

Position Paper

Criminalization of Journalistic Expression in Tunisia

The Case of Journalist Zied El-Heni in a Context of
Systematic Restrictions on Civic and Media Space



HuMENA For Human Rights and Civic Engagement
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هيو مينا لحقوق الإنسان والمشاركة المدنية

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Foreword

HuMENA for Human Rights and Civic Engagement issues this position paper as Tunisia's civic and media space comes under sustained pressure from a combination of judicial, administrative, and financial measures that are reshaping the relationship between the state and independent institutions. Journalist Zied El-Heni's case is not an isolated incident. His sentencing on 7 May 2026 to one year in prison under Article 86 of the Telecommunications Code follows a pattern that also includes the administrative suspension of the Tunisian League for the Defense of Human Rights, the suspension of *Avocats Sans Frontières*, and the prosecution of a growing number of journalists and human rights defenders on the basis of general criminal provisions.

HuMENA has worked since its founding on monitoring civic space and media independence in the Middle East and North Africa. This paper continues the organization's documentation of Tunisia's legislative and institutional developments since 2022, with particular attention to the use of Decree-Law 54 of 2022 and Article 86 of the Telecommunications Code in cases of journalistic expression, and to the administrative suspension of civil society organizations.

The paper offers an analysis grounded in the 2022 Tunisian Constitution, the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples' Rights, and General Comment No. 34 of the Human Rights Committee. It does not seek to substitute for ongoing judicial processes, but to show how general criminal provisions are being applied to journalistic conduct in place of the specialized framework, and what this means in procedural and substantive terms.

The paper addresses a range of audiences: the Tunisian authorities, United Nations mechanisms—particularly the Special Rapporteurs and the Office of the High Commissioner for Human Rights—Member States of the Human Rights Council, the European Union and Tunisia's bilateral partners, the African Commission on Human and Peoples' Rights, and international press freedom organizations. Each is provided with specific, actionable recommendations.

1 Executive Summary

This paper examines the case of Tunisian journalist Zied El-Heni as an indicator of a broader pattern of criminalizing journalistic expression and restricting civic space in Tunisia since 2022. It is grounded in a legal analysis of the criminal provisions used against journalists and human rights defenders—foremost Decree-Law 54 of 2022 on the prevention of crimes related to information and communication systems, and Article 86 of the Telecommunications Code—alongside the effective sidelining of the specialized legal framework governing the press, namely Decree-Law 115 of 2011.

On 24 April 2026, Zied El-Heni, editor-in-chief of *Tunisien Press* and a founding member of the National Union of Tunisian Journalists, was referred to the Central Brigade for the Combat of Cybercrime. A committal order was issued against him on 26 April 2026 under Article 86 of the Telecommunications Code. The prosecution stems from remarks at an academic conference and a Facebook post in which he criticized a judicial decision in the case of his colleague, journalist Khalifa Guesmi. El-Heni began a hunger strike, which he ended on 5 May 2026. On 7 May 2026, the Criminal Chamber of the Tunis Court of First Instance issued [a verdict sentencing him to one full year of enforceable imprisonment](#) under that same Article 86.

On the same day, the UN High Commissioner for Human Rights, Volker Türk, called on Tunisian authorities to “end the increasingly repressive measures against civil society organizations, journalists, human rights defenders, opposition members, activists and members of the judiciary, through criminal procedures and administrative obstacles.” Coming on the same day, the UN statement places the verdict in an international rather than a purely domestic frame.

The El-Heni case is not isolated. On the same day he was detained (24 April 2026), the authorities suspended the [Tunisian League for the Defense of Human Rights \(LTDH\)](#)—one of the oldest human rights organizations in the Arab region and Africa, and a co-recipient of the 2015 Nobel Peace Prize—for one month. On 5 May 2026, the Tunisia branch of [Avocats Sans Frontières \(ASF\)](#) was suspended for thirty days. These measures coincided with prison sentences handed down in recent weeks against journalists Ghassen Ben Khelifa (two years, 30 March 2026) and [Sonia Dahmani](#) (eighteen months, 13 April 2026).

The paper sets out five main findings:

- The El-Heni case is not isolated but forms part of a pattern affecting a growing number of journalists, media outlets, and human rights organizations since 2023, combining legal, administrative, and security tools.
- Article 86 of the Telecommunications Code and Decree-Law 54 of 2022 are being

used as primary instruments to criminalize legitimate journalistic expression, in breach of the specialized legal framework governing the profession.

- Sidelining Decree-Law 115 of 2011 dismantles the procedural and substantive safeguards that underpin the independence of journalistic work.
- The provisions in question contain vague formulations that breach the principles of legality and legal certainty, opening the door to divergent judicial interpretations.
- These developments narrow the media and civic space and reinforce self-censorship, with direct consequences for the public's right to know and for the foundations of democratic accountability.

Tunisia ranks [137th out of 180 countries in the 2026 World Press Freedom Index](#) published by Reporters Without Borders, continuing a sustained decline since 2021.

HuMENA calls on the Tunisian authorities to immediately and unconditionally release Zied El-Heni and quash the sentence handed down against him; to restore the standing of Decree-Law 115 as the specialized legal framework governing journalistic activity; to bring Decree-Law 54 and Article 86 of the Telecommunications Code into conformity with international human rights standards; and to lift the suspensions imposed on the Tunisian League for the Defense of Human Rights and Avocats Sans Frontières.

