protected persons or their families by intentionally revealing information capable of leading to their being identified (articles 71 and 78).

The Investigating Judge also charged Ahmed with the following offences under the Penal Code:²³

- i. Making written or verbal threats to commit a serious crime or encouraging others to do so (article 222); and
- ii. Knowingly instigating, facilitating, assisting in the execution of an offence, or harbouring its perpetrators, thereby incurring the same penalties as the principal offender (article 32).

In addition, the Investigating Judge also charged Ahmed with the following offences:

- i. Using information systems to publish or distribute fake news, false or forged documents or information containing personal data or falsely attributed data with a view to defaming others, to damaging their reputation or harming them financially or morally, to incite violence against them or to incite hate speech, under article 24 of Decree-Law 2022-54 on "Cybercrime";²⁴ and
- ii. Insulting others or disturbing their comfort through public telecommunications networks, under article 86 of the Telecommunications Code.²⁵

The Investigating Judge then remanded Ahmed into pre-trial detention for an initial six-month period under article 85 of the Criminal Procedure Code, which permits pre-trial detention in relation to felonies under the "Counter-Terrorism" Law and the Penal Code for up to 14 months pending referral to trial.²⁶ In remanding Ahmed into custody, the Investigating Judge failed to provide individualized reasons as to why his pre-trial detention was necessary, and instead simply re-stated the generic grounds under article 85 of the Criminal Procedure Code, namely, that the detention order was necessary to "preserve the interests of a thorough investigation" and given the seriousness of the offences with which Ahmed had been charged. On the same day, namely 23 April 2025, Ahmed was then transferred to Mornaguia Prison in west Tunis.

On 28 April 2025, Ahmed reappeared before the Investigating Judge at the "Counter-Terrorism" Judicial Pole accompanied by his lawyers. During the interrogation, the sole purportedly

22. Ibid.

23. 1913 Tunisian Penal Code, available in French at: <https://legislation-securite.tn/latest-laws/decret-du-9-juillet-1913-portant-promulgation-du-code-penal/>.

24. Decree-Law 2022-54 of 13 September 2022 on "fighting offences related to information and communications system", (hereinafter "Decree 54"), available in French at: <https://legislation-securite.tn/latest-laws/decret-loi-n-2022-54-du-13-septembre-2022-relatif-a-la-lutte-contre-les-infractions-se-rapportant-aux-systemes-dinformation-et-de-communication/>.

25. 2001 Tunisian Telecommunications Code, available in French at: <https://legislation-securite.tn/latest-laws/loi-n-2001-1-du-15-janvier-2001-portant-promulgation-du-code-des-telecommunications/>.

26. Under article 85 of the Tunisian Criminal Procedure Code (see supra note 20), pre-trial detention for felonies governed by the "Counter-Terrorism" Law and the Penal Code is set for an initial period of six months. Pending referral to trial, the Investigating Judge may extend this detention twice—by four months each time—for a maximum total of 14 months.

“incriminating” item was the Facebook video of Ahmed’s above-mentioned speech in his capacity as defence lawyer in the “Conspiracy Case” on 18 April 2025. In response, Ahmed once again insisted on the metaphorical nature of his language and gesture, reiterated that the statement was made in the context of the executive’s subordination of the judiciary to its power, and underscored his long-standing and publicly documented opposition to violence and terrorism. He further underlined that his remarks were intended to denounce what he perceived as systemic injustice and the lack of judicial independence in the “Conspiracy Case”, and not to threaten or endanger the life of the trial judge. On the same occasion, Ahmed’s defence team made an application to the Investigating Judge at the “Counter-Terrorism” Judicial Pole for Ahmed to be released on bail on the basis that the investigation had yielded no credible evidence that he had committed offences under the Penal Code, the “Counter-Terrorism” Law, the “Cybercrime” Decree-Law or the Telecommunications Code.

On 6 May 2025, after the four-day deadline had passed without the issuance of a decision on Mr Soub’s bail application,²⁷ his defence team appealed the Investigating Judge’s implicit refusal to grant their client bail to the Court of Appeal’s Indictment Chamber.²⁸ On 22 May 2025, the Indictment Chamber dismissed the defence’s appeal. The Chamber did not provide substantive reasons as to why Ahmed’s continued detention was necessary and simply endorsed the generic grounds for pre-trial detention to which the Investigating Judge had cursorily referred in remanding Ahmed into custody pending trial. The case was then remitted back to the Investigating Judge.

On 30 June 2025, the Investigating Judge at the “Counter-Terrorism” Judicial Pole concluded the investigation and confirmed the charges against Ahmed under the following provisions:

- i. Articles 13 new, 30, 34, 71 and 78 of the “Counter-Terrorism” Law;
- ii. Article 222 of the Penal Code;
- iii. Article 24 of Decree 54; and
- iv. Article 86 of the Telecommunications Code.²⁹

On the same date, the Investigating Judge referred the case to trial before the Criminal Chamber of the Tunis Court of First Instance while dropping the other remaining charges under the “Counter-Terrorism” Law and Penal Code. The Investigating Judge also ordered the continuation of Ahmed’s pre-trial detention and transferred the case to the Tunis Court of Appeal’s Indictment Chamber. The Investigating Judge provided no reasons as to why Ahmed’s continued pre-trial detention was necessary and proportionate.

