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Attacks on Judges and Prosecutors in Tunisia

The consolidation of the executive's grip over the judiciary



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International Commission of Jurists
P.O. Box 91
3 rue des Bains
Geneva
Switzerland

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I. Introduction

In the wake of his 2021 power grab,[1] Tunisia's President, Kaïs Saïed, promised to "cleanse" and "purify" the judiciary,[2] and, from early 2022, took successive measures to dismantle judicial independence altogether. Central to these efforts was the President's promulgation of Decree-Law 2022-11 in February 2022 (Decree 11), which dissolved the High Judicial Council (HJC), a constitutional independent body responsible for ensuring the proper functioning and independence of the judicial system and for overseeing the career and discipline of judges and prosecutors under the 2014 Constitution.[3]

In the HJC's place, Decree 11 established a provisional body, the Temporary High Judicial Council (THJC), whose membership the President heavily influenced.[4] Decree 11 also gave the President unwarranted powers to dictate the appointment, assignment, promotion, transfer, suspension and dismissal of judges and prosecutors,[5] while the President's subsequent promulgation of Decree-Law 2022-35 in June 2022 (Decree 35) granted him additional powers to summarily dismiss judicial officers.[6] The President proceeded immediately to make use of such powers and arbitrarily dismissed 57 judges and prosecutors on the same day as he promulgated Decree 35 in June 2022.[7]

In July 2022, further to a fundamentally flawed constitution-making process, the President codified the executive's subordination of the judiciary through the promulgation of the 2022 Tunisian Constitution, which, among other things, removed the judicial independence guarantees contained in Tunisia's 2014 Constitution.[8]

Then, in August 2022, the Tunisian executive initiated 109 criminal cases against many of the dismissed judges and prosecutors, ostensibly in retaliation for the President of the Administrative Court demanding the provisional reinstatement of 49 among those dismissed on the basis of a prima facie absence of wrongdoing on their part, a reinstatement which the Tunisian executive refused to implement.[9]

Since 2022, the executive's attacks on the judiciary have continued unabated. Despite the President himself establishing the THJC by decree, the body has remained moribund since the 2023/2024 judicial rotation – the annual set of judicial appointments, assignments, promotions

1. International Commission of Jurists (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/.
2. Jeune Afrique, Tunisie: Kaïs Saïed fait le procès de la justice, 8 December 2021, available in French only at: https://www.jeuneafrique.com/1278365/politique/tunisie-kais-saied-fait-le-proces-de-la-justice/.
3. Decree-Law 2022-11 of 12 February 2022 on the establishment of the Temporary High Judicial Council. See, ICJ, The dismantling of judicial independence in Tunisia: Decree 11 on the Temporary High Judicial Council, Questions and Answers, May 2022, p. 3, available at: https://www.icj.org/resource/tunisia-qa-on-the-high-judicial-council-and-judicial-independence-in-light-of-decree-11/.
4. Articles 6 and 19 of Decree 11 enable the President to control the composition of the THJC by providing him with the power to appoint both retired judges to become members of the THJC, and senior judges and prosecutors who make up ex officio members of the THJC.
5. Pursuant to article 19 of Decree 11, the President has the power to oppose the THJC's proposals for the appointment, assignment, promotion and transfer of judges and prosecutors, while article 20 provides the President with the power to request the dismissal of "of any judge who violates their professional duties" based on a report from the Prime Minister or the Minister of Justice, following which the THJC shall immediately suspend the judge or prosecutor concerned. See, The dismantling of judicial independence in Tunisia: Decree 11 on the Temporary High Judicial Council, Questions and Answers, supra note 3, pp. 6 to 10.
6. Decree-Law 2022-35 of 1 June 2022 amending Decree-Law 2022-11.
7. Presidential Decree 2022-516 of 1 June 2022. See, ICJ, Tunisia: Arbitrary dismissals a blow to judicial independence, 10 June 2022, available at: https://www.icj.org/tunisia-arbitrary-dismissals-a-blow-to-judicial-independence/.
8. See, ICJ, Codifying autocracy: the proposed Tunisian Constitution in light of international law and standards, July 2022, pp. 4-5, available at: https://www.icj.org/resource/tunisia-proposed-constitution-codifies-authoritarianism/.
9. The Tunisian executive also refused to implement the President of the Administrative Court's orders of 9 August 2022 with respect to the provisional reinstatement of the dismissed judges and prosecutors. See, ICJ, Attacks on Judges and Prosecutors in Tunisia: Arbitrary dismissals and prosecutions, 18 December 2023, available at: https://www.icj.org/tunisia-authorities-must-end-attacks-on-judges-and-prosecutors/.

and transfers – orchestrated by the executive. In turn, the Ministry of Justice has unofficially assumed responsibility for the appointment, assignment, transfer, promotion, suspension and dismissal of judges and prosecutors outside of any legal process.[10]

Through these means, the Tunisian executive has unwarrantedly assumed control over the composition of Tunisia's courts and instilled a climate of fear and intimidation among members of the judiciary, thus creating a further impediment to their independence. Predictably, the intensifying subordination of the judiciary to the executive has had a dire impact on the fair administration of justice and human rights in Tunisia, with arbitrary and unfair criminal proceedings being used to silence political opponents, lawyers, activists, journalists and civil society actors.[11]

Individual members of the judiciary have also been targeted, with at least three of the judges arbitrarily dismissed in 2022 having faced, between 2023 and 2026, criminal proceedings culminating in their being found guilty and in their being sentenced to terms of imprisonment as a result of legitimate statements they had made, for their participation in the conduct of public affairs or in relation to their professional work as judges. Those so targeted include Judge Hammadi Rahmani,[12] Judge Mourad Messaoudi,[13] Judge Hichem Ben Khaled,[14] and Judge Béchir Akremi.[15] The baseless and unfair conviction and sentence of imprisonment imposed on Judge Anas Hmedi, the Tunisian Judges Association's (AMT) President, upheld on Appeal in July 2026 with an order for the immediate execution of the sentence is another egregious example of this trend.[16]

