



Urgent Action Office 3-1992 Yonge Street Toronto ON M4S 1Z7 Phone: (416) 363-9933 Fax: (416) 363-3103 urgentaction@amnesty.ca
Second UA: 114/23 Index: MDE 30/7742/2024 Tunisia of February 22, 2024

TUNISIA

Unjust Detention of Opposition Leader Abir Moussi for Peaceful Advocacy

Authorities have unfairly detained Abir Moussi, an opposition leader, and are investigating her for simply speaking out and holding peaceful protests. Abir Moussi criticized the election process openly, leading the Independent High Authority for Elections to file four complaints against her. She's under investigation for these criticisms based on strict internet laws. Additionally, she's being looked into for organizing two protests with her political group, the Free Destourian Party. Since October 3, 2023, she's been held in detention for trying to challenge presidential orders before local elections. It's crucial that the Tunisian authorities free Abir Moussi and dismiss these unfounded charges, which stem from her peacefully exercising her rights to speak freely and assemble.

Write to the President of the Republic of Tunisia urging him to:

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

Write to:

President of the Republic Kais Saied

Email: contact@carthage.tn

X (Formerly Twitter): @TnPresidency

Salutation: *Your Excellency*:

And copy:

His Excellency Lassaad BOUTARA

Ambassador

Embassy of the Republic of Tunisia

515 O'Connor Street

Ottawa, ON K1S 3P8

Tel: (613) 237-0330, -0332 Fax: (613) 237-7939

Email: at.ottawa@diplomatie.gov.tn

ADDITIONAL INFORMATION

Abir Moussi (48) is a lawyer and the president of the Free Destourian Party (PDL) and a vocal political opponent of President Kais Saied. She was a member of Parliament from 2019 to 2021. According to a letter shared on her social media page Abir Moussi's health is deteriorating in detention as she suffers from head, neck, legs, shoulders and back pain. She had started a 16-day hunger strike on November 28 and went on a two-day hunger and water strike from January 26 to 28, 2024 to protest her unjust

detention. On October 3, 2023, 11 days after expressing her interest in running for the next presidential elections, security forces arrested Abir Moussi in front of the public administration office annexed to the Presidential Palace in Carthage, northeast of Tunis. Abir Moussi attempted to submit an appeal against presidential decrees to the relevant administration but was prevented from doing so. She protested the arbitrary denial by insisting on staying in front of the administration building and live streaming the events on Facebook.

According to eyewitnesses and her lawyers, security forces detained her and took her to an undisclosed location for about two hours before her legal representatives traced her to a police station in La Goulette, a neighborhood in the capital Tunis. Abir Moussi's lawyers also told Amnesty International that she sustained physical injuries after the police used excessive force during her arrest. The lawyers said that the authorities had denied them access to their client during police interrogation, in clear breach of her due process rights, and were only subsequently informed of the prosecution's decision to hold her in pre-trial detention after being in police custody for 48 hours. According to her lawyers, during her first night in custody, officers detaining Abir Moussi ignored her requests for medicine she is supposed to take at a precise time daily, which resulted in health complications that landed her in the hospital days later.

On October 5, an investigative judge interrogated Abir Moussi at the Tunis Court of First Instance under charges of seeking to "change the form of government", "inciting violence on the Tunisian territory", and "attack with the aim of provoking disorder" under Article 72 of the Penal Code, and "processing of personal data without the consent of the data subject" and "interference with the freedom to work" under Articles 27 and 87 of the Data Protection Law. On January 30, the investigative judge dropped the charges under Article 72 according to Abir Moussi's lawyer.

The UN Human Rights Committee states in General Comment 34 that *"when a state party imposes restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself."* Restrictions which do not comply with this test violate freedom of expression even where there is no resulting penalty. They violate not only the right to freedom of expression of those people on whom the restriction is imposed, but also the right of others to receive information and ideas. Such restrictions must never include the censorship of criticism of public figures and state officials. In fact, as regards the rights and reputation of others, international human rights law and standards require that public officials tolerate a higher degree of scrutiny and criticism than private individuals. And there should not be more severe penalties for insult or defamation of public officials.

In this regard, the UN Human Rights Committee states in General Comment 34 that all public figures are legitimately subject to public criticism, and that there should be no prohibition of criticism of public institutions. The Committee said that *in "circumstances of public debate concerning public figures in the political domain and public institutions, the value placed by the Covenant upon uninhibited expression is particularly high. Thus, the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties."*

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

governments. The use of defamation laws with the purpose or effect of inhibiting peaceful criticism of government or public officials violates the right to freedom of expression.

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

Please take action as soon as possible until April 18, 2024! The UA will be duly updated should there be the need for further action.