2. Abbreviations

Acronym	Full Name
ASF	<i>Avocats Sans Frontières (Lawyers Without Borders)</i>
CPJ	<i>Committee to Protect Journalists</i>
ICCPR	<i>International Covenant on Civil and Political Rights</i>
IFJ	<i>International Federation of Journalists</i>
HRC	<i>United Nations Human Rights Council</i>
LTDH	<i>Tunisian League for the Defense of Human Rights (Ligue Tunisienne des Droits de l'Homme)</i>
OHCHR	<i>Office of the United Nations High Commissioner for Human Rights</i>
RSF	<i>Reporters Without Borders (Reporters Sans Frontières)</i>
SNJT	<i>National Union of Tunisian Journalists (Syndicat National des Journalistes Tunisiens)</i>
UPR	<i>Universal Periodic Review</i>

3 Methodology and Limitations

This paper follows a qualitative research approach based on a case study analysis linked to broader contextual factors. Data were drawn from five categories of sources: (a) relevant legal and constitutional texts, including the 2022 Tunisian Constitution, Decree-Law 115 of 2011 on the freedom of the press, printing and publishing, Decree-Law 54 of 2022 on the prevention of crimes related to information and communication systems, and Article 86 of the Telecommunications Code; (b) statements and reports from international and regional organizations specializing in press freedom and human rights; (c) communications from the National Union of Tunisian Journalists and relevant Tunisian human rights organizations; (d) reporting by local and international media outlets covering the case, and (e) two direct testimonies provided to HuMENA by Ithar El-Heni and Aram El-Heni (the daughters of the subject of this paper), together with public statements by El-Heni himself from Mornaguia Prison. The research period extends from June 2023 to 11 May 2026, and source cross-referencing was conducted in Arabic, French, and English.

3.1 Methodological Distinction Between Data Levels

The paper distinguishes methodologically between three levels of data, each carrying its own analytical weight:

- Verified facts from independently published sources: including reported judicial proceedings, legal texts, reports from recognized international and regional organizations, and official trade union statements. These constitute the factual basis of the analysis.
- Direct testimonies obtained by HuMENA: comprising family statements and statements from the subject himself. These are presented as qualitative data contributing to an understanding of the human and human rights dimensions of the case, not as substitutes for judicial documents or official sources.
- Human rights analysis adopted by HuMENA: grounded in constitutional and international human rights standards. It is presented as a normative reading in light of available data, not as a substitute for judicial findings or factual proof.

3.2 Limitations

Three substantive limitations affected the research. First, independent access to court documents and investigation files was not possible, limiting direct verification of judicial proceedings. Second,

no official statement from judicial bodies or the executive authority has clarified the legal and factual basis of the prosecution, weakening transparency and limiting balanced assessment. Third, the multiple cases linked to Zied El-Heni (six documented prosecutions since 2023) place full analysis of each individual file beyond the scope of this paper, which focuses on the most recent case (April-May 2026) as an analytical template.

4. Context: A Structural Decline Affecting the Press and Civic Space

Tunisia ranks [137th out of 180 countries in the 2026 World Press Freedom Index](#), a fall of 65 places since 2019, when it ranked 72nd. The 2026 RSF report explicitly noted that Decree-Law 54 on "false information" has effectively criminalized journalism critical of the authorities, and that the suspension of media outlets and the proliferation of judicial proceedings reflect the growing use of the judicial apparatus against media professionals.

Quantitatively, data from the National Union of Tunisian Journalists indicate that at least 39 cases have been brought against journalists in connection with their professional activity since May 2023, some based on anti-cybercrime and anti-terrorism legislation. Between April 2024 and April 2025, ten prison sentences were handed down against journalists, six enforced, one suspended, and three still under appeal. A further 32 prosecutions were registered outside the specialized legal framework governing the profession, on the basis of Decree-Law 54 of 2022 and Article 86 of the Telecommunications Code.

These numbers reflect more than scale; they mark a shift in how the state treats the press. The rising number of cases tied to general criminal provisions points to a strategy of moving journalistic conduct outside its specialized legal framework and treating it instead as grounds for criminal liability that can lead to imprisonment. This shift coincides with the exclusion of journalists from covering the Presidential Palace at Carthage since October 2019, despite formal objections from the National Union of Tunisian Journalists.

Restrictions are not confined to the media; they extend to human rights organizations and civil society institutions, reflecting a coordinated narrowing of civic space. The detention of Zied El-Heni on 24 April 2026 coincided with the authorities' decision to suspend the Tunisian League for the Defense of Human Rights (LTDH) for one month—an organization founded in 1976, the oldest human rights organization in the Arab region and Africa, and co-recipient of the 2015 Nobel Peace Prize as part of the National Dialogue Quartet. This was followed on 5 May 2026 by the thirty-day suspension of the Tunisia branch of Avocats Sans Frontières, which directly affects access to justice for migrants, refugees, detainees, and people in vulnerable situations.

Earlier, during the 60th session of the UN Human Rights Council in February 2026, the UN High Commissioner for Human Rights, Volker Türk, [expressly named Tunisia](#) among the states prosecuting civil society activists under counter-terrorism legislation.

5. The Legal Framework Applied in Prosecutions: A Comparative Approach

The El-Heni case, like many cases linked to freedom of journalistic expression in Tunisia since 2022, involves the interaction of three legal texts whose overlapping application undermines legal certainty. The table below presents a comparison of these texts in terms of scope, penalties, and procedural safeguards.