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10. See, OHCHR, Tunisia: Interference with the judiciary and harassment of lawyers must end, say UN experts, 31 May 2024, available at: https://www.ohchr.org/en/press-releases/2024/05/tunisia-interference-judiciary-and-harassment-lawyers-must-end-say-un.
11. See e.g., ICJ, Tunisia: Silencing Free Voices, a briefing paper on the enforcement of Decree 54 on "Cybercrime", 17 July 2023, available at: https://www.icj.org/tunisia-silencing-free-voices-a-briefing-paper-on-the-enforcement-of-decree-54-on-cybercrime/; ICJ, Denial of Justice, Tunisia's "Conspiracy" Case 36/6835, An analysis of pre-trial proceedings, January 2025, available at: https://www.icj.org/tunisia-end-grossly-unfair-conspiracy-case-mass-trial-of-40-opposition-figures/; ICJ, Tunisia: Quash the unjust convictions 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/; 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/.
12. See, ICJ, Tunisia: Cease judges' arbitrary prosecution and detention, 26 August 2025, available at: https://www.icj.org/tunisia-cease-judges-arbitrary-prosecution-and-detention/
13. Ibid.
14. See, Gulf Centre for Human Rights, Hichem Ben Khaled, available at: https://www.gc4hr.org/defenders/hichem-ben-khaled.
15. See, the Comité pour le Respect des Libertés et des Droits de l'Homme en Tunisie, Tunisia: Judge Béchir Akremi's Sentence to Twenty-Nine Years in Prison—Another Nail in the Coffin of Justice, 20 July 2026, available at: https://crldht.com/en/tunisie-la-condamnation-du-juge-bechir-akremi-a-vingt-neuf-ans-de-prison-un-nouveau-clou-dans-le-cercueil-de-la-justice/ and Intersection Association for Rights and Freedoms, In the Name of The People, The Dismantling of Judicial Independence in Tunisia after 25 July 2021, 28 July 2026, available at: https://intersection.uno/wp-content/uploads/2026/07/In-the-Name-of-the-People-The-Dismantling-of-Judicial-Independence-in-Tunisia-after-25-July-2021.pdf
16. See, ICJ, Tunisia: Quash sham conviction and sentence of judges' association President, Anas Hmedi, https://www.icj.org/tunisia-quash-sham-conviction-and-sentence-of-judges-association-president-anas-hmedi/; ICJ, Tunisia: Conviction and sentence of Anas Hmedi, President of the Association of Tunisian Magistrates, must be quashed, https://www.icj.org/tunisia-conviction-and-sentence-of-anas-hmedi-president-of-the-association-of-tunisian-magistrates-must-be-quashed/; OHCHR, UN expert urges Tunisia to end criminalisation of Judge Anas Hmedi, 2 April 2026, available at: https://www.ohchr.org/en/press-releases/2026/04/un-expert-urges-tunisia-end-criminalisation-judge-anas-hmedi; La Presse, Tunisia, The President of the Tunisian Magistrates Association sentenced to one year imprisonment on appeal, 2 July 2026, available in French here: https://www.lapresse.tn/2026/07/02/tunisie-le-president-de-lassociation-des-magistrats-tunisiens-condamne-a-un-an-de-prison-en-appel/; see also, ICJ, Tunisia: End arbitrary criminal proceedings against Tunisian judges' association President Anas Hmedi, https://www.icj.org/tunisia-end-arbitrary-criminal-proceedings-against-tunisian-judges-association-president-anas-hmedi/.

Additionally, the authorities have used the subordinated court system to pursue the arbitrary suspension and dissolution of non-governmental organizations (NGOs) under Decree-Law 2011-88 (Decree 88) on Associations, including those working on human rights, the rule of law and judicial independence in Tunisia.[17] The harassment faced by the AMT is illustrative of this broader pattern: in January 2026, coinciding with the opening of nominations for the AMT's Executive Bureau elections, the AMT received notices alleging irregularities under Decree 88 and threatening referral to the courts for its suspension.[18]

Building on its previous analysis of Decree 11 on the THJC,[19] of the 2022 Tunisian Constitution,[20] and of the attacks on judges and prosecutors in Tunisia between 2022 and 2023,[21] in this briefing, the International Commission of Jurists (ICJ) examines, in light of the country's obligations under international human rights law and standards:

1. the executive's ongoing obstruction of the THJC's operations; and
2. the Ministry of Justice's interference in the appointment, assignment, transfer, promotion, suspension and dismissal of judges and prosecutors, and the impact on the careers of judges and prosecutors.

Methodology

Among other things, this report is based on interviews with judges, prosecutors and members of the AMT.

II. The paralysis of the Temporary High Judicial Council

Since its establishment in 2022, as a direct consequence of the Tunisian executive's interference in judicial affairs, the THJC has faced a continuous period of growing inability to function, further exacerbating the ongoing rule of law and judicial independence crisis in Tunisia.

