

100 DAYS

AFTER ARTICLE 80

EROSION OF THE RULE OF LAW AND THREAT TO FREEDOMS

One hundred days after the triggering of Article 80, the constitutional architecture of 2014 has now been profoundly reshaped. Whether using the said article was a constitutional move or not is no longer a question: Tunisia is now *de facto* evolving outside the constitutional framework, in a new organization of powers under the so-called 'Decree 117'. The latter consecrates the concentration of both executive and legislative powers - formerly divided between the Presidency, the government and the Assembly of People's Representatives (ARP) - in the hands of the President of the Republic.

The shift that began on July 25 with the adoption of exceptional measures is confirmed in every respect with the persistence of violations of fundamental freedoms and the permanence of a security apparatus in freewheel, acting with impunity.

In this regard, the observation of the continuity of the violence and abuses committed by the security apparatus before the 25th July remains valid.

Even more worrying are the numerous acts of violence against journalists, the repression of human rights activists and the use of military justice to try civilians on the basis of obsolete laws. In the background, the President of the Republic is adopting and disseminating an increasingly divisive and highly polarizing discourse.

If July 25 did not immediately provoke firm positions, both inside the country and abroad, political parties, associations, the labour union UGTT as well as international partners are now all hardening their discourse - in light, in particular, of the Decree 117 and the continued freezing of the ARP. And if the appointment of

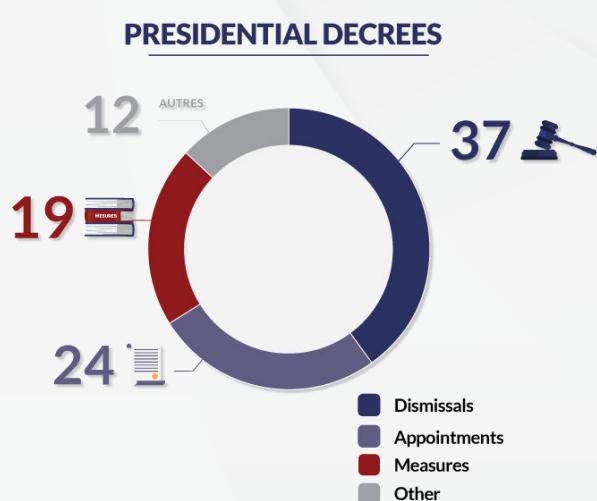
a head of government, Najla Bouden Romdhane, and a new government including many women is a positive step, the powers granted to the government are now drastically reduced under Decree 117.

At the same time, the President promises a national dialogue with 'the Youth' in the form of a digital national consultation, in order to collect their demands and requests. If, according to the President's declarations, civil society and political components will not be part of this 'real' dialogue with the people, the reform process that will follow the consultation remains unclear. As of now, the President can in any case amend the entire legislation and legislate in all areas using decree-laws, as well as organize referendums without going through the constitutional mechanisms.

Through a quantitative and qualitative analysis, this bulletin, which follows a first bulletin "50 days after Article 80. A break in continuity"¹, aims to present a global and dynamic vision of the events that have occurred in the hundred days following July 25, 2021. This second edition is the result of a monitoring work carried out by the Alliance for Security and Liberties (ASL), and looks back at the last 50 days of political news in Tunisia while presenting cumulative data on the entire 100 days.

100 DAYS LATER, IN FIGURES

- Presidential decrees:

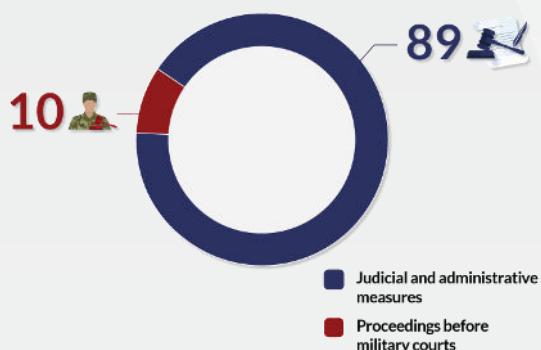


Since 25 July, the Presidency has published **92 decrees** in the Official Gazette (JORT).

- Measures and sanctions:

According to the information that we have gathered, at least **89 judicial and administrative measures** have been taken since July 25 against public figures, politicians, media professionals and senior officials. **10 proceedings** before military courts have been initiated.

MEASURES AND SANCTIONS



On the issue of travel restrictions, which was addressed in the previous bulletin, two dynamics seem to be emerging. Although we do not have precise information on whether or not travel restrictions are still in force it seems that these measures have been reduced.

Of the 12 house arrests mentioned in the infographic, 7 were lifted on October 10 - without a judicial investigation being opened against the concerned individuals.