Criterion	Decree-Law 115 of 2011	Decree-Law 54 of 2022	Article 86 of the Telecommunications Code
Scope	<i>Specialized framework on freedom of the press, printing, and publishing</i>	<i>Crimes related to information and communication systems (general provision)</i>	<i>"Harm to others" via public telecommunications networks (general provision)</i>
Protected interest	<i>Freedom of journalistic expression and professional safeguards</i>	<i>Combatting cybercrime</i>	<i>Integrity of telecommunications networks</i>
Type of penalties	<i>Predominantly fines; restricted use of imprisonment in expression cases</i>	<i>Imprisonment of 5 to 10 years and high fines</i>	<i>Imprisonment of up to two years and a fine</i>
Specific procedural safeguards	<i>Procedural safeguards specific to journalists (source confidentiality, right of reply, etc.)</i>	<i>No specific safeguards for journalists</i>	<i>No specific safeguards for journalists</i>
Precision of drafting	<i>Defined and narrowly drawn</i>	<i>Vague terms ("false information", "rumors")</i>	<i>Concept of "harm" not precisely defined</i>
Conformity with international standards	<i>Largely compliant</i>	<i>Serious concerns (legality, necessity, proportionality)</i>	<i>Concerns triggered by application to expression cases</i>

Under sound legislative logic, a specialized norm should prevail over a general norm in cases of conflict (*lex specialis derogat legi generali*). Yet in cases relating to journalistic expression, the authorities resort to general provisions ([Decree-Law 54](#) and Article 86), bypassing the specialized

framework (Decree-Law 115). The result has two effects: harsher penalties, and the loss of procedural safeguards specific to the journalistic profession.

Wording of Article 86 of the Telecommunications Code: Article 86 provides for the punishment of “any person who deliberately disturbs others through public telecommunications networks or harms them through misuse of such networks” with imprisonment of one to two years and a fine ranging from one hundred to two thousand dinars.

The problem is not limited to the vague drafting of the text; it extends to its historical origin. In its statement issued on the day of the verdict against Zied El-Heni, [the National Union of Tunisian Journalists \(SNJT\) explicitly described](#) Article 86 as a “Ben Ali-era law”—a repressive provision dating from the authoritarian period before the 2011 revolution. This historical origin compounds the problem of using the article in journalistic expression cases in post-transition Tunisia, particularly after Decree-Law 115 of 2011, which marked an explicit legal break with the pre-revolutionary framework for the press.

6 Chronology of the Zied El-Heni Case

6.1 Background: The Case of His Colleague Khalifa Guesmi

The current prosecution of Zied El-Heni cannot be read outside the context of the case of his colleague Khalifa Guesmi, a journalist at Mosaïque FM. Guesmi and a counter-terrorism officer of the National Guard were tried on charges of disclosing information related to the dismantling of a terrorist cell. Guesmi spent three and a half years in prison, and Major Abdelaziz Chamekhi died during the period of detention. On appeal, both men were acquitted, having previously been sentenced at first instance to five and ten years, respectively. El-Heni commented on appellate ruling no. 40397, issued by the Counter-Terrorism Judicial Pole of the Tunis Court of Appeals on 6 January 2025, in remarks delivered at an academic conference organized by the Research Unit in Criminal Sciences and Criminology of the Faculty of Law and Political Sciences in Tunis, in partnership with the Central Private University, under the title “The Presumption of Innocence as a Foundational Principle.” He published a related comment on Facebook and on his personal blog. El-Heni’s remarks were not a passing comment; they were part of a broader public conversation on the protection of journalists’ sources, the presumption of innocence, and the risks of criminalizing journalistic work on files connected to security or the judiciary.

6.2 Chronology of Events (April–May 2026)

Date	Event
13 April 2026	<i>El-Heni announces an administrative appeal against the President of the Republic, demanding the establishment of the Constitutional Court and the reactivation of the Supreme Judicial Council and the High Independent Authority for Audiovisual Communication.</i>
17 April 2026	<i>Recording of his intervention at the academic conference on the presumption of innocence and the Guesmi case is published.</i>
24 April 2026	<i>He is summoned to the Fifth Central Brigade for the Combat of Information and Communication Technology Crimes (National Guard) at El Aouina, questioned, then placed in police custody on the authorization of the Public Prosecution. On the same day, the authorities issue a decision suspending the Tunisian League for the Defense of Human Rights (LTDH) for one month.</i>
26 April 2026 (Sunday)	<i>A committal order is issued against him on the basis of Article 86 of the Telecommunications Code, even though the courts are closed on Sundays.</i>
27 April 2026	<i>El-Heni begins an open-ended hunger strike, demanding the application of Decree-Laws 115 and 116.</i>
30 April 2026	<i>Hearing before the Sixth Criminal Chamber of the Tunis Court of First Instance 1. Journalists and El-Heni's daughter are barred from attending the public hearing. The case is reserved for deliberation.</i>
5 May 2026	<i>The authorities suspend the Tunisia branch of Avocats Sans Frontières (ASF) for thirty days.</i>
5 May 2026	<i>El-Heni ends his hunger strike following a visit from his wife, Thouraya Zouari El-Heni, in prison.</i>
6 May 2026	<i>El-Heni issues a letter from Mornaguia Prison describing the trial as "illegitimate" and announcing that he will not appeal the verdict.</i>
7 May 2026	<i>Delivery of the verdict: the Criminal Chamber of the Tunis Court of First Instance sentences Zied El-Heni to one full year of enforceable imprisonment, with no suspension, under Article 86. On the same day, the UN High Commissioner for Human Rights Volker Türk issues a second statement specific to Tunisia, calling for an end to the repression of civil society, journalists, defenders, and the opposition.</i>

6.3 Earlier Prosecutions (2023–2025)

Zied El-Heni has been subjected to five earlier judicial proceedings linked to his journalistic and opinion-related activity:

- On 20 June 2023, he was detained on the basis of statements deemed insulting to the President of the Republic in connection with his criticism of Article 67 of the Penal Code. He was held for two nights at Bouchoucha Prison in Tunis; his lawyer was barred from his

interrogation, and he was denied his medication despite a cardiovascular condition and high blood pressure.