Article 2 of Decree 11 provides that the THJC comprises three temporary councils, namely, the Temporary Judiciary Council (TJC), the Temporary Administrative Council (TAC) and the Temporary Financial Council (TFC). Under articles 15, 18 and 19 of Decree 11, while each temporary council of the THJC is responsible for preparing the annual rotation of their respective judicial officers, Tunisia's President is empowered to oppose these proposals and, in case of disagreement with respect to senior judicial officers, directly appoint them.[21]

Since the establishment of the THJC in February 2022, and beyond the summary dismissal of 57 judges and prosecutors in June 2022, the President has put his powers under articles 15, 18 and 19 of Decree 11 to use. For example, in November 2022, the President opposed the proposed

17. See, Amnesty International, Tunisia: Dozens of NGOs at risk of dissolution as crackdown on civil society intensifies, 11 May 2026, available at: https://www.amnesty.org/en/latest/news/2026/05/tunisia-dozens-of-ngos-at-risk-of-dissolution-as-crackdown-on-civil-society-intensifies/; Human Rights Watch, "We Are Living on Borrowed Time", Repression of Civil Society in Tunisia, 2 September 2026, available at: https://www.hrw.org/news/2026/09/02/tunisia-civil-society-under-siege.
18. AMT, Statement of 16 January 2026, available in Arabic and French only at: https://www.facebook.com/photo/?fbid=1175725398010829&set=pb.100067201385778.-2207520000
19. ICJ, The dismantling of judicial independence in Tunisia: Decree 11 on the Temporary High Judicial Council, Questions and Answers, May 2022, supra note 3.
20. ICJ, Codifying autocracy: the proposed Tunisian constitution in light of international law and standards, 2022, pp. 4-5, supra note 8.
21. ICJ, Attacks on Judges and Prosecutors in Tunisia: Arbitrary dismissals and prosecutions, 18 December 2023, supra note 9.
22. Pursuant to article 15 of Decree 11, the THJC is responsible for preparing "the annual rotation of judges, namely their appointments, assignments, promotions, transfers and dismissals, as well as requests for lifting of judicial immunity and resignation" [sic], and for revising the appointments of judges and deciding partial rotations of judges. However, the President is empowered to request the revision of appointments and partial rotations of judges, and, pursuant to article 19, upon review of the annual rotation of judges submitted to him by the THJC, may "object to the appointment, assignment, promotion or transfer of any judge" following which the THJC shall reconsider and replace the person concerned with someone else. In the absence of THJC's response to such objection with respect to senior judges and prosecutors, the President is empowered to appoint them directly.

appointment of the First President of the Court of Accounts as *ex officio* member of the THJC's TFC. The THJC's TFC became inquorate in October 2024, and remained so until June 2026, and was thus unable to issue proposals with respect to the rotation, appointments, transfers, and promotions of judges to the financial courts in Tunisia.[23]

Additionally, in August 2023, the THJC's TJC submitted a proposal for the 2023/2024 annual rotation of judges and prosecutors in the ordinary courts, including criminal courts, which the President opposed.[24] Instead, the executive implemented a judicial rotation of its own accord, published on 30 August 2023, in which two of the THJC's TJC's ex officio positions – namely, the Prosecutor General at the Court of Cassation and the First President of the Real Estate Court – were removed from their positions in THJC'S TJC, without being replaced. In addition, holders of two other THJC's TJC ex officio positions – namely, the First President of the Court of Cassation and the Prosecutor General Director of Judicial Services – retired shortly after the rotation without being replaced, leaving two other THJC's TJC member positions vacant.[25]

Thus, and despite the President retaining the power to directly appoint senior judges and prosecutors holding ex officio positions who could render the THJC's TJC quorate pursuant to article 19 of Decree 11, as mentioned above, the THJC's TJC became, and remains, inquorate.[26] Consequently, the THJC's TJC remains unable to administer the appointment, assignment, promotion and transfer of judges and prosecutors, as well as ruling on their suspension and dismissal. Indeed, the 2023/2024 judicial rotation within the ordinary courts, including the criminal courts, was the last official rotation of judges and prosecutors on record. Meanwhile, the failure to appoint the First President of the Court of Cassation and its Prosecutor General has led to the plenary sessions of the Court of Cassation being stalled for more than three years.[27] For the Tunisian executive, the THJC's paralysis has provided an opportunity to further subordinate the judiciary to its authority. Indeed, as explored below,[28] in the absence of a functional THJC, the Ministry of Justice has directly assumed the powers to appoint, transfer, suspend and dismiss judges and prosecutors without even a semblance of legal process.

Under article 14 of the International Covenant on Civil and Political Rights (ICCPR),[29] Tunisia is obligated to guarantee judicial independence, with article 26 of the African Charter on Human and Peoples' Rights (ACHPR)[30] guaranteeing the same. The UN Human Rights Committee has confirmed that, States' positive obligations under Article 14 extend to "the procedure and qualifications for the appointment of judges, and guarantees relating to their security of tenure until a mandatory retirement age or the expiry of their term of office, where such exist, the conditions governing promotion, transfer, suspension and cessation of their functions, and the actual independence of the judiciary from political interference by the executive branch and legislature".[31] Indeed, the International Association of Judges' Universal Charter of the Judge prescribes that, in order to protect judicial independence, "a Council for the judiciary, or another

23. See, Tunisian Magistrates Association (AMT), Report of the Tunisian Magistrates Association to the International Association of Judges (IAJ) and the United Nations Special Rapporteur on the independence of judges and lawyers, 11 October 2025, p. 2, available at: https://www.iaj-uim.org/iuw/wp-content/uploads/2025/10/Tunisia-report-IAJ-Baku-2025.pdf.
24. AMT, Statement of 15 January 2024, available in Arabic and French only, at: https://www.facebook.com/photo/?fbid=681943607389013&set=pcb.681934287389945&locale=en_GB.
25. Ibid.
26. As mentioned above, pursuant to article 19 of Decree 11, the President retains the power to appoint senior judges who are ex officio members of the THJC upon a proposal of the THJC and, in instances where the THJC' proposal is opposed, the President may appoint whomever meets the criteria for the position. See, ICJ, The Dismantling of Judicial Independence in Tunisia: Decree 11 on the Temporary High Judicial Council, Questions and Answers, pp. 6-7, supra note 3.
27. AMT, Statement of 17 February 2025, available in Arabic and French only at: https://www.facebook.com/photo/?fbid=928002869449751&set=pcb.928003019449736&locale=en_GB
28. See infra III. Executive control over the career of judges and prosecutors.
29. International Covenant on Civil and Political Rights, 19 December 1966, 999 U.N.T.S. 171, available at: https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights. Tunisia ratified the ICCPR on 18 March 1969.
30. African Charter on Human and Peoples' Rights, 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, available at: https://www.refworld.org/legal/agreements/oau/1981/17306. Tunisia ratified the Charter on 16 March 1983.
31. UN Human Rights Committee, General Comment No. 32, Article 14: Right to equality before courts and tribunals and to a fair trial, UN Doc. CCPR/C/GC/32, 23 August 2007, para. 19, available at: https://digitallibrary.un.org/record/606075?ln=en&v=pdf/.

