



FREEDOM ON THE NET 2022

Tunisia

PARTLY FREE

61
/100

A. <u>Obstacles to Access</u>	16 /25
B. <u>Limits on Content</u>	26 /35
C. <u>Violations of User Rights</u>	19 /40

LAST YEAR'S SCORE & STATUS

63 /100 **Partly Free**

Scores are based on a scale of 0 (least free) to 100 (most free). See the research methodology and report acknowledgements.



Overview

Despite attacks against online expression following President Kaïs Saïed's July 2021 seizure of extraordinary powers, in which he dismissed the prime minister and indefinitely suspended the parliament, Tunisia's internet freedom score remained the highest in the Arab world. The country's information and communication technology (ICT) infrastructure is robust, internet access is relatively affordable, and authorities are working to expand access outside of major cities. However, individuals risk prosecution for publishing online content that is critical of the president, security forces, or the government, and some users have experienced harassment in response to their online activity. Two online communications platforms were temporarily blocked during the coverage period, and a repressive new law on false news presents additional obstacles to online speech. Surveillance remains a concern, particularly in light of the country's history of intrusive monitoring under former authoritarian president Zine el-Abidine Ben Ali and its lack of a comprehensive legal framework to regulate the use of surveillance tools.

After the ouster of the Ben Ali regime in 2011, Tunisia began a democratic transition, and citizens secured considerable political rights and civil liberties. However, endemic corruption, economic challenges, security threats, and unresolved problems related to gender equality and transitional justice remained obstacles to full democratic consolidation. The emergency measures imposed by President Saïed beginning in July 2021, and his subsequent moves to consolidate power and rewrite the constitution, have created deep uncertainty about the future of Tunisian democracy.

Key Developments, June 1, 2021 – May 31, 2022

- In March 2022, two communications platforms, Zoom and Microsoft Teams, were blocked during an online gathering organized by members of the suspended parliament (see A3 and B1).
- Online self-censorship has increased since the president seized extraordinary powers in July 2021, with users seeking to avoid retaliation for certain kinds of speech, particularly any criticism of the president, security forces, or government bodies (see B4).
- In December 2021, the government issued Circular No. 19 of 2021, which imposed new restrictions on the flow of official information to the public,

contributing to an online environment that is more conducive to rumors and misinformation (see B7 and C1).

- President Saïed’s July 2021 dismissal of the elected prime minister, suspension of the parliament, and declaration of rule by decree—along with his later moves to purge the judiciary, permanently dissolve the parliament, and rewrite the constitution—effectively concentrated power in the presidency and threatened legal protections for online expression (see C1 and C2).
- In March 2022, President Saïed issued Decree Law 2022-14, which criminalizes the deliberate spreading of “false or incorrect news or information” about the economy. The law includes vaguely worded provisions and prescribes prison terms of between 10 years and life for making speculative claims about economic supply chains (see C2).
- Several bloggers and journalists were prosecuted in military courts for their online activities during the coverage period. One blogger received a six-month prison sentence for Facebook posts that were critical of the president (see C3).

A. Obstacles to Access

A1 0-6 pts

Do infrastructural limitations restrict access to the internet or the speed and quality of internet connections?

4/6

Tunisia’s ICT infrastructure is relatively robust and has continued to improve in recent years. ¹

As of January 2022, there were about 8 million internet users in Tunisia, and internet penetration stood at 66.7 percent. ² There were roughly 1.4 million fixed-line broadband subscriptions as of November 2021. ³ Mobile connectivity is widespread. The mobile penetration rate stood at 83 percent in November 2021, ⁴ and there were 16.3 million mobile connections at the start of 2022. ⁵ According to the National Telecommunications Authority (INT), 98.9 percent of the Tunisian population is covered by either fourth-generation (4G), 3G, or 2G mobile technology, and the 4G network alone covers 91.3 percent of the population. ⁶

Internet speeds remain relatively slow. According to Ookla's Speedtest Global Index, as of May 2022 the median mobile upload speed stood at 12.44 megabits per second (Mbps), while the median broadband upload speed stood at 0.84 Mbps. The median mobile download speed was 22.29 Mbps, and the median broadband download speed was 8.13 Mbps. ⁷ According to the Ministry of Communication Technologies (MCT), international bandwidth capacity has increased from 82.5 gigabits per second (Gbps) in 2012 to 910 Gbps in 2021. ⁸

The three main mobile service providers—Tunisie Telecom, ⁹ Ooredoo Tunisie, ¹⁰ and Orange Tunisie ¹¹ —successfully implemented the first tests of 5G technology in Tunisia in 2020. The MCT granted permission for the three companies to carry out the tests ahead of the official launch of 5G service, which has been delayed to late 2022 or early 2023. ¹²

In 2019, the MCT initiated a process to provide 12 university campuses and 19 technology colleges with fiber-optic cables and outdoor Wi-Fi service. ¹³

A2 0-3 pts

Is access to the internet prohibitively expensive or beyond the reach of certain segments of the population for geographical, social, or other reasons?

2/3

Internet access is affordable in Tunisia relative to many other states in the region, and service providers offer a wide variety of packages and data capacities. ¹⁴ However, those living outside major cities have fewer options when it comes to providers and network coverage. The government is working to address this urban-rural digital divide through infrastructure expansion and tax reduction programs.