¹<https://www.asf.be/fr/blog/publications/tunisia-50-days-after-article-80-a-break-in-continuity/>



THE STATE OF EMERGENCY: MEASURES AND PRACTICES

- **July 25**
Triggering of Article 80
Announcement of exceptional measures
Frozen Parliament
- **August 23**
Renewal of exceptional measures
Parliament remains frozen
- **September 20**
Kais Saied's speech in Sidi Bouzid
- **September 22**
Publication of Decree 117
- **September 29**
Appointment of Prime Minister
Najla Bouden Romdhane
- **October 11**
Appointment of the new government

A. Institutional architecture:

- **The turning point of Decree 117: a disguised provisional organization of the public authorities**

Decree 117², published in the Official Gazette on September 22, includes several major measures:

- The suspension of the 2014 Constitution with the exception of its preamble and the first two chapters, relating to general provisions and rights and freedoms;
- The possibility for the President of the Republic to legislate in all areas;
- The impossibility of appeal for unconstitutionality of the decree laws;
- The Government is appointed by the President and acts under the mandate of the President of the Republic.

The measures of this decree give the President of the Republic unprecedented decision-making powers, without any institutional checks and balances and for an unlimited period of time. These problematic points have been criticized by many national civil society organizations. For example, the labour central union UGTT called for a participatory approach to any reform and condemned the lack of a defined timeline of the exceptional measures³. Other organizations and human rights defenders have underlined the 'weakening of human rights protection' due to the lack of control of the decisions taken by the President⁴.

² Decree N°2021-117, <https://legislation-securite.tn/law/105067>

³ Press release published on September 24, 2021. [Uggt.org.tn](https://ugtt.org.tn)

⁴ <https://www.amnesty.org/fr/latest/news/2021/10/carving-up-the-constitution-represents-a-threat-to-human-rights/>. See also: <https://omct-tunisie.org/2021/09/25/tunisia-presidents-power-grab-an-alarming-slide-towards-authoritarianism/>

In addition, one week after the publication of Decree 117, as announced during his speech in Sidi Bouzid, Kais Saied appointed Najla Bouden Romdhane as head of government. She is the first woman to hold this position in the region. The new head of government is a geology professor unknown to the public and a former director general of the Ministry of Higher Education.

This designation was followed by the appointment of the new government on October 11. This government mixes already known personalities (Othman Jerandi and Sihem Nemsia, maintained respectively at Foreign Affairs and Finance; and Taoufik Charfeddine, reappointed to the Interior) and a majority of people inexperienced in politics, veterans of the administration, half of whom are from the academic world⁵. A record number of women were appointed.

Furthermore, the absence of a Ministry for Local Affairs (until now attached to the Ministry of the Environment) has been noted⁶, and raises questions about the future of the decentralization process and that of local authorities⁷. The INLUCC, which remains closed⁸, has been temporarily reopened so that the head of government and her ministers can proceed with their declarations of assets and interests⁹.

Regarding the orientation of the new government, the head of government declared that one of the priorities would be the fight against corruption¹⁰, in line with the statements made by the President on several occasions. The latter has chaired all the ministerial councils held since the appointment of the government.

The only indication of a potential roadmap at this stage appears in Chapter IV of Decree 117, which stipulates that the President, with the support of a commission, is responsible for

drawing up 'draft revisions relating to political reforms'. These drafts must 'have as their object the establishment of a genuine democratic regime in which the people are effectively the holders of sovereignty and the source of powers, exercising them through elected representatives or by means of a referendum'.

Several readings, apart from those for which Decree 117 is *de facto* a provisional organization of powers, consider that these are attempts to concretize the political project of the President.

Indeed, the new construction of powers desired by the President through a system of 'inverted pyramid'¹¹ has never been clearly laid out in terms of concrete modalities of implementation. Only a few members of his 'explanatory campaign' have publicly expressed themselves on this subject but nothing has been confirmed - nor denied - by the Presidency of the Republic.

In addition, several questions arise in relation to 'the absence of a real control of the role of the President of the Republic or the capacity of such a system to respond to the economic and social demands raised by the Revolution'¹².

At the same time, in addition to the revelations made here and there about the political project of the President of the Republic, the announcements made during the various Councils of Ministers that he has chaired since then shed light on his priorities as time goes by. Several announcements were made during the Council of Ministers on October 28, relating in particular to transitional justice, the reform of the Supreme Council of Justice (CSM) or the reduction of the time limit for investigations relating to the report of the Court of Auditors on the 2019 elections¹³.

⁵ mosaiquefm.net/ar

⁶ <https://nawaat.org/2021/10/20/ministere-des-affaires-locales-les-dessous-dune-suppression/>

⁷ One of the hypotheses, confirmed during the Council of Ministers held on November 4, is that local authorities will once again be attached to the Ministry of the Interior as before 2016.

⁸ We have no information to date on the fate of the 300,000 files confiscated during the INLUCC raid on 20 August, which raises real concerns about respect for personal data.