On 2 July 2025, Ahmed and his defence team were notified of the Investigating Judge’s decision to conclude the investigation and to refer him to trial. On the same day, Ahmed appealed the Investigating Judge’s decision to maintain his pre-trial detention to the Tunis Court of Appeal’s Indictment Chamber.

On 17 July 2025, the Indictment Chamber confirmed the Investigating Judge’s decision of 30 June 2025 and referred the case to trial, despite the fact that the investigation had yielded no credible evidence that Ahmed was guilty of the criminal offences with which he had been charged.

27. Ibid, art. 86.

28. In Tunisia, each Court of Appeal has at least one Indictment Chamber with jurisdiction to examine appeals against decisions taken by the Investigating Judge.

29. Under the “Counter-Terrorism” Law: committing an act intended, by its nature or context, to spread terror amongst the population (article 13), threatening to commit a terrorist offence with the aim of compelling a natural or legal person to perform or refrain from performing an act (article 30). Under article 14, murder is defined as a terrorist offence; assisting terrorist offences by providing information (articles 34); and endangering protected persons or their families by intentionally revealing information capable of leading to their being identified (articles 71 and 78). Under the Penal Code: making written or verbal threats to commit a serious crime or encouraging others to do so (article 222). Under Decree Law 54: Using information systems to publish or distribute fake news, false or forged documents or information containing personal data or falsely attributed data with a view to defaming others, to damaging their reputation or harming them financially or morally, to incite violence against them or to incite hate speech (article 24). Under the Telecommunications Code: insulting others or disturbing their comfort through public telecommunications networks (article 86).

v. Endangering protected persons or their families by intentionally revealing information capable of leading to their being identified (articles 71 and 78).

Additionally, the Indictment Chamber dismissed Ahmed's appeal against the Investigating Judge's decision to maintain him in pre-trial detention and listed the trial on 31 October 2025.

On 31 October 2025, the Tunis Court of First Instance's Criminal Chamber held the only trial hearing in Ahmed's case during which it ordered Ahmed to appear remotely via videoconference, purportedly on the basis of "imminent danger", in accordance with article 141bis of the Criminal Procedure Code,³⁰ without substantiating the particular danger which its order purportedly sought to avert. On the day, Ahmed refused to appear at his trial via videoconference on the basis that his remote participation was unjustified and inherently undermined his ability to effectively defend himself. During the hearing, Ahmed's counsel formally objected to his physical exclusion from the courtroom, arguing that it violated the fundamental guarantee of the accused to be tried in person as enshrined in international human rights law, and petitioned the Court to order that Ahmed be brought to the courtroom to allow him to participate in the proceedings in person. However, the Court dismissed the application without substantiating its decision. Then, the Court proceeded with the trial in the absence of the defendant during a hearing that lasted seven minutes and in which it did not permit the defence to make submissions, before withdrawing to deliberate. The Tunis Court of First Instance Criminal Chamber then delivered its verdict, convicting Ahmed of two offences under the "Counter-Terrorism" Law and sentencing him to a total of five years' imprisonment, as follows:

- i. One year's imprisonment for "threatening to commit a terrorist offence with the aim of compelling a natural or legal person to perform or refrain from performing an act", under article 30; and
- ii. Four years for "endangering protected persons or their families by intentionally revealing identifying data", under article 78.

In addition, the Court imposed a "complementary penalty" of three years of post-release administrative supervision against Ahmed.³¹ The Court acquitted him of the remaining charges under the "Counter-Terrorism" Law, the Penal Code, Decree 54 and the Telecommunications Code. On the same day, Ahmed appealed both his conviction and sentence.

On 5 January 2026, following nine months of arbitrary detention in Mornaguia Prison, Ahmed began to experience recurrent episodes of dizziness and severe nosebleeds, one of which resulted in his loss of consciousness, requiring emergency intervention by prison medical staff. These incidents were of particular concern given Ahmed's pre-existing chronic heart condition, which necessitated continuous monitoring and specialized medical diagnostics that the prison infrastructure was not able to provide. Following such incidents, Ahmed's family raised urgent concerns regarding the rapid and severe deterioration of his health with prison staff.

On 8 January 2026, following pressure from Ahmed's family, counsel, human rights organizations,³² and a formal intervention by the President of the Tunisian National Bar Association, the prison authorities transferred Ahmed to a hospital for medical treatment.

On 12 February 2026, a hearing in the appeal proceedings against Ahmed's conviction and sentence took place before the Tunis Court of Appeal's Criminal Chamber. During the hearing, the Court summarily rejected an application for Ahmed's provisional release, failing to provide any reasoning for its decision. At the request of the defence, the hearing was then adjourned and rescheduled for 23 February 2026.