equivalent body, must be set up, save in countries where this independence is traditionally ensured by other means".[32] Similarly, the current and former UN Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite and Diego García-Sayán, have signalled support for the notion that it is "good practice" for States to establish independent judicial councils to strengthen the independence of the judiciary, stressing that decisions on the appointment and promotion of judges should be taken through a transparent process by a judicial council or an equivalent body independent of the legislative and executive branches of powers.[33]

In light of the concerns outlined above, the ICJ considers that Tunisia has failed to meet its obligations under the ICCPR and the ACHPR, as well as the other international legal standards mentioned above. Indeed, not only did the Tunisian executive interfere with judicial affairs by replacing the independent HJC with the THJC subordinated to its power, but it also subsequently rendered the THJC unable to function thus removing the final, albeit very limited, means through which decisions concerning judicial affairs could be influenced by members of the judiciary itself. In doing so, the executive has effectively destroyed any last semblance of institutional independence of the judiciary in Tunisia. Therefore, and given that the obstruction of the THJC's operations has given free rein to the executive to manage the careers of judges and prosecutors as described below, Tunisia has violated article 14 ICCPR and article 26 ACHPR, with respect to the institutional independence of the judiciary.

III. Executive control over the career of judges and prosecutors

The impact of the stalled annual judicial rotations

The 2023/2024 judicial rotation, orchestrated by the executive contrary to the THJC's TJC proposals, led to widespread changes to the composition of the ordinary courts, including the criminal courts, and thus to the careers of the judicial officers affected. Indeed, the AMT found that the rotation affected 1088 judges and prosecutors, with those deemed to be supportive of the executive rewarded by the rotation, e.g., through promotions, while those deemed to be independent of the executive punished, e.g. through transfers to remote locations or demotions.[34]

As noted above, since the 2023/2024 rotation, there has been no official judicial rotation in the ordinary courts given the paralysis of the THJC's TJC. Individual judges and prosecutors are thus no longer informed at the beginning of each judicial year, and in good time, of changes to their posts through a formal and transparent rotation process.

Appointments, assignments, promotions, transfers, suspensions and dismissals: the executive's arbitrary methods

Enabled by its obstruction of the THJC's functioning, the powers it has assumed under Decree 11 and the weakened judicial independence guarantees under the 2022 Constitution, since 2023 the Tunisian executive has assumed control over the appointment, assignment, promotion, and transfer of judges and prosecutors outside any legal framework via an informal system of "memoranda". As of 18 September 2026, the AMT has documented 2000 "memoranda" instructing the appointment, assignment, promotion and transfer of judges and prosecutors, with many of them impacted by more than one "memorandum".[35] Additionally, the Minister of

32. IAJ, Universal Charter of the Judge, 2017, arts 2-3, available at: https://www.iaj-uim.org/iuw/universal-charter-of-the-judge-2017/.
33. Report of the UN Special Rapporteur on the independence of judges and lawyers, 2 May 2018, UN Doc. A/HRC/38/38, paras 91-99, available at: https://docs.un.org/en/A/HRC/38/38; Principles for judicial appointments: report of the Special Rapporteur on the Independence of Judges and Lawyers, Margaret Satterthwaite, 14 April 2026, UN Doc. A/HRC/62/43, paras 27-37, available at: https://digitallibrary.un.org/record/4113127?ln=fr&v=pdf.
34. AMT, Report of the Tunisian Magistrates Association to the International Association of Judges (IAJ) and the United Nations Special Rapporteur on the independence of judges and lawyers, 11 October 2025, supra note 22.
35. AMT, Statement of 18 September 2026, available in Arabic and French only at: https://www.facebook.com/photo/?fbid=1373225284927505&set=pcb.1373225751594125&locale=en_GB

Justice has suspended many judges without any semblance of due process. According to the AMT, this has included the following:

1. Since 2023, the Tunisian executive assumed direct control over the appointment of at least 350 new judges and prosecutors outside of any formal and transparent framework.[36]
2. Between August 2023 and April 2024, the Ministry of Justice ordered the appointment, assignment, transfer or demotions of at least 105 judges and public prosecutors via "memoranda", including the First Presidents of the Courts of Appeal in Jendouba, Gafsa, Sfax, and Gabes; the Prosecutors General of the Courts of Appeal in Beja, Monastir, Gabes, and Sidi Bouzid; the Presidents of the Courts in Kasserine, Sidi Bouzid, Ariana, Mahdia, Nabeul, and Jendouba; and the Public Prosecutors in Sidi Bouzid, Ben Arous, Bizerte, Mahdia, Monastir, Kasserine, and Tunis;[37]
3. In the 2024-2025 judicial year, the Ministry of Justice issued at least 600 "memoranda" affecting the Counter-Terrorism Judicial Pole and the Economic and Financial Judicial Pole, the Court of Cassation, and criminal courts in Tunis, Sfax, Monastir, Sousse, Manouba and Ben Arous. Several Court Presidents and Public Prosecutors in these latter courts received multiple "memoranda" with respect to their assignment to specific trials, including the Public Prosecutor of the Tunis Criminal Court of First Instance;[38] and
4. In the 2025-2026 judicial year, the Ministry of Justice issued at least 400 "memoranda" relating to the appointment, assignment, promotion transfer of judges and prosecutors.[39]
5. Furthermore, the Minister of Justice has issued decisions to indefinitely "suspend" judges and prosecutors without pay outside of any disciplinary framework or judicial oversight, thus effectively arbitrarily dismissing the individuals concerned. These "suspensions" have affected public prosecutors, investigating judges, and judges at the Economic and Financial Judicial Pole and the Counter-Terrorism Judicial Pole without disciplinary proceedings brought against them.[40]