⁹ <http://kapitalis.com/tunisie/2021/10/14/tunisie-la-cheffe-du-gouvernement-et-les-nouveaux-ministres-declarent-leurs-biens-a-inlucc-photos/>

¹⁰ <https://lapresse.tn/111619/la-lutte-contre-la-corruption-en-tete-des-priorites-du-nouveau-gouvernement-najla-bouden/>

¹¹ https://inkyfada.com/fr/2021/10/19/kais-saied-construction-democratique-base-tunisie/?fbclid=IwAR0u_1-VtPSAa-Jlxzmo1auxoDPWK9rDfdWvysNblhbkr60iXNiKEyVvM

¹² Ibid

¹³ <https://www.facebook.com/Presidence.tn/photos/ms.c.eJwzMTczNTQzNzE3szA3MTMw1TOBCBhBBixMAXRIBiU~.bps.a.281368748587856/4765167476874605/>

- **A controversial justice:**

The main event related to justice after July 25 is the **continued use of military justice to try civilians**. Indeed, since July 25, 10 cases are being investigated by the military justice¹⁴, including 4 related to the exercise of freedom of expression (S. Jebali, Y. Ayari, A. Ayed, A. Aloui)¹⁵.

The number of cases involving civilians before the military courts, compared to the period before 25 July, has increased exponentially: as many cases are to be counted between 2012 and June 2021, as in the three months or so after July 25.



Developments in this area over the past fifty days have included:

- **Yassine Ayari (MP):** released on September 22 in execution of a military court judgment¹⁶, he was dismissed by the military justice system on October 27 for a Facebook post from 2017, but he will appear again on 22 November on other charges.
- **Mehdi Zagrouba (lawyer):** obtained his provisional release in the airport case, which will continue to be investigated by military justice.
- **Seifeddine Makhlouf and Nidhal Saoudi (MPs):** were kept in custody for contempt of a military judge and the airport case respectively. Their requests for conditional release were rejected.
- **Abdellatif Aloui (MP) and Ameur Ayed (TV host):** were both arrested following their comments on Zitouna TV, at the request of a military court accusing them of ‘conspiring against national security’ and insulting the army. Ameur Ayed was kept in detention, while Abdellatif Alloui was released.
- **Slim Jebali (activist):** according to Amnesty International, he was sentenced in October to one year in prison by the military justice for insulting the President and undermining the dignity of the army after Facebook posts denouncing the concentration of power in the hands of the Presidency after July 25¹⁷.

It is important to note here that Kais Saied had replaced, at the beginning of August, the State Prosecutor and Director of Military Justice, Taoufik Ayouni, who was dismissed at the end of July, by Mounir Abdelnabi¹⁸.

Although military justice seems to be instrumentalized by the governing power, the grounds on which military justice can try civilians remain very broad. These grounds should have been limited by amending the laws

¹⁴<https://www.amnesty.fr/presse/tunisie.-hausse-tres-inquietante-du-nombre-de-civiles>

¹⁵For more information, see: <https://inkyfada.com/fr/2021/09/25/jugement-civils-justice-militaire-tunisie/>

¹⁶See previous bulletin (page 5): <https://www.asf.be/fr/tunisie-50-jours-apres-larticle-80-une-rupture-dans-la-continuite-2/>

¹⁷Already cited, <https://www.amnesty.fr/presse/tunisie.-hausse-tres-inquietante-du-nombre-de-civiles>

¹⁸<https://www.babnet.net/rtdetail-230438.asp>

in force, as indicated in the transitional provisions of the 2014 Constitution¹⁹.

On the other hand, with regard to civil justice, the house arrests and travel bans - measures that had no legal basis and were taken without any procedural guarantees and which were widely denounced after July 25 and before²⁰- were partially lifted²¹(see "Measures and sanctions", above).

These measures were therefore both imposed and lifted without judicial review and without justification. This furthermore demonstrates their arbitrary and illegal nature. Following multiple denunciations by many civil society actors, the Presidency issued a statement on the issue of travel bans²² and gave instructions to the now former Minister of the Interior (Ridha Gharsellaoui) that these bans should only apply to those concerned by detention and arrest warrants.

It should be noted here that the administrative courts have been called upon several times to lift these travel restrictions. The administrative court has rejected all appeals but will however subsequently rule on the merits through its judicial chambers, which may confirm or overturn the decisions of the First President in summary proceedings.

In parallel, the National Authority for the Prevention of Torture (INPT) called on October 6 for the creation of a specialized court to investigate cases related to the rights and freedoms guaranteed by the Constitution, in a context of arbitrary and unjustified recourse to travel bans and house arrest²³, including for individuals on the S17 profiling list.

The President has made several statements criticizing the judiciary. During a meeting on October 4 with the president of the Superior Council of the Magistracy (CSM) Youssef

Bouzakher, he criticized the slowness of the judiciary and declared that the fight against corruption necessarily involves cleaning up the judiciary and 'the fight against the criminals' who have 'infiltrated the courthouses and the courts'²⁴.

According to Decree 117, Kais Saied now has the power to reorganize the judicial system by decree and to change/remove the institutions that have been previously established²⁵. During the October 28 Council of Ministers, the President confirmed this orientation by announcing the preparation of a draft decree-law on the organization of the CSM²⁶.