30. Article 14bis of the Criminal Procedure Code was one of the exceptional measures adopted to address the risks associated with the 2020 COVID 19 pandemic. Decree-Law No. 2020-12 of 27 April 2020, amending the Criminal Procedure Code and adding art. 141bis, available in French at: <https://legislation-securite.tn/latest-laws/decret-loi-du-chef-du-gouvernement-n-2020-12-du-27-avril-2020-completant-le-code-de-procedure-penale/>.

31. Administrative supervision is a supplementary sentence stated under article 5 of the Tunisian Penal Code, consisting of restrictions on movement and regular reporting to police stations which the judge imposes where permitted by law in addition to the principal sentence (imprisonment or a fine): Penal Code, art. 5, supra note 28. In this case, article 6 of the "Counter-Terrorism" Law (see supra note 21) imposes this complementary sentence on perpetrators of "terrorism-related offences".

32. Amnesty International, Urgent Action, Tunisia: Human rights lawyer on trial: Ahmed Souab, 6 February 2026, available at: <https://www.amnesty.org/en/documents/mde30/0692/2026/en/>.

On 23 February 2026, the Tunis Court of Appeal's Criminal Chamber convened for the substantive appeal hearing, with Ahmed appearing via videoconference from Mornaguia Prison at the direction of the Court.

At the hearing, the presiding judge interrogated Ahmed, focusing on the substance of his public statements, the context of their delivery, their intended meaning, and his underlying motives and objectives. In response, Ahmed reiterated that his remarks were made strictly in his professional capacity as a defence lawyer. He asserted that his statements were intended to publicly denounce systemic pressure and executive interference within the judiciary. Following Ahmed's interrogation, his legal representatives presented their pleadings, denouncing the arbitrariness of their client's conviction and reiterating their condemnation of the authorities' instrumentalization of the "counter-terrorism" legislation to stifle freedom of expression, emphasizing the complete absence of both the material (*actus reus*) and mental (*mens rea*) elements required to substantiate the charges. The defence formally requested Ahmed's immediate release and a quashing of his conviction and sentence. Later on the same day, the Tunis Court of Appeal's Criminal Chamber delivered its judgment, partially upholding Ahmed's conviction, while reducing the original sentence:

1. With respect to Ahmed's conviction under article 30 of the "Counter-Terrorism" law, the Court upheld the conviction but reduced the sentence from one year's imprisonment to 10 months;
2. With respect to his conviction under article 78 of the "Counter-Terrorism" law, the Court upheld the conviction but reduced the sentence from four years' imprisonment to a two-year suspended prison sentence; and
3. The Court quashed the supplementary penalty of three years' administrative supervision.

As Ahmed had already spent 10 months in prison since his initial arrest and detention, the Court of Appeal's Criminal Chamber ordered his immediate release. Consequently, Ahmed was released from prison in the afternoon, the same day.

III. Violations of Ahmed Souab's human rights in Case 12/9749

The ICJ considers that Ahmed's arrest, detention, prosecution, trial, conviction and sentence constitute flagrant violations of his human rights. Specifically, these actions violated his rights: to freedom of expression; to communicate with counsel; to legal assistance; to defend oneself and to be present at and participate in one's trial; to liberty; and to a fair and public hearing before an independent, impartial and competent tribunal.

The right to freedom of expression

Under article 19(2) of the 1966 International Covenant on Civil and Political Rights (ICCPR),³³ Tunisia must guarantee the right to freedom of expression and, in accordance with article 19(3) ICCPR, may only impose restrictions on the right when such restrictions are provided by law and are necessary to protect the reputation of others, to protect national security, or to protect public order, health or morals. The UN Human Rights Committee (HRC) has authoritatively held that, "the value placed...upon uninhibited expression is particularly high in the circumstances of public debate in a democratic society concerning figures in the public and political domain".³⁴ Similarly, article 9(2) of the African Charter on Human and Peoples' Rights (ACHPR)³⁵ guarantees the right of all individuals to express themselves, subject to the

33. International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force on 23 March 1976; Tunisia ratified the ICCPR on 18 March 1969.

34. UN Human Rights Committee (HRC), General comment No. 34 on Article 19: Freedoms of opinion and expression, UN Doc. CCPR/C/GC/34, 12 September 2011, para. 23, available at: <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no34-article-19-freedoms-opinion-and>.

