

# TUNISIA'S WITHDRAWAL FROM THE AFRICAN COURT OF HUMAN AND PEOPLES' RIGHTS

On March 7, 2025, Tunisia notified the African Union of its decision to [withdraw](#) the Article 34(6) declaration, which allowed individuals and non-governmental organizations to file cases against it before the African Court of Human and Peoples' Rights. What does this withdrawal mean, and what are its consequences for human rights protection in Africa?



## ABOUT THE AFRICAN COURT

### WHAT IS THE AFRICAN COURT OF HUMAN AND PEOPLES' RIGHTS?

[The African Court of Human and Peoples' Rights](#) (the Court) was established in 2004 by a [Protocol](#) to the African Charter on Human and Peoples' Rights. It is composed of eleven judges, nominated by States Parties to the Protocol and elected by the Assembly of the African Union. The Court is located in Arusha, Tanzania.

### WHAT KIND OF CASES CAN THE COURT EXAMINE?

The Court examines cases regarding the interpretation and application of the African Charter on Human and Peoples' Rights, the Protocol, and any other Human Rights Instrument applicable to the State involved in the case. These cases may be filed by States against other States, by individuals against States, or by non-governmental organizations against States. The Court can also issue advisory opinions when States or other entities request the Court's legal opinion on a legal issue through a non-contentious process.

## HOW DOES A CASE GET TO THE COURT?

There are several ways in which the Court can consider a case. The African Commission of Human and Peoples' Rights (the Commission) can refer a case to the Court for examination. States Parties whose citizens have been victims of a human rights violation, or who have been part of inter-state proceedings before the Commission, can also submit cases to the Court. African intergovernmental organizations, like mechanisms created by the African Union, can also submit cases to the Court. Finally, individuals and non-governmental organizations from certain countries that have made a declaration in accordance with Article 34(6) of the Protocol can also file cases directly before the Court.

## WHAT IS AN ARTICLE 34(6) DECLARATION, AND HOW IMPORTANT IS IT FOR HUMAN RIGHTS?

Following ratification of the Protocol, a State may make a declaration accepting the African Court's competence to accept cases filed against it by individuals and/or non-governmental organizations. Without this declaration, individuals and non-governmental organizations cannot bring cases against a State even if that State is a party to the Protocol. Cases filed under Article 34(6) Declarations make up over 98% of the Court's caseload, which highlights the importance of these declarations to the court's functioning and effectiveness in protecting human rights on the Continent. However, cases may be brought against states that have not made the Article 34(6) declaration by the African Commission on Human and Peoples' Rights or other States Parties to the Protocol.

## WHICH STATES HAVE MADE AN ARTICLE 34(6) DECLARATION?

Currently, seven States have active Article 34(6) Declarations. This group includes Burkina Faso, Malawi, Mali, Ghana, the Gambia, and Guinea-Bissau.

Four more countries – Tanzania, Rwanda, Côte d'Ivoire (Ivory Coast), and Benin – had previously made an Article 34(6) declaration but have subsequently withdrawn it, meaning that individuals and NGOs from these countries can no longer file cases. With its withdrawal, Tunisia will join this group, bringing the total number to five.

## ABOUT TUNISIA'S RELATIONSHIP WITH THE COURT

## WHAT IS THE HISTORY OF TUNISIA'S RELATIONSHIP WITH THE COURT?

Tunisia signed the Protocol on 6 September 1998, joining the first group of States that signed the instrument. However, Tunisia did not become a State Party to the Protocol until the Government ratified it in 2007, three years after the Protocol came into force. In 2017, Tunisia made an Article 34(6) declaration, becoming one of only nine African States to do so.

## WHAT ARE THE NOTABLE CASES THAT THE COURT HAS DECIDED REGARDING TUNISIA?

The Court has received about 25 cases against Tunisia and finalized 11 of them. Two of the 25 cases were brought against Tunisia and the other States that have made the Article 34(6) declaration. Others were filed against Tunisia alone. Of the 25 cases against Tunisia, 20 were commenced after President Saied came to power in 2019.