- On 28 December 2023, he was detained after complying with a security summons, in connection with his criticism of the conduct of the Minister of Trade, Kalthoum Ben Rajeb, during a radio programme on "FM". He was charged with "defamation" and "contempt" on the basis of Article 86 of the Telecommunications Code.
- On 10 January 2024, he was sentenced to six months in prison with a deferred execution. He was released on 11 January 2024, but the sentence remains valid and enforceable.
- In February 2025, he appeared before the investigative judge in a complaint filed by the Carthage municipality, on the basis of Article 96 of the Penal Code on "obtaining a benefit without legal right".
- In March 2025, new investigations were opened in connection with subsequent critical statements.

According to his most recent letter from Mornaguia Prison, dated 6 May 2026, the current case represents "the tenth time" in his professional career that he has been prosecuted for an opinion he expressed—a count that includes prior proceedings as early as 1994, alongside the six documented prosecutions since 2023.

6.4 Reading the Verdict: Substance and Significance

On the evening of Thursday 7 May 2026, the Criminal Chamber of the Tunis Court of First Instance sentenced journalist Zied El-Heni to one full year of enforceable imprisonment under Article 86 of the Telecommunications Code. The verdict raises several issues that warrant analysis.

Length of the sentence

The verdict falls within the lower range of Article 86, which provides for a penalty between one and two years. The choice of the minimum sentence sends a mixed signal: on the one hand, the court did not use the full sentencing range available to it; on the other hand, it imposed a custodial sentence rather than confining itself to the fine provided in the same article, despite the fact that the defendant is a practising journalist and editor-in-chief, and that the comment in question concerned a judicial decision in a case of substantial public interest. Choosing the

minimum sentence does not resolve the broader question of whether it is legitimate to resort to imprisonment in a case of journalistic expression on the basis of a general provision that was not enacted to regulate the press.

Enforceability

The sentence is enforceable rather than suspended, in contrast to the verdict against El-Heni in January 2024 (six months suspended) in a similar case that also relied on Article 86. The shift from suspended to enforceable sentences signals growing judicial severity in cases of journalistic expression. This is compounded by another factor: the court's reliance on the same general criminal framework (Article 86) despite the existence of a specialized framework governing the case (Decree-Law 115 of 2011), with the practical effect of bypassing the specialized framework in favor of a more punitive provision that offers fewer safeguards.

Compared to parallel verdicts

The verdict against El-Heni falls within a series of criminal judgments issued against Tunisian journalists in recent weeks:

- 30 March 2026: Journalist Ghassen Ben Khelifa, editor-in-chief of "Inhiyez", is sentenced to two years in prison.
- 13 April 2026: Journalist [Sonia Dahmani](#) is sentenced to eighteen months in prison.
- 22 January 2026: Journalists [Mourad Zghidi and Borhane Bsais](#) are sentenced to three years and six months in prison.

This parallel shows a systematic shift in the judicial response to journalistic expression in recent months, affecting journalists from diverse professional backgrounds and outlets, on the basis of various legal provisions (Article 86, Decree-Law 54, financial charges), but converging on a single outcome: enforceable custodial sentences.

El-Heni's position on appeal

In a letter sent by Zied El-Heni from Mornaguia Prison on 6 May 2026—one day before the delivery of the verdict—he announced that he would not appeal the forthcoming sentence, calling

the trial "illegitimate." The statement carries a dual significance. As a personal stance, it reflects the journalist's reading of the trial as political rather than judicial in nature. Legally, it raises the question of what the verdict means in the absence of an appeal to a higher court. From a human rights standpoint, the defendant's position on appeal does not resolve the substantive flaws of the verdict: the questions of whether the court applied the proper legal framework, and whether the proceedings respected fair trial guarantees, remain regardless of whether an appeal is pursued.

Immediate institutional reactions

The verdict prompted an immediate response from the National Union of Tunisian Journalists, in a statement issued on 7 May 2026 under the title "[The imprisonment of journalist Zied El-Heni under the Telecommunications Code: How long will this absurdity continue?](#)". The Union described the verdict as "a serious targeting of press freedom and an attempt to criminalize the expression of opinion," and considered that "the repeated prosecution and trial of our colleague Zied El-Heni on the basis of his views and media positions represents a clear form of judicial harassment, particularly given that he faces a custodial sentence for the second time in less than three years."

The Union called for Decree-Law 115 to be adopted as the sole legal framework for press and publishing cases, and for an end to the use of repressive laws to restrict journalistic work. Its core recommendations align with the legal analysis in this paper, reflecting a shared reading among the Tunisian professional press community and independent human rights organizations of what is at stake.