With respect to the executive's methods, the ICJ and the AMT have observed the systematic use of the following de facto procedure:

1. The Ministry of Justice initiates the appointment, assignment, promotion or transfer by relaying a "memorandum" directly to the court in which the judge or prosecutor is based, and, if the judge or prosecutor is to be appointed or transferred, to the receiving court. In a similar vein, the Ministry of Justice directly instructs the court in which a judge or prosecutor serves to enforce their suspension or de facto dismissal, with immediate effect without providing the relevant court with the decision in writing, as with a "memorandum." With respect to transfers, in some cases the Ministry of Justice issued "memoranda" after the General Inspectorate Service of the Ministry of Justice's (GIS)[41] interrogation of judges or prosecutors regarding decisions they had made in the course of their judicial work;[42]
2. Court staff, or the judge or prosecutor's superior, then notify via telephone the affected judge or prosecutor of the Ministry of Justice's decision. Formal written notification and reasons for the Ministry's decisions are rarely provided, and never in detail. In transfer cases, some judges and prosecutors have received notice of the reasons for their transfer from court staff or a superior verbally, with the Ministry of Justice allegedly justifying

36. AMT, Report of the Tunisian Magistrates Association to the International Association of Judges (IAJ) and the United Nations Special Rapporteur on the independence of judges and lawyers, 11 October 2025, supra note 22.
37. AMT, Statement of 16 April 2024, available in Arabic and French only at: https://www.facebook.com/share/p/14UPiGEhsEa/
38. AMT, Report of the Tunisian Magistrates Association to the International Association of Judges (IAJ) and the United Nations Special Rapporteur on the independence of judges and lawyers, 11 October 2025, supra note 22.
39. Ibid.
40. AMT, Statement of 15 January 2024, available in Arabic and French only here: https://www.facebook.com/photo/?fbid=681943607389013&set=pcb.681934287389945&locale=en_GB
41. The GIS is the Ministry of Justice's body in charge of investigating magistrates' disciplinary matters.
42. AMT, Statement of 16 April 2024, available in Arabic and French only at: https://www.facebook.com/share/p/14UPiGEhsEa/. See also, OHCHR, Tunisia: Interference with the judiciary and harassment of lawyers must end, say UN experts, 31 May 2024, available at: https://www.ohchr.org/en/press-releases/2024/05/tunisia-interference-judiciary-and-harassment-lawyers-must-end-say-un.

the transfer on the basis of vague provisions under article 121 of the 2022 Constitution, which allow for the transfer of judges and prosecutors where the "necessities of service" require. This is provided under the older Law No. 29 of 1967,[43] but the 2014 Constitution prohibited the executive from unilaterally interfering in the career of judges.[44] However, it is significant that the 2022 Constitution offers no such protection albeit, in any case, article 121 of the 2022 Constitution does not explicitly empower the executive to transfer judges and prosecutors;[45] and

3. The effect of the Ministry of Justice's decision to appoint, assign, promote, transfer, suspend or dismiss a judge or prosecutor is immediate. In the case of transferred judges and prosecutors, they are expected to report to their new duty station within 48 hours. In one case, a judge was notified of the decision to transfer them mid-hearing and had to recuse themself immediately. Often, transfers are affected to more junior positions and thus constitute demotions. Additionally, several judges and prosecutors have been transferred to localities far from their place of residence, adding a further punitive dimension to the transfers.

While judges and prosecutors impacted by the Ministry of Justice's decisions may theoretically appeal to the Administrative Court, the executive has failed to implement several Administrative Court judgments of late, including with respect to the provisional reinstatement of 49 of the judges and prosecutors dismissed by the President in June 2022 and the disbarment of candidates from the 2023 Presidential elections.[46] Consequently, it is unlikely that judges or prosecutors impacted by the Ministry of Justice's decisions would be able to obtain restitution or compensation by appealing such decisions to the Administrative Court.

Finally, the executive's control over judicial functions has had a detrimental impact on the administration of justice, in particular as a result of delays to the adjudication of cases. Indeed, several judicial chambers across the country lack quorum, which has led to the stalling of cases.[47]

Cases of arbitrary transfer and suspension of judges and prosecutors

The following cases are illustrative of the Ministry of Justice's arbitrary approach to the transfer and suspension of judges and prosecutors.