35. African Charter on Human and Peoples' Rights (Banjul Charter), 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force on 21 October 1986; Tunisia ratified the Charter on 16 March 1983.

requirement that this right, like all African Charter rights, be exercised “with due regard to the rights of others, collective security, morality and common interest” under article 27(2). In this connection, the African Court on Human and Peoples’ Rights had held that restrictions on freedom of expression should be: (i) provided by law; (ii) formulated sufficiently clearly; (iii) serve a legitimate purpose; and (iv) necessary and proportionate to achieve that purpose, and found that, “freedom of expression in a democratic society must be the subject of a lesser degree of interference when it occurs in the context of public debate relating to public figures”.³⁶

Additionally, principle 23 of the 1990 UN Basic Principles on the Role of Lawyers (BPRL) makes plain that “lawyers...are entitled to freedom of expression...[and] shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights”. Meanwhile principle 16 demands that “governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference”.³⁷ Principle I on the independence of lawyers of the African Commission on Human and Peoples’ Rights’ (ACoMHPR) Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (PGRFTLAA) comprises similar provisions.³⁸ The HRCOM has explicitly held that the fact that the right to freedom of expression may be subject to restrictions under article 19 (3) ICCPR may not be used as a basis to intimidate or silence “persons who engage in the gathering and analysis of information on the human rights situation...including judges and lawyers.”³⁹

With respect to Case 12/9749, the critical speech Ahmed made highlighted the arbitrary nature of the proceedings to which his clients in the “Conspiracy Case” had been subjected and the judicial independence crisis in Tunisia more broadly. In this regard, Ahmed’s speech reflected the findings of several non-governmental organizations, which had independently documented the Tunisian executive’s subordination of the judiciary, including through threats of summary dismissals and criminal prosecutions,⁴⁰ as well as the fair trial rights violations that they had denounced in the “Conspiracy Case”, including as a result of the direct interference of President Kaïs Saïed.⁴¹ In accordance with article 19(2) and (3) ICCPR and article 9(2) ACHPR, as well as principles 16 and 23 BPRL and principle I PGRFTLAA, Ahmed was entitled to express his views without fear of reprisal both in an effort to represent the rights and interests of his clients and speaking in his capacity as an expert with a significant and first-hand contribution to make to the public debate concerning “the promotion and protection of human rights” in Tunisia.

Despite this, the Tunisian authorities initiated criminal proceedings against Ahmed, accusing him of having made a “knife to the throat” gesture while speaking and alleging that such a gesture constituted a direct threat to the life of the trial judge at the Tunis Court of First Instance’s Criminal Chamber. However, as the Facebook video of Ahmed’s speech makes clear, he made his gesture in reference to the fact that there were “many other cases” in which executive pressure was being applied to secure convictions. Thus, such a gesture was merely metaphorical and did not constitute incitement of any kind and it was not made against any particular individual. In light of this, there was no “direct and immediate connection between the expression and the [supposed] threat” such as to justify the necessity of the restriction of Ahmed’s right to freedom of expression that his subsequent prosecution and detention entailed.

36. African Court on Human and Peoples’ Rights, Lohé Issa Konaté v. Burkina Faso, Application No. 004/2013, Judgment, paras 125-166, in particular para. 155, available at: <https://www.african-court.org/cpmt/storage/app/uploads/public/633/40b/e27/63340be2743c3757080189.pdf>.

37. UN Basic Principles on the Role of Lawyers, adopted on 7 September 1990 by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-role-lawyers>.

38. ACoMHPR, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, 29 May 2003, section I Independence of Lawyers, paras b-I and k, available at: <https://achpr.au.int/index.php/en/node/879>.

39. General comment No. 34 on Article 19: Freedoms of opinion and expression, supra note 34, para. 23.

40. See, ICJ, Attacks on Judges and Prosecutors in Tunisia: Arbitrary dismissals and prosecutions, supra note 1.

41. See, e.g., ICJ, Denial of Justice, Tunisia’s “Conspiracy” Case 36/6835, An analysis of pre-trial proceedings, pp. 15 and 16, supra note 10. See also, Human Rights Watch, Tunisia: Overturn Unjust ‘Conspiracy’ Trial Convictions, 14 November 2025, available at: <https://www.hrw.org/news/2025/11/14/tunisia-overturn-unjust-conspiracy-trial-convictions>; Amnesty International, Tunisia: Final appeal scheduled in “Conspiracy Case” 31 August 2026, available at: <https://www.amnesty.org/en/documents/mde30/1406/2026/en/>.

42. General comment No. 34 on Article 19: Freedoms of opinion and expression, supra note 34, para. 35.

Indeed, the nature and seriousness of the charges brought against Ahmed under Tunisia's "Counter-Terrorism" Law, for which no credible evidence was ever produced, suggest that the prosecution was solely motivated by and carried out as a means of retaliation against Ahmed for expressing views in his professional capacity as a defence lawyer – views that the Tunisian authorities disfavoured – and as an act of intimidation against the legal profession more generally, rather than to protect public order, to ensure respect of the rights or reputations of others or any other such legitimate basis under articles 19(3) ICCPR or 27(2) ACHPR. Indeed, several UN Special Procedures mandate-holders have stated that the measures taken by the Tunisian authorities against Ahmed and other defence lawyers in the "Conspiracy Case" "directly interfere with the independence of the legal profession, undermining lawyers' ability to represent their clients."⁴³ Consequently, the arrest, detention, prosecution, trial, conviction and sentence of Ahmed constitute egregious violations of his right to freedom of expression under article 19(2) ICCPR and article 9(2) ACHPR.