The defense's parallel legal track

In parallel with the verdict against Zied El-Heni, his lawyer, Mohamed Mahrezi Abbou, filed a complaint with the Public Prosecutor at the Tunis Court of First Instance, requesting that immunity be lifted from the Deputy Public Prosecutor who authorized El-Heni's detention, and that a criminal investigation be opened against him and anyone else the investigation might implicate, on charges of unlawful detention and incitement to such detention. The complaint cites Articles 250 and 251 of the Penal Code, which punish with ten years' imprisonment anyone who arrests, imprisons, or detains a person without legal authorization, and Article 32 of the Penal Code on participation through incitement.

The defense advances three arguments. First, issuing a committal order upon the expiry of the first police custody period in a press case that constitutes neither incitement nor a threat to public order cannot be considered a free exercise of judicial discretion by the prosecution. Second,

the principle of judicial immunity does not apply where it is established that a judge has executed instructions contrary to his constitutional duty and oath, or has acted under pressure. Third, the executive authority may only request the initiation of public prosecutions or submit written requests; it has no role in ordering detention or arrest.

The filing is an attempt to test whether judicial accountability is possible for the decisions that gave rise to the restriction on freedom of expression, using Tunisia's own judicial mechanisms, in the absence of the Constitutional Court and the Supreme Judicial Council, which both remain inactive. The defense also argues, as part of its legal strategy, that the continued, systematic political character of detentions could in theory open the door to international accountability—an argument advanced by the defense and not independently adopted by HuMENA in this paper.

Broader significance

The verdict against Zied El-Heni does not close the legal question; it confirms in judicial terms a pattern that successive reports by local and international human rights organizations have flagged since 2022: cases of journalistic expression in Tunisia are being adjudicated outside their specialized legal framework, under general criminal provisions, with custodial sentences, and without strict adherence to fair trial guarantees. The fact that this verdict and the UN High Commissioner's statement came on the same day reinforces a reading of the verdict as one link in a longer pattern, not an isolated judicial decision.

7 Direct Testimonies

The testimonies below are presented as qualitative data that help illuminate the human and human rights dimensions of the case—not as substitutes for judicial documents or official sources. They complement the analytical framework of the paper by showing how the prosecution of expression cases extends beyond the courtroom into family and professional life, generating sustained social and psychological pressure.

From Zied El-Heni's letter from Mornaguia Prison, 6 May 2026:

"I am being subjected to an illegitimate trial in which all my legal rights have been violated... The investigation against me revealed that it did not originate from a security report or a complaint, but from verbal instructions, on the basis of which I was held in police custody and then issued a committal order without any legal justification—something that did not happen to me in the trials of 1994, 2023, or 2024."

"I am today fighting a battle to defend Decree-Law 115, which they are seeking to bury, and to defend the exclusion of Article 86 of the Telecommunications Code from cases related to freedom of expression."

Testimonies of Ithar El-Heni and Aram El-Heni (the daughters) to HuMENA:

Ithar El-Heni: "My father shed light on the case of journalist Khalifa Guesmi, who was unjustly imprisoned, and spoke about the suspicious death of the security officer Abdelaziz Chamekhi. My father practiced his profession as a journalist by criticizing judicial practices and fulfilled the role he had sworn never to abandon. We—my sisters, my mother, and I—are proud of our father. He has not strayed from the compass of justice, and we will continue the struggle we were raised on."

Aram El-Heni: "Our father has always taught us never to deviate from the truth. Today I feel immense pride in being his daughter."

Public statement by Ithar El-Heni after the verdict, 9 May 2026:

"The verdict is first-instance. My father refuses to appeal it—not in surrender, but in refusal to recognize the legitimacy of a trial that lacks the most basic guarantees of justice... We have taken the legal path: the family has filed a complaint against the Deputy Public Prosecutor for unlawful detention, and we will pursue the same judicial path with all those who issued the ruling."

"Article 251 of the Penal Code is clear and explicit: ten years' imprisonment for anyone who detains a person without legal authorization. Decree-Law 115 is the sole binding reference in press and publishing cases, and any departure from it is a departure from the law."

"Today we are his voice, and we are witnesses to your transgressions."

8. Legal and Human Rights Issues

8.1 Constitutional Framework

Article 37 of the Constitution of 25 July 2022 guarantees the freedoms of opinion, thought, expression, media, and publication, and explicitly prohibits prior censorship over these freedoms. Article 55 sets strict conditions for any restriction on rights and freedoms: it must be established by law, justified by the necessities of a democratic order, and aimed at protecting the rights of others or the requirements of public security, national defense, or public health. Article 55 further requires that such restrictions not impair the essence of the protected rights, and that they be proportionate to their purpose.

The present prosecution does not meet the criteria of Article 55. The conduct in question is an expression of opinion on a matter of public concern (a judicial practice in a case of broad public interest); it does not, in any meaningful sense, infringe upon the rights of others, nor does it endanger public security. The custodial penalty is not proportionate to the expressive nature of the conduct.

8.2 The Three-Part Test in International Human Rights Law

HuMENA's reading of this case is anchored in a well-established three-part test in international human rights law: legality, legitimate aim, and necessity and proportionality. Under this test, it is insufficient for the State to invoke an existing legal provision in order for a restriction on freedom of expression to be lawful. The provision must be sufficiently clear; the purpose of the restriction must be defined and legitimate; and the intervention must be the least restrictive means available to achieve that purpose. In press cases, this test becomes more stringent because the speech in question typically concerns matters of public interest and the ability of the public to hold public institutions accountable. [General Comment No. 34](#) of the Human Rights Committee (CCPR/C/GC/34) crystallizes this test and affirms that criticism of public authorities, including the judiciary, enjoys particular protection.