Judge Assia Abidi

On 5 September 2024, in the context of the 2024 presidential elections during which many candidates were disbarred from running and several were prosecuted for supposed electoral offences, Judge Assia Abidi, as the President of the Mandouba Court of First Instance, oversaw the administrative functions of the Mandouba Court that ordered the release on bail of presidential candidate Ayachi Zammel ahead of his trial for alleged electoral offences.[48]

43. Article 14 of Law 1967-29 provides that "the High Judicial Council considers the transfer of sitting judges before the start of the judicial recess each year. During the judicial year, the Minister of Justice may authorise the transfer of a judge in the interests of the service and shall refer the matter to the High Judicial Council at its first meeting."
44. Pursuant to article 107 of the 2014 Constitution, which provides that "judges may not be transferred without their consent. They cannot be dismissed or suspended from their functions, nor be subject to disciplinary sanction, except in the cases and the guarantees regulated by the law and in accordance with a reasoned decision by the High Judicial Council."
45. ICJ, Codifying autocracy: the proposed Tunisian constitution in light of international law and standards, 2022, pp. 4-5, available at: https://www.icj.org/resource/tunisia-proposed-constitution-codifies-authoritarianism/.
46. See, ICJ, Tunisia: Unfair Presidential Election Undermines Human Rights and Deepens Political Crisis, 9 October 2024, available at: https://www.icj.org/tunisia-unfair-presidential-election-undermines-human-rights-and-deepens-political-crisis/.
47. AMT, Statement of 25 May 2026, available in Arabic and French only here: https://www.facebook.com/photo/?fbid=1277250601191641&set=pcb.1277250891191612
48. See, ICJ, Tunisia: Unfair Presidential Election Undermines Human Rights and Deepens Political Crisis, supra note 45.

On 6 September 2024, the Ministry of Justice issued a "memorandum" to the First President of the Tunis Court of Appeal, in which it ordered that Judge Abidi be relieved of her position at the Mandouba Court of First Instance and transferred to a position of Counsellor at the Kef Court of Appeal, 160 kilometres from her place of residence in Mandouba. On the same day, the First President verbally informed Judge Abidi of the Ministry of Justice's transfer decision. Then, later that day, Judge Abidi received a written copy of the "memorandum". In the "memorandum" the sole justification provided was that there was a vacancy at the Kef Court of Appeal. The "memorandum" provided no other reason for the transfer nor an explanation or assessment of Judge Abidi's suitability for the role. Hence, Judge Abidi, who was close to retirement with over 30 years of service in the Tunisian judiciary, was transferred to a third-rank position at the Kef Court of Appeal. Judge Abidi decided not to appeal her transfer to the Administrative Court as she considered that, even if a judgment was given in her favour, it was unlikely that the executive would implement it.[49]

Judge Mohamed Ben Mouftah

On 24 May 2024, a court clerk at the Court of Cassation telephoned Judge Mohamed Ben Mouftah, a member of the AMT's Executive Bureau, and informed him of the Ministry of Justice's decision to transfer him from his position as Counsellor at the Court of Cassation to that of Counsellor at the Béja Court of Appeal, around 120 kilometres from his place of residence, based on a "memorandum." According to the court clerk, the transfer was justified on the grounds of the "necessities of service". Judge Ben Mouftah did not receive the Ministry of Justice's decision in writing. The transfer resulted in a significant reduction in Judge Ben Mouftah's responsibilities, given that the Court of Cassation is the highest court in Tunisia. Judge Ben Mouftah's transfer was effective immediately, and he reported to his new duty station in Béja on 26 May 2024.

In March 2025 an officer of the GIS summoned Judge Ben Mouftah for questioning in relation to a Facebook post of his in which Judge Ben Mouftah had highlighted fair trial rights violations in the criminal case against former Minister of Justice Noureddine Bhiri. Further to being questioned, Judge Ben Mouftah was not notified of any decision to start disciplinary proceedings against him.

On 28 January 2026, the Ministry of Justice issued another "memorandum", which was received by the Béja Court of Appeal, under which Judge Ben Mouftah was transferred to the Court of Appeal in Gafsa, 1000 kilometres from his place of residence. The President of the Beja Court of Appeal notified Judge Ben Mouftah of the transfer by telephone and informed him that he was to report to his new duty station within 48 hours. Judge Ben Mouftah's second transfer constituted a demotion to a third-rank judge posting without any assigned position at the Gafsa Court of Appeal. Judge Ben Mouftah did not appeal either of the transfers to the Administrative Court as he considered that, even if a judgment was given in his favour, it was unlikely that the executive would implement it.

On 5 August 2026, Judge Ben Mouftah received a telephone call from the Vice President of the Gafsa Court of Appeal informing him of a decision from the Cabinet of the Minister of Justice suspending him from his position with immediate effect and without pay. Judge Ben Mouftah was informed that his suspension resulted from disciplinary proceedings taken against him further to his questioning with respect to his Facebook post in March 2025. Subsequently, Judge Ben Mouftah attempted to obtain a written copy of the decision by attending both the premises of the Gafsa Court of Appeal and the Ministry of Justice to no avail. At the time of writing, Judge Ben Mouftah is not aware of when, if at all, his suspension will be lifted.[50]

Judge Feker Majdoub

On 19 January, Judge Feker Majdoub, Public Prosecutor at the Court of Cassation, submitted an application to become a member of the AMT Executive Bureau, with the full list of nominees made public by the AMT on 29 January.

On 3 February 2026, Judge Majdoub received a telephone call from a court clerk at the Court of Cassation informing him that the Ministry of Justice had issued a "memorandum", as a result

49. ICJ, Interview with Judge Assia Abidi, 29 August 2026.
50. ICJ, Interview with Judge Mohamed Ben Mouftah, 29 August 2026.

of which Judge Majdoub was to be transferred to the Kairouan Court of Appeal, to act as a Counsellor within the Criminal Circuit in that Court. The transfer was to take place the very next day despite Kairouan being approximately 120 kilometres from Judge Majdoub's place of residence. Judge Majdoub told the ICJ that, in his opinion, the transfer was likely in retaliation for his application to become a member of the AMT's Executive Bureau.[51]

International law and standards on the appointment, promotion, transfer, suspension and dismissal of judges and prosecutors

In accordance with article 14(1) ICCPR and article 26 ACHPR, Tunisia must guarantee the right to judicial independence, which, as the Human Rights Committee has authoritatively held, requires "the actual independence of the judiciary from political interference by the executive branch and legislature."[52] Principle 1 of the UN Basic Principles on the Independence of the Judiciary (BPIJ) states that, "it is the duty of all governmental and other institutions to respect and observe the independence of the judiciary."[53] The Human Rights Committee has recognized that judicial independence encompasses the procedure and qualifications governing judicial appointments as well as guarantees relating to security of tenure, promotion, transfer, suspension and cessation of judicial functions.[54]