While prices are affordable, they have increased in recent years. In 2021, subscribers spent on average 9.30 Tunisian dinars (\$3.20) per month and 19.60 dinars (\$6.80) per month on 3G and 4G data packages for smartphones and key subscriptions, respectively. This is a significant price increase compared with the end of 2019. ¹⁵ According to an International Telecommunication Union (ITU) report on pricing trends in 2020, the cost of a mobile data package of 1.5 GB per month over a 3G network represents 1.28 percent of gross national income (GNI) per capita. ¹⁶

During the coverage period, the MCT announced the completion of the “white zones” coverage project. The five-year plan increased internet access and mobile coverage while providing public internet centers and access for people with disabilities in 94 underserved areas, known as white zones. ¹⁷ The project was assigned to Tunisie Telecom in 2017. ¹⁸ In April 2022, the MCT announced that the effort covered white zones across 15 governorates and provided improved access to around 180,000 inhabitants, 164 educational establishments, and 59 health centers. ¹⁹

As part of an effort to digitize Tunisian municipalities, the Tunisian Internet Agency (ATI), the country’s state-run internet service provider, has collaborated with municipal councils to offer free outdoor Wi-Fi service for citizens. The agency signed contracts with some 40 municipalities and aimed to provide the service to 100 towns by the end of 2020. ²⁰ Free internet without registration is available in many cafés and restaurants in major cities.

In May 2020, the parliament approved an agreement between the International Bank for Reconstruction and Development (IBRD) and the Tunisian government to allocate \$270 million to the Gov-Tech program, which aimed to provide internet connections for 2,250 schools, 250 social welfare offices, and 55 social service institutions. ²¹

A3 0-6 pts

Does the government exercise technical or legal control over internet infrastructure for the purposes of restricting connectivity?

5/6

The government has some control over the internet backbone through its ownership stakes in the country’s major technology infrastructure companies.

While the government does not deliberately disrupt access to the internet, users encountered problems with access to online communications platforms during the coverage period. In March 2022, members of the media and civil society reported disruptions to two such platforms, ²² Zoom and Microsoft Teams, during an online plenary session organized by members of the suspended parliament (see B1). ²³ Authorities did not take responsibility for the disruptions.

As of early 2019, the government-controlled Tunisie Telecom managed more than 30,000 kilometers of the country’s fiber-optic network, ²⁴ while Ooredoo Tunisie and

Orange Tunisie, both of which are partially owned by the government, managed the remaining 5,000 kilometers.

In 2014, Ooredoo Tunisie and Orange Tunisie inaugurated their own international submarine cable, breaking Tunisie Telecom's monopoly on the country's international undersea connections. ²⁵ The 175-kilometer-long cable, which links Tunisia to Italy, was the first privately owned cable to enter service in Tunisia.

In 2017, the MCT signed an agreement with Level 4, a new company owned by the ATI, to provide a high-speed broadband infrastructure that would be available to telecommunications firms and internet service providers (ISPs). ²⁶ Also that year, the cabinet approved Decree Law 2017-912, which specifies the general conditions for using public telecommunications networks and access networks that regulate the sharing of infrastructure between different companies. ²⁷

A4 0-6 pts

Are there legal, regulatory, or economic obstacles that restrict the diversity of service providers?

3/6

The Tunisian state retains ownership of several key service providers.

The main mobile service companies are Tunisie Telecom, Ooredoo Tunisie, and Orange Tunisie. The state controls a 65 percent stake in Tunisie Telecom; the remaining shares are held by the private equity firm Abraaj Group. ²⁸ The government has a small stake in Ooredoo Tunisie, a subsidiary of the Qatar-based Ooredoo. Orange Tunisie has been controlled by the state since 2011, when a 51 percent stake was seized from the son-in-law of former president Ben Ali. The remaining 49 percent stake is owned by the multinational group Orange. ²⁹

A smaller service provider, Lycamobile Tunisia, entered the market in late 2015, having secured a five-year renewable license and use of Tunisie Telecom's infrastructure.

Tunisie Telecom, Ooredoo Tunisie, and Orange Tunisie also provide fixed-line internet subscriptions. As of December 2021, Topnet, owned by Tunisie Telecom, dominated the ADSL (asymmetric digital subscriber line) broadband market with a share of 53.6 percent, followed by GlobalNet (13.9 percent), Tunisie Telecom (12 percent), Orange

Tunisie (9.1 percent), HexaByte (4.7 percent), Ooredoo Tunisie (2 percent), and Bee (3.4 percent), all of which depend on ATI for network management. ³⁰

In December 2020, the private firm Standard Sharing Software (3S), owner of GlobalNet, acquired a majority stake in HexaByte. This acquisition will allow the company to reach a larger share of users and offer competitive services. ³¹ Yassine Ayari, a former member of parliament, accused the two companies of concentrating the market, acting against customers' interests, and failing to obtain the required authorizations. ³²

Both individuals and legal entities may apply to become an ISP. Individuals must be Tunisian citizens and hold a graduate degree, an equivalent degree, or a training certificate at an equivalent level in information technology, telecommunications, or multimedia. A legal entity needs to be constituted in accordance with Tunisian law and have a standing capital of at least 1 million dinars (\$350,000), with a majority stake held by Tunisian owners. Licensing applications must be answered by the ministry within one month; a one-time license fee of 150,000 dinars (\$52,000) must be paid once a license is obtained. ³³

A5 0-4 pts

Do national regulatory bodies that oversee service providers and digital technology fail to operate in a free, fair, and independent manner?