On legality and drafting

The broad wording of Article 86 of the Telecommunications Code raises a direct problem. The phrase "harm to others through public telecommunications networks" does not draw clear lines

between sharp criticism, political accusation, civil defamation, and criminal harm warranting a penal response. When a journalist or citizen cannot foresee whether their expression will fall within the scope of criminal liability, the provision itself becomes a source of legal uncertainty. The same applies to the formulations used in Decree-Law 54 of 2022 ("false information", "rumors"). This does not mean that reputation or personal rights are not deserving of protection; rather, it means that protection must operate through clear texts and proportionate procedures that do not make imprisonment a routine response to expression.

On necessity and legitimate aim

It is not apparent that resorting to police custody and a committal order in a case linked to journalistic expression on a matter of public concern is an indispensable measure. International law requires the State to justify why less restrictive means were not sufficient, such as the right of reply, correction, civil liability, or professional disciplinary proceedings. To the extent that the speech concerns the conduct of the judiciary or public policies, broad protection for public debate requires tolerating greater criticism, not imprisonment as a deterrent.

On proportionality: actual punishment begins before the verdict

Custodial sentences in publication and expression cases produce a strong chilling effect, even when the sentence is not ultimately enforced. A journalist subjected to police custody, pretrial detention, or a committal order faces not only the prospect of punishment, but also immediate costs: deprivation of liberty, professional damage, family pressure, and stigma. This effect must enter into the assessment of proportionality, because the actual punishment in many expression cases begins before any final verdict. This effect is amplified by the multiplicity of judicial proceedings opened against a single journalist (six cases in El-Heni's situation), making deterrence cumulative rather than tied to any particular file.

8.3 Fair Trial Guarantees

The El-Heni file featured a series of procedural irregularities:

- The committal order was issued on Sunday 26 April 2026, outside the regular working hours of the judiciary, raising questions about the defendant's entitlement to the guarantees of a public hearing and immediate review.

- Journalists were barred from entering the Palace of Justice to cover the hearing of 30 April 2026, despite its public character and without any justification from the authorities.
- The defendant's daughter was barred from attending the hearing; only one person was permitted to enter the courtroom.
- The Public Prosecutor refused to meet the President of the National Union of Tunisian Journalists, Ziad Dabbar, despite his insistence on inquiring about the reasons for barring journalists from attending the hearing.
- Counsel Mohamed Abdou was interrupted during his pleading after he raised comparable precedents that had not resulted in prosecution.

9 Escalating Patterns in the Criminalization of Expression and the Narrowing of Civic Space (2023-2026)

The case of Zied El-Heni does not stand alone. Together with parallel cases, it forms a pattern targeting journalists, independent media outlets, and extending to human rights organizations themselves. This pattern relies on four overlapping instruments: individual judicial prosecutions, administrative and financial pressures on institutions, security measures, and administrative suspensions of activity.

9.1 Parallel Sentences Against Journalists

Verdicts handed down in March - April 2026:

- 30 March 2026: Journalist Ghassen Ben Khelifa, editor-in-chief of "Inhiyez," is sentenced to two years in prison by the Criminal Chamber of the Tunis Court of First Instance, on the basis of charges related to managing a Facebook page alleged to have published misleading content—despite investigations establishing his lack of connection to the page. He had previously left Tunisia seeking protection following a series of harassments that began in September 2022.
- 13 April 2026: Journalist Sonia Dahmani is sentenced to eighteen months in prison.
- Earlier: Mourad Zghidi and Borhane Bsais have been subjected to custodial penalties, fines, and confiscations on the basis of media commentaries.

9.2 Pressures on Independent Media Institutions

In parallel with individual prosecutions, independent media institutions face cumulative institutional pressures:

- **Al-Khat Association – Inkyfada platform:** The Presidency of the Government has filed a request to dissolve the association, with the hearing on the request scheduled for 11 May 2026. The platform had previously faced funding interruptions of up to seven months, a one-month suspension in October 2025, and a summons before the Financial Crimes Unit in January 2026 despite having submitted all required documents.
- **Nawaat platform:** A thirty-day suspension in October 2024, following an administrative and financial audit that extended over more than a year.
- **Exclusion from Presidential Palace coverage:** Carthage Palace has been closed to journalists since October 2019, despite protests by the National Union of Tunisian Journalists.

9.3 Extension of Restrictions to Human Rights Organizations

Pressure is not limited to the media; it extends to civil society institutions. The coincidence between the detention of Zied El-Heni (24 April 2026) and the suspension of the Tunisian League for the Defense of Human Rights on the same day points to a coordinated policy rather than a temporal coincidence:

Administrative suspensions of human rights organizations in 2025–2026:

- 24 April 2026: The authorities suspend the Tunisian League for the Defense of Human Rights (LTDH) for one month—an organization founded in 1976, the oldest human rights organization in the Arab region and Africa, and co-recipient of the 2015 Nobel Peace Prize as part of the National Dialogue Quartet. The League had, in earlier months, been prevented from prison visits in a number of Tunisian cities.
- 5 May 2026: Suspension of the Tunisia branch of *Avocats Sans Frontières* (ASF) for thirty days, directly affecting access to justice for persons in situations of vulnerability.
- October 2025: Suspension of activities of human rights organizations including the Tunisian Association of Democratic Women and the Tunisian Forum for Economic and Social Rights.

