Tunisia | Article 24 Reform Leaves Questions of Justice Unanswered

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HuMENA for Human Rights and Civic Engagement calls for a review of the situation of detainees and convicted individuals, the publication of data on the impact of the amendment, redress for previous convictions, and an end to the criminalisation of legitimate expression.

After four years of the implementation of Decree-Law No. 54 of 2022, which has been accompanied by prosecutions of journalists, lawyers, activists and citizens over statements and posts concerning public affairs, Article 24 was amended on 30 September 2026, removing imprisonment as the primary penalty in cases where the offence is not a repeat offence. HuMENA for Human Rights and Civic Engagement considers the reduction of custodial penalties an important step, but one that does not, on its own, resolve the problems raised by Article 24 since its adoption. The amended provision retains criminalisation and high financial penalties, while the amendment also raises questions about the fate of those who were arrested, prosecuted or sentenced under the previous version. Reform should not be limited to reducing penalties for the future; it must also ensure that people are not continuing to be punished for the legitimate exercise of their freedom of expression, and put an end to the use of criminal law provisions to punish criticism and public debate.

Under Decree-Law No. 1 of 2026, the penalty under Article 24 in cases where the offence is not a repeat offence is now a fine ranging from TND 10,000 to TND 20,000, instead of the five-year prison sentence and TND 50,000 fine provided for under the previous version. However, in cases of repeat offences, imprisonment for six months and a fine of TND 50,000 remain applicable. The mitigating provisions set out in Article 53 of the Penal Code are excluded in such cases, and the penalties may still be doubled if the person targeted is a public official or someone considered equivalent to one. The amendment therefore does not remove criminalisation or the risk of imprisonment in all cases. Nor does the new decree-law contain specific provisions addressing ongoing cases or sentences handed down under the previous version.

HuMENA first asks about those who remain in pre-trial detention under Article 24: have their situations been reviewed since the amendment entered into force? Does the detention of some individuals still rest solely on conduct that is no longer punishable by imprisonment except in cases of repeat offences? This question has legal significance because Articles 80 and 106 of the Code of Criminal Procedure link the issuance of committal and release warrants during the investigation phase to the nature of the offence and the applicable penalty. HuMENA calls for an urgent judicial review of each case individually and the release of anyone whose continued detention no longer has an independent legal basis, without overlooking the possibility that other charges or sentences may apply.

The issue is not limited to people held in pre-trial detention. There are also people who have been sentenced under the previous version of Article 24, as well as others whose cases are still before the courts. The case of activist Karim Teraa illustrates the importance of this issue. According to media reports, he was sentenced on 6 October to three months in prison, with the sentence suspended, after he was arrested and referred to court under Decree-Law No. 54 over social media posts. Reducing the penalties under Article 24 should not mean that legitimate expression continues to be prosecuted under other criminal provisions. Karim Teraa's case also raises a broader question about the continued use of Decree-Law No. 54 to prosecute expression, even after Article 24 was amended.

Second, what about cases in which no final judgment has been issued? The principle of applying the more lenient law requires the new provision to be applied where its conditions are met. However, this does not automatically lead to the dismissal of proceedings, since the amendment has not abolished the offence itself. As for final judgments, the decree-law contains no explicit transitional mechanism to address the continued enforcement of previous sentences or the consequences of convictions. Will these cases be left without a clear legislative remedy? What remedies are available to those who have been imprisoned, paid fines, or suffered professional and personal harm because of an expression that should have been protected? A pardon from a sentence, where available, does not necessarily erase the conviction or provide redress for the harm suffered.

Essential information is still missing to understand the scale of enforcement of Article 24 and the impact of its amendment. Based on the information publicly available, there are no comprehensive figures showing how many people have been prosecuted under Article 24 since September 2022, how many prison sentences or fines have been handed down, how many judgments have become final, or how many people are currently detained solely under this article. There is also no clear information on the cases that have been reviewed since the amendment entered into force on 30 September 2026. HuMENA calls on the Ministry of Justice and the relevant judicial authorities to publish aggregated data on these matters, while protecting personal information, so that the impact of the amendment can be assessed based on what has actually changed in practice, rather than on the legal text alone.

