AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
UNIÓN AFRICANA		UMOJA WA AFRIKA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

IN THE MATTER OF

BRAHIM BEN MOHAMED BEN BRAHIM BELGHITH

V.

THE REPUBLIC OF TUNISIA

Application No. 2025/004

Order

(Reopening of pleadings)

30 October 2026



The Court composed of: Blaise TCHIKAYA, President; Chafika BENSAOULA, Vice-President; Suzanne MENGUE, Tujilane R. CHIZUMILA, Stella I. ANUKAM, Imani D. ABOUD, Dumisa B. NTSEBEZA, Modibo SACKO, Dennis D. ADJEI, Duncan GASWAGA – Judges; and Robert ENO, Registrar.

In accordance with Article 22 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (hereinafter referred to as "the Protocol") and Rule 9(2) of the Rules of Court (hereinafter referred to as "the Rules"), Justice Rafaâ BEN ACHOUR, Judge of the Court and a national of Tunisia, did not hear the Application.

In the Matter of:

Brahim Ben Mohamed Ben Brahim BELGEITH

Self-Represented

Versus

REPUBLIC OF TUNISIA

represented by

Mr. Saleh Ben Omar, The Director General of State Litigation

After deliberation,

issues this Order:

I. The parties

1. Mr. Brahim Ben Mohamed Ben Brahim Belgeith (hereinafter referred to as "the Applicant"), is a Tunisian national and a lawyer residing in France with his office in Montfleury, Tunisia. He alleges violation of the fundamental rights of Tunisians by the Republic of Tunisia, following its withdrawal of the Declaration filed in accordance with Article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (hereinafter referred to as "the Protocol").

2. The Application is filed against the Republic of Tunisia (hereinafter referred to as "the Respondent State"), which became a Party to the African Charter on Human and Peoples' Rights (hereinafter referred to as the "Charter") on 16 March 1983, and to the Protocol on 21 August 2007. It deposited, on 16 April 2017, the Declaration under Article 34(6) of the Protocol by virtue of which it accepted the jurisdiction of the Court to receive cases from individuals and Non-Governmental Organisations having observer status before the African Commission on Human and Peoples' Rights (hereinafter referred to as "the Declaration"). On 7 March 2025, the Respondent State deposited, with the African Union Commission, an instrument withdrawing the said Declaration. The Court has held that this withdrawal has no bearing on pending cases and new cases filed before 8 March 2026, which is the day on which the withdrawal took effect, being a period of one year after its deposit.[1]

II. SUBJECT OF THE APPLICATION

[1] *Mouaz Khariji Ghannouchi and Others v. Republic of Tunisia,* AfCHPR, Application No. 004/2023, Decision of 17 March 2025 (Ruling on the request for the revocation of the Order on Provisional Measures of 28 August 2023), §§ 12 and 13.

3. The Applicant alleges that the President of the Respondent State, Mr. Kais Saied, invoked the exceptional circumstances based on Chapter 80[2] of the Respondent State's Constitution of 2014, in particular, Presidential Decree No. 117/2021 by virtue of which the President assumed a position above the Constitution and seized the executive and legislative powers. According to the Applicant, this Court has ruled that the exceptional measures taken were unconstitutional and it issued a decision nullifying those measures, ordered a return to constitutional democracy, and the establishment of a constitutional Court.[3]

4. The Applicant also alleges that the Respondent State has not complied with the decision of this Court but instead it has issued more orders that undermine the democratic process. It is also alleged that the Respondent State promulgated a new constitution in 2022 which consolidated the authority of the President of the Respondent State.

5. The Applicant also alleges that the Respondent State withdrew the Declaration of acceptance of the jurisdiction of this Court, as provided for under Article 34(06) of the Protocol, which constitutes a violation of number of human rights as outlined in his Application before this Court.

[2] Article 80 of the 2014 Constitution stipulates the following: "In the event of an imminent danger to the existence of the country and the security and independence of the country, which makes it impossible for the normal functioning of the wheels of the State, the President of the Republic may, after consulting the Prime Minister and the Speaker of the Assembly of the People's Representatives, and informing the President of the Constitutional Court, and announce the measures in a statement to the people.
These measures shall be aimed at ensuring the return of the normal functioning of the State as soon as possible, and the Assembly of People's Representatives shall be considered in permanent session during this period. In such a case, the President of the Republic may not dissolve the Assembly of the People's Representatives, nor may a censure be filed against the Government.
Thirty days after the entry into force of these measures, and at any time thereafter, the Constitutional Court shall be entrusted with a request by the Speaker of the Assembly of the People's Representatives or thirty of its members to decide whether or not the state of exception shall be maintained. The Court shall announce its decision publicly within a maximum period of fifteen days.
Those measures shall cease to be in force when their causes are eliminated. The President of the Republic shall make a statement to the people in this regard."

[3] *Brahim Ben Mohamed Ben Ibrahim Belgeith v. Republic of Tunisia,* AfCHPR, Application No. 017/2021, Judgment of 22 September 2022 (merits and reparations), § 147.

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

6. The main Application, together with a request for provisional measures, were filed on 7 July 2025.
7. On 21 July 2025, the main Application, together with the request for provisional measures, were served on the Respondent State, which was granted 45 days to respond to the request for provisional measures and 90 days to respond to the main Application. At the expiration of these deadlines, the Respondent State had not filed any Responses.
8. On 3 December 2025, the Respondent State was reminded of the expiration of the deadlines and was granted an additional 30 days to file its Responses but it did not do so.
9. Pleadings were closed on 25 February 2026, and the Parties were duly informed.
10. On 6 July 2026, the Court issued an order dismissing the Applicant's request for provisional measures.
11. On 18 September 2026, the Respondent State filed its Response to the Main Application.

IV. ON THE REOPENING OF THE PROCEEDINGS

12. None of the Parties request for the reopening of pleadings. The Respondent State filed its Response to the Main Application out of time, without however expressly requesting for reopening of pleadings.

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13. Rule 46(3) of the Rules provides that "The Court has the discretion to determine whether or not to reopen pleadings". Furthermore, Rule 90 of the Rules provides that "Nothing in these Rules shall limit or otherwise affect the inherent power of the Court to adopt such procedure or decisions as may be necessary to meet the ends of justice".

14. The Court considers that, in the present case, the interests of justice require that the Respondent State be permitted to submit its Response to the Main Application.
15. Accordingly, in the exercise of its discretionary power and in the interests of the proper administration of justice, the Court considers that it is proper to deem the Respondent State's Response as having been duly filed. The Court therefore decides to reopen the proceedings and to serve the Respondent State's Response on the Applicant, granting him a period of 45 days to submit his Reply thereto, should he so wishes.

V. OPERATIVE PART

16. For the above reasons,

THE COURT

Unanimously,

i. *Decides* to reopen pleadings in Application No. 004/2025 – *Brahim Ben Mohamed Ben Brahim Belgeith v. Republic of Tunisia*; and
ii. *Orders* the Applicant to submit his Reply to the Respondent State's Response, if he so wishes, within 45 days of receipt of this Order.

Signed:

Blaise TCHIKAYA, President:

and

Robert ENO, Registrar.

Done at Arusha, on this Thirty Day of October in the Year Twenty Twenty-Six, in Arabic, English and French, the Arabic text being authoritative.