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TUNISIA

DROP CHARGES AGAINST LAWYER ON MILITARY TRIAL

Prominent lawyer and former president of the Tunisian Bar Association Abderazzak Kilani will appear before the Military Court of First Instance in Tunis on 12 May. On 2 January 2022, security forces prevented him from exercising his duties as a lawyer by not allowing him to visit his arbitrarily detained client, former Justice Minister Noureddine Bhiri. He is prosecuted on the basis of a "verbal exchange" with police officers following that incident. He faces up to six years imprisonment if convicted. His trial is a dangerous precedent and an assault on fair trial rights in Tunisia. Amnesty International calls on the authorities to drop the baseless charges against him and stop prosecuting civilians before military courts.

The prosecution of civilians before military courts is contrary to international law, as ratified by Tunisia. Moreover, his prosecution is in an assault on the right to legal representation as he was not only prevented from visiting his client but is also now on trial for trying to do so.

On 21 January, a military prosecutor charged Abderrazak Kilani under Penal Code articles 79, 125 and 136. He stands accused of participating in a gathering that disturbs public order, insulting state officials and obstructing the work of police officers carrying their duty. The accusations are based on a filmed "verbal exchange" Abderazzak Kilani had with the police on 2 January, outside of the Habib Bougatfa Hospital in Bizerte, north of Tunis, where he was visiting his client, former Justice Minister, Noureddine Bhir. Amnesty International has reviewed a video of the incident and considers neither Abderrazak Kilani's actions nor his words to constitute threats, incitement to violence, or obstruction of police work.

At a hearing on 2 March, an investigative judge at the Military Court of First Instance in Tunis ordered Abderazzak Kilani's imprisonment in Mornaguia prison. On 21 March, he was released after 19 days of unjust detention. The case has since been moved to trial, which is scheduled to start on 12 May. If convicted, Abderazzak Kilani faces up to six years in prison.

Abderazzak Kilani's prosecution by a military court violates Article 14 of the International Covenant on Civil and Political Rights, which Tunisia has ratified. That article guarantees the right to "a fair and public hearing by a competent, independent and impartial tribunal established by law." His prosecution also undermines his right to freedom of expression and his right to exercise his profession as a lawyer seeking to have access to his client which creates a dangerous precedent for lawyers and undermines fair trial guarantees.

Write to the President urging him to:

- drop the charges against Abderrazak Kilani, who is being prosecuted for actions related to his legitimate exercise of his duties as a lawyer
- stop prosecuting civilians before military courts.

Write to:

President of the Republic Kais Saied

Route de la Goulette

Site archéologique de Carthage

Tunisie

Email: contact@carthage.tn

Twitter: @TnPresidency

Salutation: Your Excellency:

And Copy:

His Excellency Mohamed Imed Torjemane

Ambassador

Embassy of the Republic of Tunisia

515 O'Connor Street

Ottawa, ON K1S 3P8

Fax: 613 237 7939

Email: ambtun13@bellnet.ca

Additional information

Abderazzak Kilani is a lawyer, former president of the Tunisian Bar Association, former minister in charge of government's relations with the parliament from 2011 to 2013, and Tunisian ambassador to the United Nations in Geneva from 2013 to 2014. He is also a member of legal defense team of Nouredine Bhiri, a former justice minister and senior official of the Ennahdha party whom authorities detained arbitrarily for 67 days before releasing him without charge on 7 March 2022. Throughout his detention, he was denied his right to have access to his lawyers.

On 31 December 2021, the authorities detained Nouredine Bhiri outside his home in Tunis and carried him off to an undisclosed location. His wife, also a lawyer, who witnessed the arrest, immediately called on fellow lawyers for help. Abderazzak Kilani began coordinating Nouredine Bhiri's legal defence team. On 2 January, Abderazzak Kilani and Nouredine Bhiri's wife, together with other lawyers, went to Bougatfa Hospital, in the city of Bizerte, where they had learned that Bhiri had been brought by authorities, and attempted to go inside and visit him. Abderrazak Kilani and Akremi told Amnesty International how police who were deployed outside the hospital barred Akremi from entering to see Bhiri unless she agreed to sign a document whose contents she did not know, and barred Abderazzak Kilani from entering to see Bhiri entirely.

On 2 January, Abderazzak Kilani and Nouredine Bhiri's wife, together with other lawyers, went to Bougatfa Hospital, in the city of Bizerte, where they had learned that Bhiri had been brought by authorities, and attempted to go inside and visit him. Abderrazak Kilani and Akremi told Amnesty

International how police who were deployed outside the hospital barred Akremi from entering to see Bhiri unless she agreed to sign a document whose contents she did not know, and barred Abderazzak Kilani from entering to see Bhiri entirely.

Abderrazak Kilani told the police that in barring him from the hospital they risked exposing themselves to prosecution, comparing the situation to that of security officers tried for human rights violations committed under former presidents Habib Bourguiba and Zine El Abidine Ben Ali before specialized transitional justice courts set up after the 2011 revolution that ousted Ben Ali. The exchange was filmed and posted on social media, in a [video](#) that Abderazzak Kilani confirmed to Amnesty International showed his encounter with police outside the hospital.

A military judge investigated the incident at Habib Bougatfa Hospital, on which the charges brought against Abderazzak Kilani are based on and confirmed that the "verbal exchange" Abderazzak Kilani had with police officers on 2 January outside of the Habib Bougatfa Hospital, in Bizerte served as basis for his prosecution.

Tunisian law grants military courts jurisdiction to prosecute civilians in some circumstances, including for offenses under the penal code that are committed in certain circumstances against security personnel as per Article 22 of Law 1982-70 regulating the status of internal security forces. Legal representation is fundamental to fair trial rights as guaranteed by treaties that Tunisia has ratified. These include the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights. According to the United Nation's Basic Principles on the Role of Lawyers, governments should ensure lawyers "are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference".

Tunisia's military courts do not fulfil the requirement of independence because the president has final say over the appointment of judges and prosecutors to military courts. In addition, both the general prosecutor who heads the military justice system, as well as all prosecutors in the military courts, who play a pivotal role in initiating proceedings, are serving members of the military and subject to military disciplinary procedures. This places them under the influence of the executive branch, since the president is also commander-in-chief of the armed forces under Tunisia's constitution.

Since President Saied's power grab on 25 July 2021, military courts have increasingly investigated and prosecuted civilians, including a journalist, a blogger and opposition politicians.