Replacing imprisonment with substantial fines in cases that do not involve repeat offences does not necessarily make the punishment proportionate. A fine starting at TND 10,000 can place a considerable burden on independent journalists, activists and people on low incomes, while repeat offences remain punishable by imprisonment and a higher fine. Furthermore, the provisions of the Code of Criminal Procedure governing the enforcement of fines allow, subject to specific legal conditions and exceptions, for imprisonment as a means of enforcing financial penalties. The absence of imprisonment as the primary penalty should therefore not be considered an absolute guarantee that a person will not be deprived of their liberty during the enforcement of a fine.

However, the core problem goes beyond the severity of the punishment. Article 24 still criminalises conduct defined through broad terms relating to false news, statements and rumours, the attribution of untrue claims, and defamation. Although the provision requires intent and specifies certain purposes, this wording raises serious risks for public-interest criticism and journalistic work.

HuMENA has previously examined these concerns in its analysis of Decree-Law No. 54 and documented an example of the application of Article 24 in the in-absentia sentence against Ramla Dahmani following statements about the conditions of her sister Sonia Dahmani's detention. Protecting reputations and addressing harmful conduct should not be used as a pretext to punish peaceful expression and legitimate criticism.

Retaining the provision that doubles penalties when a public official is targeted raises a further concern. Criticism of those who exercise public authority should enjoy broader protection, not harsher punishment simply because of their official status. The UN Human Rights Committee's General Comment No. 34 (PDF) stresses that restrictions on freedom of expression must be clearly defined, necessary and proportionate, and that public figures are legitimately subject to criticism. The Declaration of Principles on Freedom of Expression and Access to Information in Africa also calls for the decriminalisation of false news and defamation, and for sanctions relating to reputation to remain within proportionate limits.

Oumaima Hammami, HuMENA's Programs Lead, said:

> *"It is not enough to know that the prison sentence has been reduced. Some people have spent time in prison, while others are still facing proceedings, and they have the right to know what will change in their situation. The authorities must review the consequences of applying Article 24 and ensure that criticism and journalistic work are no longer grounds for prosecution, whether the punishment is imprisonment or a fine."*

Amending Article 24 alone is not enough to address the restrictions on freedom of expression.
HuMENA has documented the use of other criminal provisions in cases involving journalistic expression, including Article 86 of the Telecommunications Code in the case of Zied El Heni. This illustrates why reducing the penalty under one provision cannot replace a review of the legal framework used to prosecute legitimate expression. The ongoing parliamentary process to amend Decree-Law No. 54 also provides an opportunity for open legislative debate involving journalists, lawyers, human rights organisations and those affected.

HuMENA calls on the competent judicial authorities and public prosecutors to review the cases of people held in pre-trial detention under Article 24 and immediately release anyone whose detention no longer has a legal basis. It also calls for the application of the more lenient law wherever its conditions are met, and for the termination of prosecutions targeting protected expression. HuMENA further calls on the legislative and executive authorities, each within their respective remit, to establish a legal remedy for final judgments and the consequences of previous convictions, and to ensure effective avenues for redress and reparation where prosecutions have violated freedom of expression.

HuMENA calls on the Assembly of the Representatives of the People to complete its review of Decree-Law No. 54 and other provisions used to punish legitimate expression. This should include removing broadly defined offences relating to false news and criminal defamation, abolishing prison sentences for protected expression, reviewing fines and repeat-offence provisions, and ending

harsher penalties based solely on the public status of the person targeted. The impact of the 30 September amendment should be measured by what changes for those affected and whether it provides real protection for criticism and journalistic work, not simply by the reduction of penalties set out in the law.

HuMENA also calls on public prosecutors and judicial authorities not to use other criminal provisions to continue prosecuting legitimate expression simply because the article underpinning a case has been amended. It further calls for a review of criminal provisions used to restrict freedom of expression, ensuring that they are clear and precise and that the penalties they prescribe are necessary and proportionate. The authorities should also involve journalists, the National Syndicate of Tunisian Journalists and civil society in any future review of legislation affecting freedom of expression and the media.

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