2 / 4

The MCT is the main government body responsible for regulating the ICT sector. The INT is the regulator for all telecommunications and internet-related activities and has the responsibility of resolving technical issues and disputes between actors.

The INT seems to enjoy in practice a certain level of independence from the government, derived from an institutional layout that provides it with exclusive jurisdiction over the regulatory tasks assigned to it by the legal code. This jurisdiction ensures functional separation from other government bodies. However, the lack of a formal requirement of independence and weak institutional safeguards against politicization leaves it exposed to the risk of external intervention or political pressure.

34

The INT's governing board is made up of seven members, including a vice president who is appointed from among members of the Court of Cassation, the highest court in Tunisia, and a permanent member appointed from among members of the Court of Accounts, which oversees the management of public funds. The INT's board members are appointed by government decree in a process that lacks transparency. Since 2012, the vice president of the INT board has been directly selected by the Supreme Judicial Council, an independent body tasked with overseeing the functioning of the judicial system (see C1), before being appointed by government decree. ³⁵ The INT has initiated some positive changes in internet policy, namely through the introduction of a more liberal domain-name chart and an invitation to independent arbitrators from civil society to help develop a new alternative process for resolving disputes over domain names.

A 2014 government decree regulates the granting of business licenses to ISPs. ³⁶ Under the decree, ISPs are subject to prior authorization from the MCT, after consulting with the Interior Ministry and the INT. Article 8 established a new advisory board tasked with examining licensing requests and advising on matters related to infractions and sanctions. The board is led by the minister of communication technologies and composed of representatives from the Ministries of Defense, Interior, Communication Technologies, and Commerce; the INT; and the Union for Industry and Commerce (UTICA).

In an effort to encourage investment in the telecommunications sector, the government in 2019 issued an ordinance that simplified the conditions and procedures related to the following activities: the installation and exploitation of a private independent telecommunications network, integration of telecommunications networks, providing internet traffic exchange points, and audits in the field of computer security. ³⁷

B. Limits on Content

B1 0-6 pts

Does the state block or filter, or compel service providers to block or filter, internet content, particularly material that is protected by international human rights standards?

5/6

Score Change: The score declined from 6 to 5 due to the blocking of two communications platforms during an online parliamentary session.

Content censorship remains uncommon in Tunisia. Popular social media tools such as Facebook, YouTube, Twitter, and international blog-hosting services are freely available.

During the coverage period, however, members of the media and civil society reported disruptions to two online communications platforms, Zoom and Microsoft Teams (see A3). ³⁸ In March 2022, the two platforms were blocked for a short period of time while members of the parliament that had been suspended by the president in July 2021 were attempting to hold an online plenary session. ³⁹ Hours after the session, President Saïed permanently dissolved the parliament. ⁴⁰ Testing data from OONI showed that Zoom.us presented signs of TCP/IP (transmission control protocol/internet protocol) blocking. ⁴¹ Authorities did not take responsibility for the disruptions.

B2 0-4 pts

Do state or nonstate actors employ legal, administrative, or other means to force publishers, content hosts, or digital platforms to delete content, particularly material that is protected by international human rights standards?

2 / 4

Government representatives and agencies and various other entities sometimes seek the removal of online content, and there has been some controversy and confusion in recent years over which of these bodies has jurisdiction in such matters.

Between June 2021 and May 2022, the Independent High Authority for Audiovisual Communication (HAICA) made 13 requests to remove content from the websites and social media accounts of television and radio stations. HAICA justified these requests on the grounds that the content violated the regulatory framework for audiovisual media—including by failing to respect the private life of individuals; inciting violence; inciting hatred or discrimination based on race, physical appearance, religion, gender, region, or certain opinions; violating the rights of children; failing to respect human dignity; and violating the rights of women. ⁴²

In March 2022, an article published on the news website of the Mosaique FM radio station was removed after the author was detained by security officials (see C3). The article in question was about the “dismantling of a terrorist group” in the city of Kairouan. The article remained available on other outlets, and it was unclear whether Mosaique FM was asked to remove the article from its website or chose to remove it after the author was arrested. **43**

At times authorities ask social media companies to remove content from their platforms. According to its transparency reports, Facebook restricted 24 pieces of online content in 2021, **44** up from 12 pieces in 2020. **45**

B3 0-4 pts

Do restrictions on the internet and digital content lack transparency, proportionality to the stated aims, or an independent appeals process?	3/4
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Formal cases of content removal and blocking are mostly transparent, and the decisions can be appealed through the courts.