The rights to communicate with counsel, to legal assistance, to defend oneself and to be present at and participate in one's trial

Under article 14(3)(b) ICCPR and article 7(1)(c) ACHPR, Tunisia must guarantee every accused person the right to adequate time and facilities for the preparation of their defence and to communicate with counsel of their choosing.⁴⁴ The HRCOM has stated that article 14(3)(b) requires that "counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications".⁴⁵ Additionally, under article 14(3)(d) ICCPR, Tunisia must guarantee the right of an accused to "defend [themselves] in person or through legal assistance of [their] own choosing". In Case 12/9749, the Tunisian authorities failed to uphold these fair trial guarantees on the following occasions:

- i. Resorting to article 57 of the "Counter-Terrorism" Law, officers of the Counter-Terrorism Brigade denied Ahmed the right to speak with a lawyer of his choosing for the first 48 hours of his detention, including during his interrogation. In so doing, the officers violated Tunisia's obligations to ensure that "the accused is granted prompt access to counsel",⁴⁶ guaranteed under article 14(3)(b) ICCPR, which, as the HRCOM has authoritatively held with respect to an accused's right to freedom from arbitrary detention under article 9(2) ICCPR, requires them to have access to counsel "from the outset of their detention."⁴⁷ The right to prompt access to counsel of one's choosing also applies in the context of detention in the context of "counter-terrorism" investigations. With respect to this, the UN Office on Drugs and Crime has stated that while it may be permissible for authorities to delay a suspect's contact with a lawyer of his own choosing while the person concerned is detained in the context of a counter-terrorism investigation, the delay must be authorized by a judge on the basis of specific circumstances related to the detainee's arrest, and a government-appointed lawyer must nevertheless be assigned to confidentially advise the detainee in the interim period.⁴⁸ In Ahmed's case, the Counter-Terrorism Brigade failed to take both of these steps;

43. UN Special Procedures, Press Release, Tunisia: UN experts alarmed by deteriorating human rights situation of lawyers, 14 July 2025, available at: <https://www.ohchr.org/en/press-releases/2025/07/tunisia-un-experts-alarmed-deteriorating-human-rights-situation-lawyers>.

44. See also, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, supra note 38, section A, paras 2-e and f.

45. HRCOM, General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial, para. 34, available at: <https://digitallibrary.un.org/record/606075?ln=en>.

46. Ibid, para. 34.

47. HRCOM, General Comment No. 35 on Article 9, Liberty and security of person, UN Doc. CCPR/C/GC/35, 16 December 2014, para. 35, available at: <https://docs.un.org/en/CCPR/C/GC/35>. See also, principle 9 and guideline 8 of the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, which provide that the right to legal assistance is applicable at any time during the detention, including immediately after apprehension: Report of the Working Group on Arbitrary Detention, UN Doc. A/HRC/30/37, 6 July 2015, available at: <https://digitallibrary.un.org/record/801504?v=pdf>; Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, supra note 38 section M, para. 2-f, which provides that "any person arrested or detained shall have prompt access to a lawyer".

48. UNODC, UNODC Teaching Module Series: Counter-Terrorism, Module 11: Right to a Fair Trial, Investigative Phase, available at: <https://sherloc.unodc.org/cld/zh/education/tertiary/terrorism/module-11/key-issues/investigative-phase.html>.

- ii. On 23 April 2025, the Investigating Judge at the “Counter-Terrorism” Judicial Pole refused, without basis in law, to allow Ahmed’s legal team to represent him during his interrogation, in violation of his right to defend himself through legal assistance of his own choosing under article 14(3)(d) ICCPR and 7(1)(c) ACHPR;⁴⁹
- iii. During the first instance trial and appeal hearings, the trial and appeals chambers ordered Ahmed to appear remotely via videoconference and rejected applications by Ahmed’s defence counsel for their client to attend the proceedings in person. The courts sought to justify their decisions on the basis of a purported “imminent danger”, relying on article 141bis of the Code of Criminal Procedure.⁵⁰ However, the courts failed to specify which supposed “imminent danger” their orders for Ahmed to appear remotely, as opposed to in person, purportedly sought to avert in Case 12/9749 and, therefore, the rationale for such orders, while also failing to obtain Ahmed’s consent to appear via videoconference. Consequently, both the first instance and appeal courts violated Ahmed’s right to participate in his own trial and to defend himself in person under article 14(3)(d) ICCPR. Additionally, given that Tunisian courts do not have private video conferencing facilities, by ordering Ahmed to appear remotely the courts hindered his capacity to instruct and consult with counsel fully and confidentially, thus to defend himself, during the hearings, entailing a further violation of articles 14(3)(d) ICCPR; and
- iv. During his one-day trial on 31 October 2025, the Tunis Court of First Instance refused to allow Ahmed’s defence team to make submissions. Consequently, the Tunisian authorities further violated Ahmed’s right to defend himself through legal assistance and to challenge the prosecution’s case against him under articles 14(3)(d) ICCPR and 7(1)(c) ACHPR.