While the shortcomings in the current organization of the CSM and of certain parts of the judiciary are admitted by several actors of the criminal justice system (Tunisian Magistrates' Union²⁷, Association of Tunisian Magistrates²⁸), the prospect of a unilateral reform of the Council's organization by decree-law has provoked an outcry from the CSM itself, from magistrates as well as from civil society. The President of the CSM, Youssef Bouzakher, declared that the reform of the judiciary is not a matter strictly reserved to the magistrates or the CSM and should be done through a participatory approach, noting that reforming the CSM during this period of exception would compromise the independence of the judiciary²⁹.

- A transitional justice process under threat:**

The statements of the President of the Republic in relation to the transitional justice process have so far been limited to the topic of the wounded and martyrs of the revolution, as well as to his project of 'penal reconciliation'. Already handicapped by numerous and essentially

¹⁹Already cited, <https://inkyfada.com/fr/2021/09/25/jugement-civils-justice-militaire-tunisie/>

²⁰_ On this point, see the previous bulletin and the OMCT press release: <https://omct-tunisie.org/2021/10/06/les-mesures-de-controle-administratif-attentatoires-aux-libertes/>

²¹ aa.com.tr/ar/

²² <https://www.facebook.com/Presidence.tn/posts/4632882963436391>

²³ <https://www.leconomistemaghrebin.com/2021/10/06/inpt-appelle-amender-loi-organisant-tribunal-administratif/>

²⁴ 24

²⁵ <https://nawaat.org/2021/08/25/magistrature-kais-saied-la-confusion-des-peines/>

²⁶ <https://www.facebook.com/photo/?fbid=4765167276874625&set=pcb.4765169003541119>

²⁷ akherkhabaronline.com/ar/

²⁸ https://www.facebook.com/AmtTunisie/posts/2140211839452352?_ctf_0_1=AZUC4OX_xmR-KBw-0ePCXWuBdwJS592lBSj9ROHyFhAiPIRBg26caQN1Lh5mB4NdpVmWpcFCREWnmmaKD0061BWVfwoGWAG0ztN0hOHE_AP2RIC4kNXPscavN9Iu7ls0LsCZkG6B8t0QP0YXdMsIN&_tn_=%2CO%2CP-R

²⁹ Statement reported in Le Maghreb, November 7, 2021, page 2.

political complications, the TJ process does not escape the current climate of uncertainty.

The leaked version of the draft law on economic and so-called ‘criminal’ reconciliation, mentioned several times in the President’s speeches and which will soon be presented to the Council of Ministers, stipulates the granting of a unilateral amnesty. Any applicant for financial reconciliation who has a judicial file under examination before a Tunisian judicial chamber could benefit from this amnesty, on condition that he or she repays or invests the amounts involved in the litigation for regional development, according to a prioritization of regions based on poverty rates.

This bill jeopardizes the process of accountability before the specialized transitional justice chambers in cases of corruption and embezzlement whose main victim is the Tunisian State.³⁰ In the absence of a legislative counterweight and any possible debate, this unilateral approach without any possibility of recourse may harm the transitional justice process. The latter requires a holistic approach including all its components, especially with regard to the 205 trials before the 13 specialized transitional justice chambers (including trials for homicide, torture, sexual violence, financial crimes against the state, etc.). It also requires institutional reforms to guarantee non-return.

Moreover, as mentioned in the previous bulletin the appointment of senior officials (Khaled Marzouki, since dismissed, and Sami Yahiaoui) to the Ministry of the Interior by the President of the Republic - two high ranking security officials being prosecuted for serious human rights violations before TJ criminal chambers is problematic and is a worrying sign sent by the presidency with regards to transitional justice.

B. Threats to fundamental rights and freedoms

The increase in the number of attacks, particularly against journalists, including by demonstrators, as well as the repression of activists and the persistence of police impunity are particularly worrying. Meanwhile, the President, far from appeasing tensions, disseminates a discourse of division and polarization between ‘traitors’ and ‘patriots’. These excesses, especially the police aggressions and abuses against journalists and activists, are nothing new and are part of a relative continuity with the period before July 25.

Regarding the press and media, in a report published on September 13, the Independent High Authority for Audiovisual Communication (HAICA) pointed out that media coverage has been more favorable to the President since July 25 than before. The Authority is thus alarmed by the state of pluralism in the current Tunisian media landscape and the decline in the diversity of opinions expressed³¹. These allegations were later denied by Foreign Minister Othman Jerandi, who said the Tunisian media landscape is ‘pluralistic and accessible to all, without any exclusion’³².

In addition, this period was marked by several attacks on journalists.

Journalist Arroi Baraket was arrested on September 17 for exceeding the curfew³³. She was violently assaulted and insulted; the police officer who assaulted her reportedly said she could do nothing against him because as a trade unionist he was ‘protected’. The journalist tried to file a complaint but was taken into custody and brought before the public prosecutor’s office the next morning under article 125 of the criminal code, which deals with contempt for a public official³⁴. She is due to appear in court in early December.