In March 2018, the Court of First Instance in Sousse ordered the ATI to block access to the online games Blue Whale and Meriam, which, the court claimed, encouraged teenagers to commit suicide. The ATI appealed the court’s decision and called for a national dialogue on protecting children in cyberspace without impeding internet access. **46**

In February 2018, the Court of First Instance in Tunis rejected a request from the National Syndicate of Imams and Mosque Workers to block the website of Shams Rad, Tunisia’s first LGBT+ online radio station. The court stated that the syndicate lacked the standing to be a plaintiff in the case, and that the content produced by Shams Rad did not undermine the rights of others. **47**

B4 0-4 pts

Do online journalists, commentators, and ordinary users practice self-censorship?	2/4
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Score Change: The score declined from 3 to 2 due to an increase in self-censorship among users since the president’s seizure of extraordinary powers in July 2021.

While the 2011 democratic revolution cleared the way for a proliferation of new online news outlets, a pattern of arrests, detentions, and harassment aimed at people who have spoken out online against public officials has prompted bloggers, journalists, and online activists to practice self-censorship in recent years. ⁴⁸ This trend accelerated after the president seized unilateral control over the political system in July 2021.

During the coverage period, the National Syndicate of Tunisian Journalists (SNJT) organized several activities to protest the shrinking space for press freedom. These included a “Freedom of the Press and Expression” march in May 2022 and a public media strike in April 2022. ⁴⁹ In a statement, the syndicate warned of the growing risk of state persecution for journalists since July 2021, and highlighted officials’ attempts to encourage journalists to exercise self-censorship, which “limits the scope of criticism in relation to the tense political and social situation in the country.” ⁵⁰

Critics of President Saïed’s actions since July 2021 have been subject to intimidation and defamation campaigns on social media (see C7). For instance, law professor and feminist activist Sana Ben Achour was targeted by several pro-Saïed Facebook accounts for challenging Saïed’s legal interpretation of Article 80 of the constitution, which he cited to justify his seizure of power. ⁵¹ Attacks such as this have led previously outspoken activists to reconsider what they post online. ⁵²

Members of the media have also been targeted for harassment, and in some cases they have considered leaving their profession in response. Journalist Wejdan Bouabdallah, editor in chief of the Tunigate website, as well as some colleagues were deliberately harassed by state authorities after the outlet reported on the virtual parliamentary session that was held in March 2022. ⁵³ According to Bouabdallah, the intimidation led three of the website’s journalists to consider resigning. ⁵⁴

Despite such pressure, users in Tunisia still discuss political, religious, and controversial social issues online, where there is more space for such debates than in traditional media or even in private, in-person discussion. Religious issues, for example, are debated more openly online than in the mainstream media or on the streets.

B5 0-4 pts

Are online sources of information controlled or manipulated by the government or other powerful actors to advance a particular political

3/4

The government rarely issues official guidelines or directives on coverage to online media outlets. However, the authorities in practice have significant control over public media institutions, including multiple television channels and regional radio stations that have a strong online presence.

Since July 2021, President Saïed and his government have taken measures to consolidate and influence the online media space. That month, for example, the president dismissed and replaced the executive director of the Tunisian Television Establishment, the country's national public television broadcaster, which maintains a popular online and social media presence. The move was in violation of the provisions of Decree Law 2011-116, which requires that the appointment of the national television director take place in accordance with the obligatory opinion of HAICA. ⁵⁵ In a report on political pluralism covering the period surrounding President Saïed's seizure of power, HAICA concluded that the content aired by the broadcaster, including on its website, was biased in favor of the president and excluded the views of political parties. ⁵⁶

In a statement published in January 2022, HAICA rejected "all attempts to control the media, regardless of its source," calling on all journalists to "uphold their independence and the rules and ethics of the profession and not to yield to attempted instrumentalization by any side." ⁵⁷ Tunisian public media workers went on strike in April 2022 to protest the reduction in press freedom and the president's attempts to control their outlets' editorial line. ⁵⁸ Similarly, online journalists from the privately owned radio station Shems FM, which has a strong online presence, expressed concerns over the government's efforts to control the station's editorial decisions. ⁵⁹

Civil society organizations condemned several online defamation campaigns orchestrated by progovernment accounts against members of the Supreme Judicial Council. These campaigns occurred at a time when President Saïed was criticizing the council in his videos on social media, shortly before he decided to dissolve the body in February 2022; he appointed members of a replacement council the following month (see C7). ⁶⁰

Propaganda campaigns orchestrated abroad also affected online discourse during the coverage period. Following President Saïed's seizure of power in July 2021, a wave of inauthentic social media activity sought to either celebrate or denounce Saïed's actions. ⁶¹ An academic study found that 6,800 Twitter accounts, many of them automated and largely based in the Arab states of the Persian Gulf region, were spreading these messages. ⁶²

Prior to the July 2021 crisis, in March 2021, HAICA issued a public statement accusing the government of hindering media reform and denounced the control and exploitation of audiovisual media to serve the interests of political parties. According to the SNJT Monitoring and Documentation Unit, ⁶³ frequent online harassment and attacks against journalists and online activists by parliament members, politicians, and political party supporters were distorting the online space, seeking to rid it of criticism of the government in the wake of the crisis.

In January 2022, the spokesperson for an appellate court in Tunis announced that legal proceedings had been initiated against several former presidential candidates for their alleged use of illegal propaganda on social media in the 2019 electoral campaign. ⁶⁴

B6 0-3 pts

Are there economic or regulatory constraints that negatively affect users' ability to publish content online?