Some notable cases against Tunisia include [Zorgati v. Tunisia](#) (2021), in which the Court ruled that Tunisia's failure to establish a Constitutional Court and the president's power to remove judges violated the independence of the judiciary, as protected by Article 26 of the Charter. In [Belguith v. Tunisia](#) (2022), Tunisian lawyer Ibrahim Belguith successfully argued before the Court that Saied's 2021 coup violated Tunisians' fundamental rights, including the right to participate in government and to be heard before a court. In 2023, the families of prominent political prisoners accused the Government of human rights violations. The Court's provisional measures in [Moadh Kheriji Ghannouchi and Others v. Tunisia](#) (2024) required Tunisia to provide detainees with legal counsel and medical attention while the Court examined the full merits of the case. [Safinaz Ben Ali and Lamia Jendoubi v. Tunisia](#) (2024) is the most recent case to be decided by the Court.

## WHAT IS THE STATUS OF TUNISIA'S ARTICLE 34(6) DECLARATION AFTER ITS NOTIFICATION OF WITHDRAWAL?

Although Tunisia notified the African Union of its withdrawal, the declaration is still valid for a one-year period, ending on March 6, 2026. While this one-year notice period is not provided in the Protocol, the Court decided in the case of [Umuhoza vs. Rwanda](#) (2014) that a State's withdrawal of the Article 34(6) declaration will become effective one year after the State gives notice to the African Union. This means that individuals and non-governmental organizations from Tunisia can still file cases directly to the Court before March 6, 2026.

## WHEN THE ONE-YEAR WAITING PERIOD EXPIRES, WHAT HAPPENS TO CASES INVOLVING TUNISIA THAT ARE PENDING BEFORE THE COURT?

Any case filed before the Court before March 6, 2026, remains on its docket, and the Court can examine and hand down decisions at any time after that date. This includes both cases pending before notification of withdrawal and those filed during the one-year notice period after notification.

## **DOES THIS MEAN TUNISIA IS NO LONGER SUBJECT TO THE COURT'S JURISDICTION?**

No. Despite withdrawing the Article 34(6) declaration, Tunisia remains subject to the Court's jurisdiction. This is because Tunisia remains a party to the Court's Protocol, and the Court's decisions are still applicable to Tunisia as a party to the Protocol. In addition, other States Parties to the Protocol could still file cases against Tunisia. In addition, the African Commission on Human and Peoples' Rights can bring cases against Tunisia, and request advisory opinions from the Court.

## **CAN TUNISIA MAKE ANOTHER ARTICLE 34(6) DECLARATION IN THE FUTURE?**

Yes. Tunisia can make the Article 34(6) declaration again in the future. Tanzania has indicated that it may reverse its withdrawal soon. However, stakeholders have a responsibility to pressure Tunisia to reverse its declaration and reaffirm its commitment to the Court's jurisdiction to entertain individual cases.

## **HOW ELSE CAN INDIVIDUALS AND NGOS BRING CASES AGAINST TUNISIA?**

Although the withdrawal of Tunisia's Article 34(6) declaration means that individuals and NGOs can no longer have direct access to the Court for human rights cases, other regional and international bodies remain open to advocates. NGOs can still submit individual communications regarding specific cases to the African Commission on Human and Peoples' Rights. For cases involving arbitrary detention, the United Nations Working Group on Arbitrary Detention accepts communications and can issue a determination regarding the legality of the individual's detention. Other UN treaty bodies that can consider individual complaints against Tunisia include the Committee Against Torture, the Human Rights Committee, the Committee on the Elimination of All Forms of Discrimination against Women, and the Committee on the Rights of Persons with Disabilities.

## **WHAT DOES TUNISIA'S WITHDRAWAL MEAN FOR HUMAN RIGHTS IN AFRICA?**

While Tunisia's withdrawal means that individuals and non-governmental organizations will no longer be able to file petitions directly with the Court after March 6th, 2026, advocates still have time to put human rights on the agenda of the Court. Tunisian activists and human rights defenders should use the one-year period to escalate litigation before the Court, drawing lessons from Tanzania, where withdrawal in 2019 led to a surge in cases before the deadline.