In light of the above, the ICJ considers that the Tunisian executive has violated its obligations under article 14(1) ICCPR and article 26 ACHPR as a result of its direct interference in the appointment, assignment, promotion, transfer, suspension and dismissal of judges and prosecutors, including as a result of the following:

1. **Appointment, assignment, promotion, and transfer.** Since 2023, the Tunisian executive has assumed direct control of the appointment of at least 350 new judges and prosecutors outside of any formal and transparent framework. The Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (PGRFTLAA) state that "the process for appointments to judicial bodies shall be transparent and accountable", and that "the sole criteria for appointment to judicial office shall be the suitability of a candidate for such office by reason of integrity, appropriate training or learning and ability".[55] Relatedly, Principle 10 BPIJ state that, "any method of judicial selection shall safeguard against judicial appointments for improper motives". In a similar vein, in her Principles for judicial appointments, the current UN Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite, has recommended that, "States should ensure that judicial appointment processes are sufficiently transparent to allow for meaningful scrutiny and public confidence" and that, "[d]ecisions on judicial selection and appointment should be based on pre-established criteria and be reasoned and recorded in a manner that enables scrutiny and effective review and reinforces the legitimacy and public confidence required for an independent judiciary".[56] Furthermore, since 2023, the Tunisian executive has directly ordered the assignment and transfer of judges and prosecutors outside of any formal and predictable judicial rotation process, often using transfers to effectively promote judges and prosecutors deemed willing to acquiesce to the will of the executive. However, Principle 13 of the BPIJ provides that, where a system of judicial promotion exists, promotion "should be based on objective factors, in particular ability, integrity and experience." In this respect, the Special Rapporteur has

51. ICJ, Interview with Judge Feker Majdoub, 27 August 2026.
52. Human Rights Committee, General Comment No. 32 Article 14: Right to equality before courts and tribunals and to a fair trial, UN Doc. CCPR/C/GC/32, 23 August 2007, para. 19, available at available at: https://digitallibrary.un.org/record/606075?ln=en
53. UN Basic Principles on the Independence of the Judiciary, Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, UN Doc. A/CONF.121/22/Rev.1, p. 59, available at: https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-independence-judiciary.
54. Human Rights Committee, General Comment No. 32 Article 14: Right to equality before courts and tribunals and to a fair trial, UN Doc. CCPR/C/GC/32, 23 August 2007, para. 19, supra note 51.
55. African Commission on Human and Peoples' Rights, Principles and Guidelines on the Right to Fair Trial and Legal Assistance in Africa, 2003, section A(4) (h) and (i), available at: https://achpr.au.int/index.php/en/node/879.
56. Principles for judicial appointments : report of the Special Rapporteur on the Independence of Judges and Lawyers, Margaret Satterthwaite, 14 April 2026, UN Doc. A/HRC/62/43, paras 78 and 86, supra note 32.

specified that the principles applicable to appointment processes may also be relevant, mutatis mutandis, to promotion.[57] Accordingly, by both assuming the direct responsibility for the appointment and effective promotion of judges and prosecutors, and doing so without any transparency and accountability, the Tunisian executive has fallen well short of its international law obligations to guarantee judicial independence under articles 14(1) ICCPR and 26 ACHPR;

2. **Assignment to cases.** Since 2023, the Tunisian executive has used a system of informal "memoranda" to allocate or remove judges and prosecutors to and from specific cases, thereby directly interfering in judicial cases. However, Principle 2 BPIJ requires that "judges must decide matters before them impartially...without restrictions, improper influences, pressures, threats or interference, direct or indirect, from any quarter or for any reason", and Principle 4 BPIJ provides that, "there shall not be any inappropriate or unwarranted interference with the judicial process",[58] while the Human Rights Committee has authoritatively held that a situation where the executive is "able to control or direct the [judiciary] is incompatible with the notion of an independent tribunal".[59] To this end, Principle 14 BPIJ provides that, "the assignment of cases to judges within the court to which they belong is an internal matter of judicial administration." Accordingly, the Tunisian executive's arbitrary assigning of judicial officers to specific cases constitutes a direct violation of not only its international law obligations under articles 14(1) ICCPR and 26 ACHPR, but also of the right to a fair trial before an independent tribunal under articles 14 ICCPR, and 7 and 26 ACHPR of those whose cases were concerned by the executive's arbitrary decisions;

3. **Punitive measures.** Since 2023, the Tunisian executive has implemented disciplinary measures against judges and prosecutors who are deemed to assert their independence, including their indefinite suspension without pay, amounting to de facto dismissals, without any due process. In some cases, these measures have taken the form of punitive transfers, outside of any formal and predictable judicial rotation, either to locations remote from their place of residence on a very short notice in the middle of the school year, and/or amounting to de facto demotions. Indeed, the former UN Special Rapporteur on the independence of judges and lawyers, Diego García-Sayán, has highlighted that the transfer of judges to different courts or tribunals may be a form of "disguised sanction" used to "punish and marginalise a judge regarded as too independent or unsympathetic to the government's interests."[60] These disciplinary or otherwise punitive measures are implemented outside of any established framework for judicial conduct, without the provision of full and written reasons for the measures taken against individual judges and prosecutors, and without providing the opportunity for a fair hearing or independent review of the decisions. In accordance with Principle 11 BPJI, States must ensure that, "the term of office of judges, their independence, security...[are] adequately secured by law", while Principle 12 guarantees judges' security of tenure.[61] Furthermore, in accordance with both the BPIJ[62] and the PGRFTLAA,[63] judicial officers subjected to disciplinary proceedings are entitled to the right to a fair hearing, with, as underscored by the Special Rapporteur on the independence of judges and lawyers, "all of the procedural guarantees set out in article 14 [ICCPR] including the right to defend themselves in person or with the assistance of a legal counsel of their choice."[64] Significantly, with respect to dismissals, the Human Rights Committee has confirmed that, "[j]udges may be dismissed only on serious grounds of misconduct or incompetence, in accordance with fair