Other assaults and arrests include:

³⁰ In this context, ASF published a memorandum demonstrating the legal shortcomings of such an approach, in total contradiction with the law and the spirit of transitional justice and with the international conventions ratified by Tunisia. <https://www.asf.be/wp-content/uploads/2021/08/MEMORANDUM-Reconciliation-ASF-2.pdf>

³² <https://www.tap.info.tn/en/Portal-Politics/14386020--democracy-an>

³³ <https://minorityrights.org/2021/09/20/arroi-en/>

³⁴ This article is regularly used to repress activists, see on this point: <http://roj.tn/outrage/>

³¹ haica.tn/ar/

- Three days before the appointment of the head of government, five journalists from various media were told to 'get out' and called 'media workers of shame'³⁵ by anti-Saied demonstrators.
- Faïza Arfaoui (IFM) was fined for filming without permission³⁶.
- Lilia Husseini (National Radio) was physically assaulted by a police officer who took her to the police station and confiscated her equipment³⁷.
- Arrest of Ameur Ayed (Zitouna TV) and detention by the military justice.

The National Union of Tunisian Journalists (SNJT) has continued to denounce a dangerous turn in the relationship between the security forces and the press³⁸. In its annual report (November 2020-October 2021), it counted 66 attacks on journalists between July 25 and October 25 (224 for the year), including 20 in the last six days of July. Of the total since July 25, 27 attacks were by law enforcement officials³⁹.

Reporters Without Borders⁴⁰ also called on the head of government to 'make press freedom a priority for her government'. These excesses are particularly worrying and pose a serious threat to freedom of expression, opinion and the press in the new post- July 25 framework.

In addition to the violence against journalists, **several public figures** known for their political activism and/or who have been openly critical of the President **have been affected by repressive measures**.

On October 5, plainclothes police officers reportedly arrived at the home of the academic, Kais Saied critic and leader of the "Citizens Against the Coup" movement, Jaouhar Ben Mbarek. According to the version of Ben Mbarek's family, this operation was an attempt to arrest or at least to intimidate him. The public prosecutor declared however that it was a protection operation: the police came to check

³⁵<https://rsf.org/fr/actualites/rsf-appelle-la-nouvelle-premiere-ministre-tunisienne-faire-de-la-liberte-de-la-presse-0>

³⁶Ibid

³⁷Ibid

³⁸<https://www.facebook.com/snjt.tunisie/posts/2975972432676765>

³⁹protection.snjt.org

⁴⁰ Already cited, <https://rsf.org/fr/actualites/rsf-appelle-la-nouvelle-premiere-ministre-tunisienne-faire-de-la-liberte-de-la-presse-0>

that Ben Mbarek was well, as he had not answered their phone calls⁴¹.

A dozen judicial cases concerning human rights activists (Saif Ayadi, Hamza Nasri Jridi, Samar Tlili, Wael Naouar...) who demonstrated the previous year against police violence and against the draft law on the repression of attacks on the armed forces have also been simultaneously launched, and some hearings have already been scheduled.

On October 21, activist and president of DAMJ, Badr Baabou, was violently assaulted by two law enforcement officers. The brutal assault was accompanied by hateful and vindictive remarks: '*This is what happens to whoever insults the police! This is what happens to those who complain about the police!*'. A press release denouncing the systemic and permanent nature of police violence and the 'complicit silence of the authorities' was signed by 37 civil society organizations and coalitions⁴².

The former candidate for the 2019 presidential elections and president of the LGBTQI+ association Shams Mounir Baatour announced on October 26 that he was sentenced in correctional court to one year in prison, a thousand dinars in fines and two years of administrative control for allegations of blasphemy against the Prophet⁴³. Threatened with death in Tunisia⁴⁴, Baatour has been living in France since 2019 under refugee status.

These violations corroborate the observation of **the continued impunity enjoyed by security forces** after July 25. The cases described above, like those of Arroi Baraket and Badr Baabou, are by no means isolated cases. With the notable exception of the issuance of two warrants by the prosecutor's office of Beja against two police officers for attempted murder of an individual who filmed a road accident

⁴¹<https://www.webdo.tn/2021/10/06/la-police-encercle-le-domicile-de-jawher-ben-mbarek/#.YXZYfhMLIU>

⁴² _ Press release: "Police brutality post 25/07: impunity again and again?" <https://www.facebook.com/ASF.Tunisie/photos/pcb.2151257898349414/2151257618349442>

⁴³<https://www.facebook.com/mounir.baatour/posts/10223260340710207>

⁴⁴<https://www.hrw.org/fr/news/2020/01/29/tunisie-mettre-fin-aux-poursuites-contre-un-defenseur-des-droits-humains>

involving a police vehicle, few if any law enforcement officers are being prosecuted⁴⁵.

In this context, the case of A. Zayen, who died in March while in police custody in Sfax for exceeding the curfew, should be followed with great attention. On 26 September the forensic report clearly indicated that Zayen, a diabetic, died because he did not receive his dose of insulin. The examining magistrate has summoned about thirty witnesses and the investigation seems to be following its course.

But in most cases, law enforcement officers seem to be untouchable, no matter what transgressions are committed. The demonstrations that have taken place since mid-September, bringing together both anti and pro Kais Saied, have also been marked by a massive police presence, as on September 18⁴⁶, and incidents against journalists and demonstrators occurred. On October 10, altercations took place between demonstrators and police after the latter prevented them from entering Habib Bourguiba Avenue⁴⁷.