This pattern extends to other cases of prosecuting [human rights defenders](#) in migration and economic and social rights cases, and to the [prosecution of lawyers and judges](#) on the basis of their professional activity, alongside [the death sentence handed down in October 2025 on the basis of Facebook posts](#).

This pattern cannot be read in isolation from the express inclusion of Tunisia in the statements of the UN High Commissioner for Human Rights during the 60th session of the Human Rights Council (February 2026), alongside Belarus, Egypt, India, Russia, and Türkiye, as among the states prosecuting civil society activists under counter-terrorism legislation.

9.4 Cumulative Effect on the Public Sphere

Taken together, these instruments produce three interrelated dynamics:

- **Expansion of legal uncertainty:** every expressive act becomes susceptible to reclassification under multiple provisions (Article 86, Decree-Law 54, anti-terrorism law, Article 67 of the Penal Code), which differ in severity, penalties, and procedures. The journalist loses the ability to anticipate the legal basis on which they may be prosecuted.
- **Reinforcement of self-censorship:** the prospect of a summons or detention becomes a daily fixture in the journalist's working life. Content is preemptively reshaped to avoid topics linked to the accountability of officials or criticism of public policies, particularly judicial and security policies. The effect is not limited to journalists; it extends to citizens, who revise what they write or comment on in the digital sphere.
- **Narrowing of public debate:** the media's capacity to perform its accountability function weakens, with direct consequences for the public's right of access to accurate and pluralistic information. As press freedom contracts, the public's right to know what is happening inside public institutions and to follow judicial, political, and economic affairs declines.

10. Why This Is a Public Sphere Issue, Not an Individual File

This paper treats the case of Zied El-Heni as a public sphere issue because it sits at the intersection of three rights: freedom of expression, freedom of the press, and the right to a fair trial. It also sits at the intersection of three institutions: the media, the judiciary, and the executive. When a journalist is prosecuted for expressing an opinion on a judicial matter that has commanded public attention, the question is no longer one of the limits of an individual statement; it is one of the limits of legitimate debate about justice itself.

Protecting the judiciary from defamation, incitement, or threats does not mean shielding it from criticism. In democratic societies, the judiciary—like other public institutions—is subject to public

debate and professional and legal accountability. Any restrictions on the criticism of the judiciary must be narrow and precise, so as not to function as a de facto prohibition on discussing potential judicial errors or matters bearing on the public's right to know. It is precisely on this ground that the El-Heni case acquires its importance: it concerns a journalist's comment on the case of a fellow journalist, and on fundamental safeguards including the presumption of innocence and the protection of sources.

The case also exposes how fragile the balance is between protecting personal rights and protecting freedom of expression. The State has the authority to regulate this balance, but not to turn that authority into a tool that empties press freedom of its content. When the official response to criticism is police custody and a committal order, the message reaching journalists is not one of legal regulation but of punishment. That is what makes the case usable in international advocacy as a focused example of the effects of vague legal provisions in a political environment of shrinking civic space.

The paper does not seek to turn Zied El-Heni into an exception; rather, it shows that his case reveals a widening rule: independent journalism and human rights organizations in Tunisia operate under intensifying legal, administrative, and security pressures.

11. HuMENA's Position

In HuMENA's view, the case of Zied El-Heni—in its procedural and legal details and its broader context—cannot be read as an individual file. It sits within a cumulative policy that restricts the exercise of freedom of journalistic expression, gradually dismantles the protective framework for the profession, and reframes critical conduct as criminal conduct.

This policy is visible in six indicators: moving journalistic conduct outside its specialized legal framework; expanding the scope of criminalization to legitimate criticism of public authorities; multiplying judicial proceedings against individual journalists; narrowing the procedural defense guarantees and the right to a public hearing; extending restrictions to founding human rights organizations such as the Tunisian League for the Defense of Human Rights and *Avocats Sans Frontières*; and the consistent timing between individual prosecutions and institutional measures.

Taken together, these practices constitute a serious breach of Tunisia's obligations under the International Covenant on Civil and Political Rights, particularly Article 19, and depart from the principles of legality, necessity, and proportionality required by Article 55 of the Tunisian Constitution itself. They also affect the constitutionally guaranteed freedom of association, regulated by Decree-Law 88 of 2011.

The sentence of one full year of enforceable imprisonment against Zied El-Heni produces a chilling

effect that extends to independent journalism and human rights organizations in Tunisia. Protecting journalists and human rights defenders is a constitutional and international obligation that rests with the State.

12 Recommendations

12.1 To the Tunisian Authorities

- Immediately and unconditionally release journalist Zied El-Heni and quash the sentence handed down against him, given its connection to the exercise of his right to freedom of expression, while respecting his stated position on appeal and refraining from any further action against him on that basis.
- Should El-Heni opt to pursue the judicial track, retry him under Decree-Law 115 of 2011 and its procedural safeguards specific to journalistic work.
- Immediately lift the suspensions imposed on the Tunisian League for the Defense of Human Rights (LTDH) and Avocats Sans Frontières (ASF), and discontinue the use of administrative measures to restrict the work of independent human rights organizations.
- Cease the use of Article 86 of the Telecommunications Code and Decree-Law 54 of 2022 in cases of journalistic expression, and strictly apply Decree-Law 115 of 2011 as the specialized legal framework governing such cases.
- Revise Decree-Law 54 of 2022 to ensure precise legal drafting, eliminate custodial penalties in expression cases, and align the text with General Comment No. 34 of the Human Rights Committee.
- Guarantee the public character of hearings in opinion and press cases, and lift all unjustified restrictions on the attendance of journalists, observers, and family members.
- Guarantee journalists' right of access to counsel from the earliest moments of a summons or police custody; ensure necessary medical care; and respect all fair trial guarantees.
- Establish the Constitutional Court and reactivate the Supreme Judicial Council and the High Independent Authority for Audiovisual Communication, as institutions guaranteeing judicial independence and media pluralism.