3/3

No license is required to publish content on websites, blogs, or social media platforms.

Both print and online outlets have been affected by the country's general economic hardships, as companies have cut their advertising budgets.

Many outlets avoid critical coverage of major private advertisers, including banks and telecommunications companies, in order to avoid losing out on advertising contracts. ⁶⁵

B7 0-4 pts

Does the online information landscape lack diversity and reliability?

3/4

Tunisia's online media landscape is generally vibrant and open. Since the 2011 revolution, numerous online news outlets have been launched alongside newspapers, radio stations, and television channels, enriching the information environment through the addition of viewpoints from a diverse range of social actors. However, self-censorship and fear of judicial proceedings among users limit the availability of content addressing some sensitive topics, such as religion and LGBT+ issues. ⁶⁶ In addition, reduced access to official information over the past year has created a climate that is more conducive to the spread of rumors and misinformation.

Prior to President Saïed's seizure of extraordinary powers in July 2021, members of the media were largely able to access government spaces and report on government affairs without obstruction. However, the presidential administration has since limited its contacts with the press, and journalists, including those working for fact-checking initiatives, continue to face challenges in verifying information from official sources.

⁶⁷ According to the SNJT's annual report on press freedom, released in May 2022, there were 105 cases during the preceding year in which officials interfered with journalists attempting to legally access information. ⁶⁸

In May 2022, during a rare government press conference related to the Egyptian prime minister's visit to Tunisia, Khawla Bou Karim, the editor in chief of Kashf Media, and another journalist with the same outlet, Ayman al-Tuwaihri, were approached by officials from the government's communication office and told not to ask questions. After Boukrim objected, she and her colleague were asked to leave. Another journalist, Wajdi bin Masoud from the TunisGate website, was not allowed to cover the conference. ⁶⁹

In one of the few other press conferences during the coverage period, the presidency invited a small number of journalists from state-owned outlets to attend part of a visit by the president of Algeria in December 2021; they were not able to ask the Tunisian president any questions, and journalists from private media outlets were excluded. ⁷⁰ Also that month, the appointed prime minister issued Circular No. 19, which outlines the rules of government communication (see C1). It requires ministers, state secretaries, and their offices to coordinate with the prime minister's communication office regarding the form and content of each media appearance. ⁷¹

B8 0-6 pts

Do conditions impede users' ability to mobilize, form communities, and campaign, particularly on political and social issues?

5/6

Tunisian youth and civil society organizations continue to use digital media for initiatives related to political and social issues. During the coverage period, activists and journalists were prosecuted or intimidated due to their online mobilization efforts (see C3). **72**

Following President Saïed's seizure of power in July 2021, several activists and journalists were subjected to online harassment for their social media posts, which at times encouraged protests or mobilization (see C7). Activists and journalists used social media to document the excessive use of force by security forces amid protests during the coverage period. **73**

C. Violations of User Rights

C1 0-6 pts

Do the constitution or other laws fail to protect rights such as freedom of expression, access to information, and press freedom, including on the internet, and are they enforced by a judiciary that lacks independence?

2/6

Score Change: The score declined from 3 to 2 due to the president's moves to suspend much of the constitution and override judicial checks on his authority during the coverage period.

The 2014 constitution, which was negotiated and approved in the wake of the 2011 revolution, provides for freedom of expression and freedom of the press and prohibits "prior censorship." Specific articles guarantee the right to privacy and personal data protection, as well as the right to access information and communication networks. **74** However, the text contains vague language tasking the state with "protecting sanctities" and banning "takfir" (accusations of apostasy). Such language could act as a constitutional restriction on internet freedom.

On July 25, 2021, President Saïed announced the dismissal of the prime minister, suspended the elected parliament, and began ruling by decree. In September of that year, the presidency issued Decree Law 2021-117, which suspended the 2014 constitution except for its preamble and first two chapters, relating to general provisions for fundamental rights and freedoms. Furthermore, it allowed the president to legislate in all areas without the possibility of legal challenges to the constitutionality of such decree laws. The document effectively concentrated unchecked power in the hands of the president. According to Article 5 of Decree Law 2021-117, the president assumes the prerogative to enact laws governing information, the press, and publishing. **75** Following the suspension of the 2014 constitution, President Saïed initiated the drafting process for a new constitution without meaningful input from political parties or civil society, and a referendum on the new charter was held in July 2022, after the coverage period. **76**

In February 2022, the president dissolved the Supreme Judicial Council, an independent oversight body set up after the 2011 revolution to shield judges from government influence. He issued a decree to repeal Organic Law 2016-34, which established the council's mandate, and terminated the roles and benefits of the council's existing members. A temporary body consisting of presidential appointees was formed to replace it. The UN high commissioner for human rights implored President Saïed to restore the Supreme Judicial Council, declaring that its dissolution was a "clear violation of Tunisia's obligations under international human rights law."