The right to liberty

The Tunisian authorities’ detention of Ahmed pre- and post-trial constitutes a grave violation of Tunisia’s legal obligation to guarantee his right to liberty, specifically the right to freedom from arbitrary arrest and detention as enshrined in article 9 ICCPR and article 6 ACHPR.

First, the HRCCom has authoritatively held that, “any arrest or detention carried out as punishment for the legitimate exercise of ICCPR rights, including the right to freedom of expression, is arbitrary”.⁵¹ As detailed above,⁵² in Case 12/9749, the Tunisian authorities arrested, detained, prosecuted, tried, convicted and sentenced Ahmed solely in response to legitimate statements that he made in his professional capacity, thus making his detention arbitrary, *ab initio*. Additionally, given that the sole item of “evidence” against him on which the prosecuting authorities and the judges relied was his public speech recorded on the Facebook video, which did not disclose any of the elements required to charge him, let alone convict him of the serious offences of which he was ultimately found guilty under articles 30 and 78 of the “Counter-Terrorism” Law, the ICJ is concerned that the Tunisian investigating authorities and courts instrumentalized the “Counter-Terrorism” Law to arbitrarily detain Ahmed pre- and post-trial on the basis of his views,⁵³ in violation of Tunisia’s international law obligations not to detain anyone other than “on such grounds and in accordance with such procedure as are established by law” under article 9(1) ICCPR.

49. Article 9(3) of the ICCPR guarantees, among other things, that, “[a]nyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.” With respect to this, the HRCCom has authoritatively held that, “The individual must be brought to appear physically before the judge or other officer authorized by law to exercise judicial power [...] In the hearing that ensues, and in subsequent hearings at which the judge assesses the legality or necessity of the detention, the individual is entitled to legal assistance, which should in principle be by counsel of choice.” HRCCom, General Comment No. 35 on Article 9, Liberty and security of person, UN Doc. CCPR/C/GC/35, 16 December 2014, para. 34, *supra* note 47.

50. See *supra* note 20.

51. HRCCom, General Comment No. 35 on Article 9, Liberty and security of person, UN Doc. CCPR/C/GC/35, 16 December 2014, para. 38, *supra* note 47, para. 17.

52. See section III, The right to freedom of expression.

53. Such instrumentalization of the “Counter-Terrorism Law” is enabled by the vague and overbroad character of the offences provided for by the Law, which is liable to abuse and the facilitation of arbitrary arrests and detentions in violation of article 9(1) ICCPR. See, ICJ, Position Paper Tunisia’s Law on Counter-Terrorism in light of international law and standards, 6 August 2015, pp. 3 to 9, available at: <https://www.icj.org/resource/tunisia-revise-counter-terrorism-law-to-conform-to-international-standards/>.

Secondly, under article 9(3) of the ICCPR, “it shall not be the general rule that persons awaiting trial shall be detained in custody”. The HRCCom has elaborated on this obligation, holding that “detention pending trial must be based on an individualized determination that it is reasonable and necessary, taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime.”⁵⁴ The PGRFTLAA provide for a presumption of liberty in similar terms.⁵⁵ In Case 12/9749, the Investigating Judge at the “Counter-Terrorism” Judicial Pole, the Tunis Court of Appeal Indictment Chamber, and the Tunis Court of Appeal Criminal Chamber each ordered, extended or refused applications to end, the pre-trial detention of Ahmed on five occasions without providing individualized reasons as to why Ahmed’s pre-trial detention was reasonable and necessary, thus violating Ahmed’s right to freedom from arbitrary detention under article 9(3) of the ICCPR.

Finally, under article 9(2) ICCPR, Tunisia must “permit and facilitate access to counsel for detainees in criminal cases from the outset of their detention”, and failure to do so renders the detention arbitrary.⁵⁶ PGRFTLAA has stated that article 6 ACHPR guarantees that “any person arrested or detained shall have prompt access to a lawyer”.⁵⁷ As described above, this is the case even with respect to detention in the context of “counter-terrorism” investigations and proceedings. In Case 12/9749, officers from the “Counter-Terrorism” Brigade detained Ahmed for 48 hours and subjected him to interrogation in the absence of legal counsel, resorting to article 57 of the “Counter-Terrorism” Law. Consequently, Ahmed’s detention by officers from the “Counter-Terrorism” Brigade constituted a further violation of his right to liberty under article 9(2) ICCPR and article 6 ACHPR.