C. Travel and movement restrictions:

- Push-back of migrants at the Libyan border

On September 27, around 100 people of sub-Saharan origin and Tunisian nationals were intercepted by the Tunisian National Guard's maritime units off Kerkennah Islands. The Tunisian nationals were reportedly released, while the foreign nationals were forcibly transferred to the Libyan border.

Several human rights abuses have been reported: excessive and disproportionate use of force, lack of medical and obstetric assistance, physical harm, as well as the illegal and arbitrary transfer to Libya, a country that cannot be considered safe.

The expulsion of September 27, which was denounced in a press release by eight organizations⁴⁸, is not an isolated case but an example of the Tunisian authorities' current practices. These forced deportations constitute a violation of the provisions of the International Covenant on Civil and Political Rights and the Geneva Convention, which binds the Tunisian State to respect the principle of *non-refoulement*. This episode is all the more distressing as Libya has no asylum legislation and its practices of violence and torture against migrants have been repeatedly documented.

- Kerkennah: a new border post

Although Chapter II of the 2014 Constitution, upheld by Decree 117, guarantees in Article 24 that "*Every citizen has the freedom to choose his place of residence and to move within the territory as well as the right to leave it*", arbitrary practices of travel restrictions in the name of combating irregular immigration are commonplace, especially when it comes to the islands of Kerkennah (Sfax)⁴⁹.

For the FTDES, interviewed by Nawaat, 'these police practices are part of a security approach to the fight against irregular migration' adding that 'it is not only in Kerkennah that these practices are rampant. At the entrances to towns and villages in the Sahel, Nabeul, Djerba and Zarzis, facial checks are also carried out. Police raids near the ports are also commonplace'⁵⁰.

Since spring 2020, Tunisia has recorded an exceptional number of departures of its nationals to Italy. This curve did not seem to slow down in 2021, with exceptional peaks of departures in July and August, bringing the number of Tunisians who went to Italy to 14 000 over the year⁵¹. This figure does not take into account the real number of Tunisian and foreign nationals who leave Tunisia irregularly: the number of people intercepted at sea by the Tunisian authorities increased exceptionally from April 2021, a dynamic that continued after

⁴⁵ <https://www.tunisienumerique.com/tunisie-beja-mandat-de-depot-en-prison-pour-deux-policiers-pour-tentative-de-meurtre/>

⁴⁶ <https://www.reuters.com/world/middle-east/tunisians-protest-over-presidents-seizure-powers-2021-09-18/>

⁴⁷ <https://www.tap.info.tn/en/Portal-Politics/14464256-clashes-between>

⁴⁸ <https://www.facebook.com/ASF.Tunisie/photos/pbc.2135052879969916/2135049873303550/>

⁴⁹ <https://nawaat.org/2021/10/20/sfax-kerkennah-avant-poste-dune-tunisie-garde-frontiere-de-europe/?fbclid=IwAR1uFLD9eCu0kEniimfRC8PrCx7ycfjlGpvVmNJoLNHaC8K74swHomzp1Y>

⁵⁰ Ibid

⁵¹ http://www.libertaciviliimmigrazione.dcl.interno.gov.it/sites/default/files/altre/cruscoito_statistico_giornaliero_15-10-2021.pdf

July 25. According to FTDES, the total number of interceptions until August has doubled compared to the same period last year (16,200 and 8,500 respectively) and more than tripled compared to previous years (2,330 persons intercepted in 2019)⁵².

These figures are in any case linked to the deterioration of the socio-economic situation of many Tunisians: at least 600,000 of them have fallen into poverty because of the pandemic crisis⁵³, bringing to 2.5 million the number of Tunisians living below the poverty line. Tunisia is also experiencing an increase in its unemployment rate, which stood at 17.8% in the first quarter of 2021 compared to 15.1% a year earlier. The unemployment rate among young people stands at 40.8%⁵⁴ against 36.5% in the second quarter of 2020⁵⁵.

- **Extradition of Algerian activist Bouhafs: Tunisian authorities remain silent**

As reported in the previous bulletin, the Algerian activist, Slimane Bouhafs, who was granted international protection by the UNHCR, was arrested at his home at the end of August and appears to have been handed over by the Tunisian authorities to the Algerian authorities.

During his meeting with the LTDH at the beginning of September, the President of the Republic declared that the Presidency was investigating this case⁵⁶, which violates numerous provisions of international law. To date, however, no explanation has been provided by the authorities.

IN TUNISIA AND ABROAD: RISING CRITICISM AND CONCERN

Both before and after the publication of Decree 117 and the appointment of the head of government and the government, many voices are increasingly demanding a clear roadmap and a rapid return to the constitutional framework.

A. At the national level: the pressure is mounting

Political parties, the labour union UGTT, and civil society issued numerous appeals and press releases during this period. On 10 September, the UGTT published a roadmap containing 11 points to end the political crisis⁵⁷.