57. Ibid., para. 16.
58. See also, PGRFTLAAs, supra note 54, section A(4)(f) and (g).
59. Human Rights Committee, General Comment No. 32 Article 14: Right to equality before courts and tribunals and to a fair trial, UN Doc. CCPR/C/GC/32, 23 August 2007, para. 19, supra note 51.
60. UN Special Rapporteur on the independence of judges and lawyers, 17 July 2020, UN Doc A/75/172, para. 69, available at: https://docs.un.org/en/A/75/172.
61. See also, PGRFTLAAs, supra note 54, section A(4)(l) and (m).
62. Principles 17-20.
63. Section A(4)(q).
64. UN Special Rapporteur on the independence of judges and lawyers, 17 July 2020, UN Doc. A/75/172, para. 93, supra note 59.

procedures ensuring objectivity and impartiality set out in the constitution or the law."[65] In addition, the Human Rights Committee has authoritatively held that, "the dismissal of judges by the executive without any specific reasons given to them and without effective judicial protection being available to contest the dismissal is incompatible with the independence of the judiciary".[66] Furthermore, both the PGRFTLAAs and the BPIJ state that judicial officers have the right to an independent review of decisions in disciplinary, suspension or removal proceedings.[67] The Human Rights Committee has opined that this right "can only be exercised effectively if the convicted person is entitled to have access to a duly reasoned, written judgment".[68] With respect to this, the theoretically available review avenue before the administrative courts cannot be considered effective due to the lack of a formal reasoned decision and the executive's consistent failure to implement administrative courts' judgments. Accordingly, the Tunisian executive's use of arbitrary, punitive transfers and suspensions without any fair hearing guarantees, violated not only judicial independence but also the concerned judges' and prosecutors' right to a fair hearing under articles 14(3) and 14(5) ICCPR, and article 7(1) ACHPR;

4. **Retaliation for the exercise of human rights.** In at least one of the documented cases, the Tunisian executive arbitrarily transferred a judge ostensibly due to their membership of judicial associations. However, Principles 8 and 9 BPIJ provide that judges are entitled to exercise their rights to freedom of expression and association, the latter of which includes the right to join associations of judges or other organizations "to represent their interests, promote their professional training and protect their judicial independence." The PGRFTLAA also features similar guarantees.[69] In such cases, the Tunisian executive's use of punitive transfers amount both to a violation of the rights to freedom of expression and association under articles 19(2) and 22(1) ICCPR, and articles 9(2) and 10(1) ACHPR, respectively.

65. Human Rights Committee, General Comment No. 32 Article 14: Right to equality before courts and tribunals and to a fair trial, UN Doc. CCPR/C/GC/32, 23 August 2007, para. 20, supra note 51. See also, BPIJ, principles 17 to 20, and African Principles, section A(4)(p).
66. Human Rights Committee, General Comment 32 Article 14: Right to equality before courts and tribunals and to a fair trial, UN Doc CCPR/C/GC/32, 23 August 2007, para. 19, supra note 51.
67. The PGRFTLAAs, section A(4)(q) and (r), the; BPIJ, principle 20.
68. Human Rights Committee, General Comment No. 32 Article 14: Right to equality before courts and tribunals and to a fair trial, UN Doc. CCPR/C/GC/32, 23 August 2007, para. 49, supra note 51.
69. African Principles, section A(4)(s) and (t).

IV. Conclusion and recommendations

The erosion of judicial independence has not been confined to the removal or weakening of institutional safeguards; it has extended into and devastated the careers and independence of individual judges and prosecutors, including through appointments, assignments, promotions, transfers, suspensions and other punitive measures that have been taken by the executive to control the judiciary and direct interfere in judicial cases, contrary the country's international human rights law obligations.

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

1. Immediately reestablish an independent High Judicial Council, comprising a majority of judges elected by their peers, with sole responsibility for the selection, appointment, assignment, training, assessment, transfer, promotion, disciplining and tenure of judges and prosecutors;

2. Immediately cease the Ministry of Justice's issuance of "memoranda" on judicial appointments, assignments, promotions, transfers, including de facto demotions,

3. Immediately cease the Ministry of Justice's issuance of suspensions, including de facto dismissals and other disciplinary or otherwise punitive measures;

4. Immediately reinstate all arbitrarily dismissed and suspended judges and prosecutors, cease all arbitrary criminal prosecutions against them, and quash the unjust convictions of Judges Anas Hmedi, Hichem Ben Khaled, Mourad Messaoudi,Hammadi Rahmani and Béchir Akremi;

5. Immediately take steps to adopt a new statute for judges and prosecutors consistent with international standards, including by ensuring that all aspects related to their selection, appointment, assignment, promotion, transfer and disciplining is based on objective, merit-based criteria, and transparent procedures. In particular, the statute must protect judges' and prosecutors' security of tenure, their rights to freedom of association and expression and to strike, and their right to a fair hearing with respect to any disciplinary proceedings initiated against them; and

6. Ensure effective remedies, including adequate reparation, restitution, rehabilitation and financial compensation, to all judges and prosecutors who have been arbitrarily transferred, demoted, suspended, dismissed, arrested, detained, prosecuted and convicted.

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International Commission of Jurists

P.O. Box 1270
3, rue des Buis
1211 Geneva
Switzerland

www.icj.org