The right to a fair and public hearing before an independent, impartial and competent tribunal

Under article 14(1) ICCPR, Tunisia must guarantee Ahmed’s right to have his criminal case tried before “a competent, independent and impartial tribunal established by law.” Articles 7 and 26 ACHPR guarantee this right in similar terms.⁵⁸ The HRCCom has authoritatively held that the requirement of independence includes an obligation to ensure the absence of executive or legislative influence over the appointment, tenure, retirement, promotion, transfer, and dismissal of judges. The AComHPR’s PGRFTLAA provide that, “[a]ll judicial bodies shall be independent from the executive branch”; that “[t]he process for appointments to judicial bodies shall be transparent and accountable and the establishment of an independent body for this purpose is encouraged”; that “[a]ny method of judicial selection shall safeguard the independence and impartiality of the judiciary”; that “[j]udges or members of judicial bodies shall have security of tenure until a mandatory retirement age or the expiry of their term of office”; and that “[t]he tenure, adequate remuneration, pension, housing, transport, conditions of physical and social security, age of retirement, disciplinary and recourse mechanisms and other conditions of service of judicial officers shall be prescribed and guaranteed by law”.⁶⁰

54. General Comment No. 35 on Article 9, Liberty and security of person, supra note 47, para. 38.

55. Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, supra note 38, section M, para. 2-e: “Unless there is sufficient evidence that deems it necessary to prevent a person arrested on a criminal charge from fleeing, interfering with witnesses or posing a clear and serious risk to others, States must ensure that they are not kept in custody pending their trial.”

56. General Comment No. 35 on Article 9, Liberty and security of person, supra note 47, para. 35.

57. See, supra note 38, section M, para. 2-f.

58. See, also Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, supra note 31, section A, para. 1.

59. General Comment No. 32, Article 14, Right to equality before courts and tribunals and to a fair trial, supra note 45, para. 19.

60. Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, supra note 38, section A, paras 4-g, h, l and m.

However, since 2021, President Kaïs Saïed has taken a series of unconstitutional measures to subordinate the judiciary to executive power.⁶¹ These included the dissolution of the independent High Judicial Council (HJC) and its replacement with a Temporary High Judicial Council (THJC) under the President's control,⁶² as well as the mass arbitrary dismissal and prosecution of 57 judges and prosecutors.⁶³ Furthermore, in 2022, the President, further to a fundamentally flawed constitution-making process, promulgated a new Tunisian Constitution,⁶⁴ which transferred the power to appoint judges and prosecutors from the HCJ to the President by way of decree. Significantly, the 2022 Constitution is silent on the role of an independent HJC in decisions regarding the transfer, dismissal, suspension or other punishment of judges, raising concern that the executive will retain such powers. Indeed, since 2023 when the THJC ceased to operate due to a lack of quorum as a result of the executive's failure to appoint a number of senior judges who are ex-officio THJC members, the Ministry of Justice has systematically interfered in the management of the career and discipline of judges and prosecutors via informal "working notes" to effect judicial appointments, transfers, and suspensions without transparency, due process and outside of any judicial review or oversight.⁶⁵ Alarming, the Tunisian authorities have also arbitrarily arrested, detained and prosecuted judges and prosecutors solely for the peaceful exercise of their human rights.⁶⁶

The executive's subordination of the judiciary, in turn, has enabled its instrumentalization against all real and perceived opposition to the Tunisian President, as witnessed in the myriad baseless⁶⁷ and politicized criminal prosecutions of politicians, activists, independent lawyers,⁶⁸ journalists⁶⁹ and civil society actors,⁷⁰ whose fair trial rights have been systematically violated in the process. In this context, the ICJ is concerned that the Tunisian authorities' arrest, detention, prosecution, conviction and sentence of Ahmed is symptomatic of the Tunisian executive's erosion of the institutional independence of the judiciary and the instrumentalization of the criminal justice system to silence a prominent and outspoken critic of these very attacks on the rule of law and judicial independence, in violation of Ahmed's rights under article 14(1) ICCPR and article 7 ACHPR.

61. On 25 July 2021, the President dismissed the government, declared himself the head of the executive branch and the Public Prosecutor's Office, suspended the country's legislature (the Assembly of the People's Representatives, ARP), and stripped the ARP's members of their parliamentary immunities. See: ICJ, Tunisia, President's power grab is an assault on the rule of law, 26 July 2021, available at: <https://www.icj.org/tunisia-presidents-power-grab-is-an-assault-on-the-rule-of-law/>.

62. ICJ, Tunisia: Q&A on the High Judicial Council and judicial independence in light of Decree 11, 2022, available at: <https://www.icj.org/resource/tunisia-qa-on-the-high-judicial-council-and-judicial-independence-in-light-of-decree-11/>.

63. ICJ, Attacks on Judges and Prosecutors in Tunisia: Arbitrary dismissals and prosecutions 18 December 2023, available at: <https://www.icj.org/wp-content/uploads/2023/12/ICJ-attacks-on-judges-tunis-ENG.pdf>

64. ICJ, Tunisia: a rigged referendum delivers Constitution threatening democracy and human rights, 27 July 2022, available at: <https://www.icj.org/tunisia-a-rigged-referendum-delivers-constitution-threatening-democracy-and-human-rights/>. See also: ICJ, Fundamentally flawed: Tunisia's 'constitution-making' process, 29 June 2022, available at: <https://www.icj.org/fundamentally-flawed-tunisia-constitution-making-process/>.

65. The Association of Tunisian Magistrates (Association des magistrats tunisiens, AMT), Statement on the extremely dangerous situation that the Tunisian judiciary has reached, 16 April 2024, available in French at: <https://www.iaj-uim.org/iuw/wp-content/uploads/2024/05/Communique-sur-la-situation-de-la-justice-en-Tunisie-version-francaise.pdf>.