- Adopt a national mechanism for the protection of journalists and human rights defenders, in consultation with the National Union of Tunisian Journalists and independent human rights organizations.

12.2 To United Nations Mechanisms

- Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression: issue an urgent communication to the Tunisian authorities regarding the case of Zied El-Heni, and include it within the follow-up reporting on cases of journalists in Tunisia.
- Special Rapporteur on the situation of human rights defenders: intensify monitoring of the situation of journalists and human rights organizations in Tunisia, and issue a communication regarding the suspension of the Tunisian League for the Defense of Human Rights and Avocats Sans Frontières.
- Special Rapporteur on the independence of judges and lawyers: follow up on fair trial concerns in cases linked to freedom of expression, including the barring of public hearings and interference in the work of lawyers.
- Special Rapporteur on the rights to freedom of peaceful assembly and of association: follow up on the administrative suspensions of Tunisian civil society organizations as a direct interference with the right to freedom of association.
- Working Group on Arbitrary Detention: examine the arbitrary character of the detention of Zied El-Heni and of other journalists serving custodial sentences in connection with their expression.
- UN High Commissioner for Human Rights: follow up on the statement of 7 May 2026 through a fact-finding mission and periodic briefing of the Human Rights Council on the cumulative trajectory of restrictions on the media and civil society in Tunisia.

12.3 To Member States of the Human Rights Council

- Raise the situation of freedom of expression, freedom of the press, and civic space in Tunisia during the 61st session of the Human Rights Council (June 2026), drawing on the statement of the High Commissioner of 7 May 2026, with a focus on the legal effects of Decree-Law 54 and Article 86 of the Telecommunications Code, and on the administrative suspensions of human rights organizations.
- Include specific recommendations in the next round of the Universal Periodic Review

of Tunisia regarding the alignment of criminal provisions with international standards on freedom of expression and the protection of journalists and human rights defenders.

- Link any bilateral or multilateral cooperation with Tunisia in the fields of justice, governance, and the rule of law to clear, monitorable commitments on the protection of freedom of expression, freedom of the press, the independence of the judiciary, and freedom of association.

12.4 To the European Union and International Partners

- Tie the development of bilateral relations and technical and financial cooperation to Tunisia's compliance with its freedom of expression obligations, in line with the democratic clause of the partnership agreement.
- Issue public statements concerning the case of Zied El-Heni and the broader judicial trajectory targeting journalists and human rights organizations, and provide protection for journalists and defenders at risk, including through the ProtectDefenders.eu mechanism.
- Support the independence of Tunisian independent media institutions and human rights organizations through flexible funding mechanisms shielded from domestic administrative pressure.

12.5 To the African Commission on Human and Peoples Rights

- Issue an official statement on the case of Zied El-Heni and on the general situation of freedom of the press and freedom of association in Tunisia, drawing on the African Charter on Human and Peoples' Rights and the Declaration of Principles on Freedom of Expression in Africa.
- Mandate the Special Rapporteur on Freedom of Expression and Access to Information in Africa, and the Special Rapporteur on Human Rights Defenders in Africa, to conduct a country visit to Tunisia.

12.6 To International Press and Media Freedom Organizations

- Coordinate monitoring efforts among CPJ, RSF, and the International Federation of Journalists through a joint platform documenting the cases of journalists in Tunisia.
- Organize an independent international mission to monitor trials related to freedom of

expression in Tunisia, and publish a public report.

13 Conclusion

The verdict against Zied El-Heni raises three issues that go beyond the individual case and touch the structure of the legal regime governing freedom of the press in Tunisia: the bypassing of the specialized legal framework (Decree-Law 115) in favor of general criminal provisions not enacted to regulate the profession; growing judicial severity that turns previously suspended sentences into enforceable ones without justification proportionate to the conduct prosecuted; and a parallel shrinking of the institutional space available to the human rights organizations that ordinarily monitor and seek accountability for such practices.

This analysis points to three levels of required action. At the individual level: quashing the verdict against Zied El-Heni and lifting the suspensions on the Tunisian League for the Defense of Human Rights and *Avocats Sans Frontières*. At the legislative level: reviewing Decree-Law 54 of 2022 and Article 86 of the Telecommunications Code to bring them into line with international standards, and restoring Decree-Law 115 of 2011 as the specialized framework for press cases. At the institutional level: establishing the Constitutional Court and reactivating the Supreme Judicial Council and the High Independent Authority for Audiovisual Communication, as institutions that safeguard judicial independence and media pluralism.

The 61st session of the Human Rights Council (June 2026) is the most immediate UN forum for follow-up on this file, alongside the Special Rapporteur mechanisms, the African Commission on Human and Peoples' Rights and its special mechanisms, and the upcoming Universal Periodic Review of Tunisia.

About HuMENA

HuMENA for Human Rights and Civic Engagement is a non-governmental organization founded in Belgium with a coordination office in Beirut. HuMENA works on public freedoms, civic space, and the rights of human rights defenders across the Middle East and North Africa region through three complementary approaches: monitoring and documentation, international advocacy, and capacity-building of actors.

Contact: info@humena.org advocacy@humena.org

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