77 In June 2022, after the coverage period, the president unilaterally dismissed 57 judges, accusing them of corruption and other malfeasance. **78**

Decree Law 2011-115 on the press, printing, and publishing provides protections to journalists against imprisonment. However, Tunisia's press code does not provide bloggers and citizen journalists with the same protections afforded to traditional journalists. Article 7 defines a "professional journalist" as a person holding a bachelor's degree who shares news and ideas with the public on a regular basis. A journalist is also defined as a person who is employed by "daily or periodical news agencies, or audiovisual media and electronic media." **79**

In 2016, Tunisia adopted a basic law on the right to access information. The law guarantees access to information held by government bodies including ministries, the presidency, publicly funded nongovernmental organizations (NGOs), the parliament, local municipalities, the central bank, and other constitutional bodies. The law

prescribes fines against those who obstruct access to information and establishes an information commission tasked with adjudicating appeals related to information requests. ⁸⁰

Despite these guarantees, the government took steps during the coverage period to control the flow of official information to the press. In December 2021, Prime Minister Najla Bourden issued Circular No. 19 regarding the government’s communication rules. It called on ministers and other senior officials to coordinate with the prime minister’s office regarding the content and form of each media appearance. The circular effectively undermined the right to information and obstructed the ability of public officials to speak with the media (see B7). ⁸¹

The country’s state of emergency, which authorities initially imposed in response to a 2015 terrorist attack, has been extended several times, most recently from February through December 2022, according to Presidential Decree 2022-73. ⁸² Among other provisions, the state of emergency allows authorities to access electronic devices without a court order (see C5). ⁸³

C2 0-4 pts

Are there laws that assign criminal penalties or civil liability for online activities, particularly those that are protected under international human rights standards?

1/4

Repressive laws from the Ben Ali era that are still in force threaten internet freedom. Article 86 of the telecommunications code states that anyone found guilty of “using public communication networks to insult or disturb others” could be sentenced to fines and up to two years in prison. This provision was retained in a proposed digital code that would replace the telecommunications code and its amendments. ⁸⁴

Articles 128 and 245 of the penal code punish slander with two to five years’ imprisonment. Article 121(3) calls for a maximum punishment of five years in prison for those convicted of publishing content that could disrupt public order. Authorities continue to use the penal code to prosecute journalists (see C3).

Article 31 of a 2015 counterterrorism law mandates a maximum of five years in prison for those found to have “publicly and clearly praised” a terrorist crime, its perpetrators, and groups connected with terrorism. ⁸⁵ Under Article 37, however, the

authorities cannot prosecute journalists for failing to reveal terrorism-related information that they obtain in the course of their work. ⁸⁶

In March 2022, President Saïed issued Decree Law 2022-14 on combating illegal speculation. The law criminalizes the deliberate spreading of “false or incorrect news or information” that could cause consumers to refrain from buying products or could disrupt the supply of goods to markets and thereby cause prices to rise. ⁸⁷ In a statement, Amnesty International expressed its concerns over the decree’s “vaguely worded provisions that could lead to prison terms of between ten years and life including for public debate of the economy.” ⁸⁸

During the coverage period, several bloggers and journalists were prosecuted in military courts rather than civil courts. They were charged under the code of military justice, which criminalizes criticism of the military and its commanders (see C3). ⁸⁹

C3 0-6 pts

Are individuals penalized for online activities, particularly those that are protected under international human rights standards?

3/6

Bloggers, journalists, and activists were arrested during the coverage period due to their online content. ⁹⁰ Prosecutions are often initiated in response to online criticism of the president, security forces, or government officials. Charges against users usually rely on the penal code, the code of military justice, or the telecommunications code, each of which carries its own separate penalties (see C2).

Since July 2021, security agents have investigated or prosecuted at least 10 individuals under the military code of justice, in some cases due to their online content. This is a drastic increase compared with previous years. Specifically, only six civilians were brought before the military justice system over the previous seven years. ⁹¹ Human rights organizations have regularly denounced the use of military prosecutions against civilians, and have asked why cases involving journalists are not handled under the provisions of Decree Law 2011-115, which pertains to freedom of the press, printing, and publishing (see C2). ⁹² Between May 2021 and April 2022, at least 19 journalists were prosecuted under laws other than Decree Law 2011-115, according to the SNJT. In some instances, these journalists were investigated due to their online reporting.

In May 2022, the Court of First Instance in Tunis sentenced blogger Amina Mansour to six months in prison for satirical comments on Facebook in which she criticized President Saïed and his close associates. Mansour was charged under Article 67 of the penal code, which stipulates that anyone who insults the president of the republic can be imprisoned for a period of up to three years. **94**

In March 2022, online journalist Khalifa Guesmi was detained for a week after he refused to reveal sources for his recent reporting on the arrest of a group of terrorism suspects (see B2). **95**

In February 2021, blogger and activist Maryam Bribri was charged with offending others on social media under the telecommunications code. She had shared and commented on a video documenting a security agent's assault of a citizen in Nabeul Governorate on her Facebook account. **96** As in many similar cases, Bribri was threatened by security forces and police union members (see C7). In December 2021, she was sentenced to a fine and four months in prison. **97**

Cases of arbitrary arrest without a legal justification were common during the coverage period. The SNJT documented at least 12 instances in which journalists were arbitrarily detained, in some cases due to their online content, representing the highest rate of such detentions in the last five years. **98**

C4 0-4 pts

Does the government place restrictions on anonymous communication or encryption?