66. ICJ, Tunisia: Cease judges' arbitrary prosecution and detention, 26 August 2025, available at: <https://www.icj.org/tunisia-cease-judges-arbitrary-prosecution-and-detention/>. See also, ICJ, Tunisia: End arbitrary criminal proceedings against Tunisian judges' association President Anas Hmedi, 8 January 2026, available at: <https://www.icj.org/tunisia-end-arbitrary-criminal-proceedings-against-tunisian-judges-association-president-anas-hmedi/>.

67. Article 14(2) ICCPR guarantees defendants' right to the presumption of innocence. HRCOM has confirmed that this right, among other things, "imposes on the prosecution the burden of proving the charge". Thus, in all cases in which no credible evidence was produced for the purpose of the prosecution, such as in Ahmed's case, there is also necessarily a violation of the defendant's right under article 14(2) ICCPR. HRCOM, General Comment No. 32, Article 14, Right to equality before courts and tribunals and to a fair trial, supra note 45, para. 30.

68. ICJ, Tunisia, Authorities must stop using criminal law to target lawyers, 5 January 2023, available at: <https://www.icj.org/tunisia-authorities-must-stop-using-criminal-law-to-target-lawyers/>

69. ICJ, Tunisia: End crackdown on journalists, 9 April 2024, available at: <https://www.icj.org/tunisia-end-crackdown-on-journalists/>.

70. ICJ, Tunisia: Quash the unjust conviction of civil society actors and others for upholding migrants' and refugees' human rights and release those arbitrarily detained, 9 January 2026, available at: <https://www.icj.org/tunisia-quash-the-unjust-conviction-of-civil-society-actors-and-others-for-upholding-migrants-and-refugees-human-rights-and-release-those-arbitrarily-detained/>

IV. Conclusion and recommendations

In light of the concerns outlined above, the ICJ calls on the Tunisian authorities to comply with their obligations under international human rights law and:

1. In relation to Case 12/9749:
 - a. Immediately and unconditionally quash Ahmed's conviction and sentence; and
 - b. Ensure Ahmed's access to an effective remedy and reparation for the violations engendered by his arbitrary arrest, detention, prosecution, trial, conviction and sentence and the violation of his right to freedom of expression.
2. End the attacks on the independence of the legal profession, including:
 - a. Immediately end all acts of intimidation, harassment, prosecution, arbitrary detention, retaliation and improper interference targeting lawyers;
 - b. Respect and ensure that lawyers, like all persons, be able to exercise their human rights guaranteed under international human rights law binding on Tunisia, including freedom of expression; and
 - c. Immediately and unconditionally release all lawyers currently detained pending trial or imprisoned upon conviction solely on the basis of the peaceful exercise of their human rights or the legitimate discharge of their professional duties.
3. Re-establish a fully independent High Judicial Council with sole responsibility for the selection, discipline, dismissal, rotation and training of judges and prosecutors, with its members selected independently of the executive, and whose separation from the legislative and executive branches of power is codified in the Constitution, including by:
 - a. Revoking Presidential Decree-Laws 2022-11 and 2022 35, under which the President dissolved the former High Judicial Council and assumed powers to unilaterally dismiss judges and prosecutors, respectively;
 - b. Immediately ending the Ministry of Justice's practice of appointing, transferring, promoting, and suspending with or without pay, judges and prosecutors through informal working notes;
 - c. Amending the 2022 Constitution to ensure full independence of the judiciary as an institution and judges as individuals from the executive's interference, and enshrining the role and independence of the High Judicial Council; and
 - d. Adopting a new statute of judges and prosecutors that fully ensures their independence in accordance with international human rights law and standards.
4. Terminate all ongoing arbitrary criminal proceedings against judges and prosecutors based on charges related to the legitimate discharge of their professional duties or the legitimate exercise of their human rights and immediately release those arbitrarily detained;
5. End the crackdown on all real and perceived dissent, including the arbitrary arrest, detention and prosecution of politicians, activists, journalists and civil society actors;
6. Guarantee the right to liberty for all suspects and defendants, including by ending the use of pre-trial detention in the absence of individualized assessments as to why such detention is necessary in the specific circumstances of each case;
7. Ensure full respect for fair trial guarantees in all criminal proceedings, including defendants' rights to adequate time and facilities for the preparation of a defence and to communicate with counsel, to be present at trial, and to legal assistance of their own choosing;

8. Amend article 57 of Organic Law No. 2015-26 on "Combatting Terrorism and Preventing Money Laundering" to ensure that all detainees be granted access to legal advice from the outset of their detention; and
9. Amend article 141bis of the Criminal Code of Procedure to ensure that remote hearings be held in clearly defined and limited circumstances, with a prohibition on the use of videoconference during criminal trials unless expressly and freely consented to by the defendant. Where videoconference is used, defendants must still be guaranteed their right to consult confidentially with legal counsel.

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