In the wake of the publication of Decree 117, the political parties Attayar, Ettakatol, Al Joumhouri and Afek Tounes have issued a joint statement: the new distribution of powers is in fact an effective suspension of the Constitution, it opens the way to dictatorship and sends Tunisia decades back⁵⁸. For Ennahda⁵⁹, Qalb Tounes⁶⁰ and the Workers' Party⁶¹, Decree 117 is a 'coup'.

A relative consensus in the opposition to the President's decisions seems to be emerging: even Echaab, the party that has been the most supportive of Kais Saied in recent months, has brought nuance to its support and called on him to set up a new Parliament and not to maintain the exceptional situation for long⁶². In the wake of Najla Bouden's appointment, more than 70 MPs also publicly called for the resumption of parliamentary work⁶³ as of October 1st. Security around the Parliament in Bardo was reportedly tightened in response⁶⁴.

52 <https://ftdes.net/ost-rapport-aout-2021-des-mouvements-sociaux-suicides-violences-et-migrations/>

53 <https://lapresse.tn/112198/plus-de-600-mille-tunisiens-basculent-dans-la-pauvreté-en-raison-du-covid-19/>

54 http://www.ins.tn/sites/default/files/publication/pdf/Note_ENPE_2021T1.pdf

55 http://ins.tn/sites/default/files/publication/pdf/Note_ENPE_2T2020_F_0.pdf

56 <https://www.facebook.com/ltdh.tn/posts/1677682005769769>

57 Published on September 10 on Echaab News (UGTT's electronic newspaper), <https://echaabnews.tn/ar/article/2357/%D9%88%D8%B7%D9%86%D9%8A>. For a summary in French, please see <https://www.webdo.tn/2021/09/10/tunisie-lugt-propose-une-feuille-de-route-pour-sortir-de-la-crise/#YYQ76WDMKUk>

58 <https://www.facebook.com/Attayar.page officielle/posts/4352919344796792>

59 <https://www.facebook.com/Nahda.Tunisia/posts/4780396155317806>

60 <https://www.tunisienumerique.com/nouvelles-mesures-qalb-tounes-craint-une-dictature/>

61 <https://www.webdo.tn/2021/09/23/tunisie-le-parti-des-travailleurs-appelle-a-la-mobilisation-contre-kais-saied/#YXAT5BrMLIW>

62 <https://www.tunisoscope.com/ar/article/313604/arabe/actu-arabe/makki-121000>

63 <https://lapresse.tn/110496/appel-a-la-reprise-du-travail-parlementaire-mobilisation-des-deputés-qeles-sur-les-reseaux-sociaux/>

64 <https://www.observatoire-securite.tn/fr/2021/09/29/tunisie-repositionnement-de-larmee-renforcement-de-la-securite-autour-du-siege-de-larre>?lang=1633004376.8489620685577392578125

For the UGTT, whose political weight cannot be ignored by the President, what happened on July 25 was certainly ‘necessary’ but the union warned against the monopolization of power by one man. It thus recalled that the Constitution must remain the reference; that the national dialogue must be inclusive⁶⁵. On 29 October, the union called for a deadline to be set for the end of the state of exception⁶⁶.

On the side of civil society, in addition to the press release already mentioned ‘President’s power grab: an alarming slide towards authoritarianism’⁶⁷, other statements after Decree 117 or the appointment of Najla Bouden Romdhane are to be noted on the side of the LTDH⁶⁸, EuroMed Droits⁶⁹, the ATFD⁷⁰ or the FTDES⁷¹.

B. Abroad: the tone is getting tougher

US senators threatened, at the beginning of September, to suspend Tunisia’s aid plan (197 million dollars expected)⁷². Several members of the US Congress also sent a letter to Secretary of State Blinken, calling on the United States to: take a tougher line to allow a return to the rule of law and constitutional order (including the return of parliament); consider the possibility of freezing military aid to the country and investigate the use of military justice against civilians⁷³. The Committee on Foreign Affairs has also held an extraordinary sitting to examine the situation in Tunisia⁷⁴.

While Najla Bouden Romdhane’s appointment has been welcomed, the United States believes that her government should be supervised by

parliamentarians⁷⁵. In early October, State Department spokesman Ned Price reaffirmed US concern about abuses of freedom of the press/expression and the use of military justice to try civilians⁷⁶.

For his part, the head of European diplomacy Josep Borrell stressed, during a meeting with President Kais Saied, the importance ‘of establishing a well-defined timetable for the return to a constitutional order in Tunisia based on the separation of powers, respect of the Rule of Law and parliamentary democracy...’⁷⁷.

In a notably firm resolution, the European Parliament considered Decree 117 ‘particularly worrying because it concentrates powers in the hands of the President for an indefinite period’, calling for the preservation of the Constitution and insisting particularly on the need for the return of Parliament⁷⁸. For the President of the Venice Commission, Gianni Buquicchio, ‘Decree 117 does not respect the principles of a democratic state of emergency’⁷⁹.