3/4

Laws that limit encryption remain a concern. In particular, Articles 9 and 87 of the 2001 telecommunications code ban the use of encryption and prescribe penalties of up to five years in prison for unauthorized use of such tools. While there have been no reports of these measures being enforced, their continued existence underscores the precarious nature of Tunisia's relatively open internet environment.

In January 2022, the Interior Ministry announced plans to continue the development of biometric passports and identification cards. **99** The project was first proposed in 2016, but the new statement did not specify the necessary amendments to Law 1993-27 on national identity cards, a timeline for next steps, the stakeholders who would be

involved, or the budget allocated to the project. Past discussions had focused on two different versions of the same draft bill—one from 2016 and the second from 2020. In a statement responding to the announcement, several civil society groups criticized the ministry for disregarding the principle of transparency and the participatory approach that should be applied to legislation affecting the privacy rights of Tunisian citizens. ¹⁰⁰

Under 2014 regulations issued by the MCT, cybercafé internet users are not required to register or provide identification. ¹⁰¹

C5 0-6 pts

Does state surveillance of internet activities infringe on users' right to privacy?

2/6

Surveillance remains a concern in Tunisia, particularly in light of the country's history of intrusive monitoring under the Ben Ali regime and the lack of a comprehensive legal framework that regulates the process of surveillance and the relationships among the relevant institutions. Revelations in recent years have focused attention on the government's wiretapping ability. A state of emergency was renewed in February 2022, granting government agencies the ability to access electronic devices without a court order (see C1). ¹⁰²

Human rights and privacy groups criticized the creation of the Technical Telecommunications Agency (ATT) in 2013, citing a lack of transparency surrounding its duties. The body is tasked with supporting judicial investigations into "communication crimes." ¹⁰³ Online activists noted that it was established by decree rather than by the parliament, and that it lacked a clear and limited mandate, mechanisms to ensure its freedom from government interference, and safeguards for user rights. ¹⁰⁴ Later amendments outlined the ATT's leadership, ¹⁰⁵ which is appointed by the government, as well as an oversight board consisting mainly of representatives from various government ministries and headed by the ATT leadership. ¹⁰⁶ The ATT's mandate compels it to coordinate with telecommunications network operators and ISPs in relation to its work, so as to provide technical support for judicial investigations of cybercrimes. ¹⁰⁷

In December 2020, the MCT announced the signing of an agreement for the development of the National Unique Identification System for the Citizen, a national identifier that would consolidate various other government-related forms of identification. ¹⁰⁸ Previously, in May 2020, Prime Minister Elyes Fakhfakh issued two decrees to initiate and clarify the implementation of the system. ¹⁰⁹ The unique identifier project is intended to allow multiple state entities to access consolidated information about a citizen through a new database, the Register of the Unique Citizen Identifier, maintained by the Ministry of Local Affairs. The National Authority for the Protection of Personal Data (INPDP) has been part of the project since 2015 and will continue supervising it. ¹¹⁰ However, some NGOs expressed concerns about the centralized nature of the system, the security of the collected data, and the lack of consultation with civil society. ¹¹¹

In 2019, an amended version of the 2015 counterterrorism law ¹¹² was approved by the parliament. ¹¹³ Article 54 of the amended law still requires security and intelligence services seeking to intercept the communications of suspected terrorists to obtain judicial approval, but it does not include the original law's requirement for investigators seeking judicial approval to specify the type of communication being surveilled as well as the timing of the surveillance period. ¹¹⁴ Article 64 of the amended law increased the punishment for conducting unauthorized surveillance from one year in prison and a fine of 1,000 dinars (\$350) to five years in prison and a fine of 5,000 dinars (\$1,700). ¹¹⁵

A September 2019 Privacy International report found that the European Union (EU) had been funding surveillance projects in Tunisia. Specifically, the EU's Instrument contributing to Stability and Peace (IcSP) funded projects aimed at developing the capacity of Tunisian security agencies to counter terrorism by developing "intelligence processing and analysis" and training officials in digital intelligence gathering, including through social media and digital mapping. The IcSP's goal is to establish a group of "cyber specialists, criminal analysts, and forensic specialists" capable of conducting online investigations and collecting evidence from digital devices. ¹¹⁶

A 2018 report by Citizen Lab, a University of Toronto research center, listed Tunisia as one of 45 countries in which devices were likely breached by Pegasus, a form of targeted surveillance software developed by the Israeli technology firm NSO Group. Pegasus is known to be used by governments to spy on journalists, human rights

defenders, and opposition leaders, though it remains unclear whether the Tunisian government is a Pegasus client. ¹¹⁷

C6 0-6 pts

Does monitoring and collection of user data by service providers and other technology companies infringe on users' right to privacy?

3/6

The government has several tools it can use to compel companies and ISPs to assist with the monitoring of internet users.

Decrees governing content liability impose a duty on ISPs “to meet the requirements of the national defense, security, and public safety and security in accordance with the legislation and regulation in force” and to aid legal, military, and national security authorities as necessary. ¹¹⁸

A joint 2020 study by Access Now and ImpACT International for Human Rights Policies found that seven of Tunisia’s main ISPs have violated basic principles of customer data protection. ¹¹⁹ Only one provider, Orange Tunisie, claimed to comply with all requirements laid out in Organic Law 2004-63, the country’s data protection law, though the study found violations by that company as well. ¹²⁰

According to Facebook’s transparency report, the Tunisian government made three requests for user data between July and December 2021. Facebook responded to none of the three legal process requests. ¹²¹ Between January and June 2020, Tunisian authorities made two information requests to Twitter. One was an emergency disclosure request and the other was a legal demand, according to Twitter’s transparency report. ¹²²

Regulations issued by the MCT in 2013 do not require owners of cybercafés to monitor their customers’ activities. ¹²³

C7 0-5 pts

Are individuals subject to extralegal intimidation or physical violence by state authorities or any other actor in relation to their online activities?

3/5

Score Change: The score improved from 2 to 3 because fewer internet users were subject to physical attacks in response to their online content than in the previous coverage period, however journalists and bloggers continued to experience violence while covering protests.

In addition to arrests and prosecutions, internet users and digital activists must be wary of extralegal attempts to silence them.

Security forces used physical violence against journalists attempting to report on protests during the coverage period. In September 2021, nine digital media journalists were targeted with violence by security forces at the first demonstration organized after the president's seizure of extraordinary powers in July 2021. ¹²⁴ Similarly, journalists and photojournalists were physically and verbally assaulted by the police while covering protests in January 2022. ¹²⁵

Outside of protests, a journalist from the Shems FM radio station, which has a strong online presence, was verbally attacked by a regional governor for requesting information about the national consultation process that the president had initiated as part of his plans to overhaul the constitution. ¹²⁶ In 2021, security forces stormed the Tunis offices of the Qatar-based television network Al-Jazeera and ordered the staff to leave. Security agents seized the keys to the facility without providing any justification or invoking any judicial authorization. ¹²⁷

The SNJT expressed concerns during the coverage period about increasing harassment against journalists, including doxing and intimidation campaigns in reprisal for their expression of critical views or interviews of political figures opposed to the president's actions since July 2021. ¹²⁸ According to an annual report from the SNJT, between May 2021 and April 2022 there were 214 attacks against journalists, including 31 cases of cyberviolence, 27 physical attacks, 21 cases of incitement of violence, and 10 cases involving the threat of death or violence. The report specified that in 26 cases, the attacks were orchestrated by Facebook users based either in Tunisia or abroad. ¹²⁹

Members of the LGBT+ population are frequently subject to cyberviolence and harassment online. The authorities have confiscated and searched the phones of men they suspect of being gay and have pressured them to undergo invasive examinations

and to confess to same-sex sexual activity, according to a 2018 report from Human Rights Watch. ¹³⁰

C8 0-3 pts

Are websites, governmental and private entities, service providers, or individual users subject to widespread hacking and other forms of cyberattack?

2/3

Since the 2011 revolution, there have been no reported incidents of cyberattacks perpetrated by the government to silence individual ICT users. However, other cyberattacks targeting news websites and government bodies have been documented in recent years. ¹³¹

The Central Bank of Tunisia announced that its information system was targeted by a cyberattack in March 2022. The Public Prosecution Office of the Judicial Center for Combating Terrorism announced that it was investigating the attack on the basis of the counterterrorism and money-laundering law. ¹³² It was not immediately clear who perpetrated the attack.

During the coverage period, the MCT and the National Computer Security Agency (ANSI) called for an increase in the level of vigilance following a rise in the number of cyberattacks and attempted cyberattacks detected in the country. ¹³³ According to ANSI, 3,970 distributed denial-of-service (DDoS) attacks were reported in 2021, compared with 994 attacks in 2020. ¹³⁴

In late 2019, the minister of communication technologies presented the national cybersecurity strategy, which was aimed at implementing sectoral cybersecurity strategies, improving the legal and regulatory framework, strengthening the technical skills of officials, promoting a culture of cybersecurity, and controlling standards and technologies related to digital security. ¹³⁵

Footnotes

- ¹ “Tunisia – Telecommunications Equipment/Services,” export.gov, Accessed September 2022, <https://www.export.gov/apex/article2?id=Tunisia-Telecommunications-Equi...>

- 2 Simon Kemp, “Digital 2022: Tunisia,” Data Reportal, February 15, 2022, <https://datareportal.com/reports/digital-2022-tunisia>.
- 3 “Suivis des principaux indicateurs du marché de la data fixe en Tunisie [Monitoring of main indicators regarding the fixed data market],” Instance Nationale des Télécommunications, November 2021, http://www.intt.tn/upload/files/TB3_Data-Fixe%20-11_2021.pdf.
- 4 “Suivis des principaux indicateurs du marché de la data mobile en Tunisie [Monitoring of main indicators regarding the mobile data market],” Instance Nationale des Télécommunications, November 2021 http://www.intt.tn/upload/files/TB4_Data-Mobile%20-11_2021.pdf.
- 5 Simon Kemp, “Digital 2022: Tunisia,” Data Reportal, February 15, 2022, <https://datareportal.com/reports/digital-2022-tunisia>.

More footnotes



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Country Facts

Global Freedom Score

64/100 Partly Free

Internet Freedom Score

61/100 Partly Free

Freedom in the World Status

Partly Free

Networks Restricted

No

Social Media Blocked

Yes

Websites Blocked

No

Pro-government Commentators

No

Users Arrested

Yes

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