At the same time, the postponement of the Francophonie summit to fall 2022, initially scheduled for November 2021, can be analyzed as a serious setback for the Presidency of the Republic. If the decision is consensual and based exclusively on organizational and health issues according to the Minister of Foreign Affairs Othman Jerandi and the Secretary General of The Francophonie⁸⁰, other narratives suggest that the postponement actually results from the uncertain political situation, the lack of a constitutional framework and the absence of a Parliament⁸¹. A version corroborated by the vote of The Francophonie Parliamentary Assembly to postpone which to

⁶⁵ ugtt.org.in

⁶⁶ <https://www.tunisienerice.com/tunisie-lugt-condamne-les-pressions-pour-le-pousser-a-saligner-contre-telle-ou-telle-partie-et-appelle-a-la-levee-de-létat-de-exception/>

⁶⁷ <https://omct-tunisie.org/2021/09/25/tunisia-presidents-power-grab-an-alarming-slide-towards-authoritarianism/>

⁶⁸ <https://www.tap.info.tn/en/Portal-Politics/14424506-ltdh-urges-clear>

⁶⁹ <https://euromedrights.org/fr/publication/tunisie-lordre-constitutionnel-doit-etre-retabli/>

⁷⁰ <https://www.tunisienerice.com/ltdh-singulière-de-la-concentration-des-pouvoirs-et-de-la-violation-des-droits-et-des-libertés/>

⁷¹ <https://www.tunisienerice.com/ftdes-la-periode-a-venir-sera-difficile/>

⁷² <https://www.thenationalnews.com/world/us-news/2021/09/10/us-senators-float-tunisia-aid-cuts-and-lebanon-assistance-package/>

⁷³ <https://news-tunisia.tunisienerice.com/tunisia-3-members-of-us-congress-call-on-biden-to-intervene-to-restore-tunisian-parliament/>

⁷⁴ <https://www.lecourrierdelatlas.com/le-congres-américain-se-penche-sur-la-situation-politique-en-tunisie/>

⁷⁵ <https://www.murphy.senate.gov/newsroom/press-releases/murphy-statement-on-newly-appointed-prime-minister-of-tunisia>

⁷⁶ <https://www.state.gov/briefings/department-press-briefing-october-7-2021/#post-282425-TUNISIA>

⁷⁷ https://eeas.europa.eu/headquarters/headquarters-homepage/105746/node/105746_fr?fbclid=IwAR1YIK74fr_I5Uv2Q8mnC8EP6mBlh9Srn7qe--cillwN6JZbboxlFxtVo_o

⁷⁸ https://www.europarl.europa.eu/doceo/document/TA-9-2021-0440_FR.html

⁷⁹ <https://lapresse.tn/111273/exclusif-gianni-buquicchio-president-de-la-commission-de-venise-a-la-presse-le-decret-117-ne-respecte-pas-les-principes-d'un-état-d'urgence--democratique/?fbclid=IwAR3cyBc5Tq3qwdWPVdulsti3wFl8whRBGq4XLnmeY927dXXXkwkAQ2rOh3Q4>

⁸⁰ <https://twitter.com/OJerandi/status/1448361697115316227?s=20>
<https://www.francophonie.org/report-du-xviie-sommet-de-la-francophonie-1345>

⁸¹ Arabi21.com

suspend the membership status of Tunisia in light of ‘recent developments’ in the country⁸² - a day after the summit postponement decision.

OUTLOOK:

If the President has promised to launch a national dialogue on the political and electoral system, including the youth and excluding ‘those who steal people’s money and traitors’, one can only wonder how can this dialogue be concretely carried out and what could be its outputs?⁸³

What about the feasibility of the President’s ‘inverted pyramid’ project in terms of organization of powers?

Finally, what about the President’s ability to respond to the economic emergency (contraction of the GDP, high inflation, increase in the debt ratio and public deficit, downgrading of the sovereign rating from B3 to Caa1 with a negative outlook...)? Tunisia’s lenders (World Bank, IMF...) are reluctant to reopen discussions on loans without real democratic guarantees and without any prospect of structural reforms⁸⁴. Discussions are underway with Saudi Arabia and the United Arab Emirates to obtain financial aid⁸⁵, but what would be the political and geopolitical cost of such a ‘rescue’ from the petro-monarchies? What would be the impact on the situation of rights and freedoms? The spectre of default is still looming. How, in this context, will the Presidency manage to respond to the numerous socio-economic emergencies?

The fact remains that the new organization of powers created by Decree 117, and with it the impossibility of appealing against presidential decrees, eliminates all forms of checks and balances, a very worrying reality for the majority of political and civil society actors. It remains to be seen whether this drift will continue over time and whether, in view of the urgent socio-economic challenges, the popularity of the President and the process he has set in motion will endure.

⁸²<http://www.apf.francophonie.org/L-etat-de-la-democratie-dans-l.html>. It should be noted that former President Moncef Marzouki had his diplomatic passport withdrawn after congratulating himself for having participated in the postponement of the summit and is now the target of an international arrest warrant.



⁸³france24.com/ar.

⁸⁴<https://www.reuters.com/article/us-tunisia-politics-idAFKBN2FI0VC>

⁸⁵France.com/ar-[موازنات](#)-[مفاوضات مع الإمارات و السعودية من أجل ايجاد تمويلات اضافية](#)