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African Court on Human
and Peoples' Rights

Arusha, Tanzania

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JUDGMENT SUMMARY

AL-ASSAD MILAD V. REPUBLIC OF TUNISIA

APPLICATION NO. 032/2018

JUDGMENT ON MERITS AND REPARATIONS

26 JUNE 2025

**A DECISION BY THE AFRICAN COURT ON HUMAN AND PEOPLES'
RIGHTS**

Arusha, 26 June 2025: The African Court on Human and Peoples' Rights (the Court) has, today, delivered a judgment in the case of *Al-Assad Milad v. Republic of Tunisia*.

On 11 September 2018, Mr. Al-Assad Milad ("the Applicant") filed an Application before the Court against the Republic of Tunisia ("the Respondent State"). On 7 March 2025, the Respondent State filed, with the African Union Commission, an instrument withdrawing its Declaration under 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 ("the Protocol"). The Court, in line with its jurisprudence, held that this withdrawal has no bearing on pending cases and new cases filed before the withdrawal enters into force, i.e. one year after its filing, in this case, 8 March 2026.

According to the record, the Applicant was a shareholder in the Tunisian Metal Rolling Company Milad Stomital, which offered a number of its properties for sale at a public auction, on 15 August 2008, to the Tunisian Bank Company. On 15 August 2008, the Applicant participated in the auction, along with the Avenue Real Estate Company, which, according to the Applicant, was merely a branch of the Tunisian Bank Company. The property, measuring 60,000 square meters, was awarded to the Avenue Real Estate Company at this auction session. The Applicant alleged that he offered a price for the same property that was more



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than one-sixth higher than what the Avenue Real Estate Company offered at the auction of 15 August 2008. This, in accordance with Article 442 of the Civil and Commercial Procedure Code, resulted in the property being put up for auction again.

The Applicant alleged that the Respondent State violated (a) his right to a fair trial, guaranteed under Article 7(a) of the Charter, and (b) his right to property, under Article 14 of the Charter.

Resultantly, the Applicant prays the Court to: (a) consider it an aggrieved party by the Respondent State's judicial system, being responsible for the violation of his right to benefit from a fair and impartial judiciary, (b) oblige the Respondent State to return the property in question to the Applicant, according to the price reached at the first auction session, and compensate him with an amount of not less than 31 million Euros for the damages he suffered, and in the event that it is impossible to return the property to him, to compensate him with not less than 50 million Euros for all the damage he suffered, and (c) make all possible conciliatory efforts with the Respondent State before hearing the case.

In its Response, the Respondent State prays the Court to hold that this Application is inadmissible and, on merits, to dismiss it in its entirety.

On the Court's jurisdiction, the Respondent State asserted that the Applicant's allegations neither fell within the scope of human rights nor within the jurisdiction of this Court. According to the Applicant, however, the Respondent State could not invoke a limited interpretation of the rules of international law relating to the comprehensive concept of human rights to absolve itself of its legal and moral responsibility for the actions of its civil servants and judges which caused grave harm to citizens. The Applicant also alleged that national Courts had violated an explicit rule in the procedures relating to the public auction sale, and that this violation constituted a violation of the right to a fair and impartial trial.



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The Court considered that in this case, the Applicant alleged a violation of his right to a fair trial and to property, both protected by the Charter, to which the Respondent State is a party. The Court, therefore, considered that, in view of these allegations, it would be discharging its mandate to interpret and apply the Charter and other human rights instruments ratified by the Respondent State if it heard the Applicant's Application. In light of the foregoing, the Court rejected the Respondent State's objection and held that it had subject-matter jurisdiction to hear the Application.

On admissibility, the Respondent State raised two objections not mentioned in Article 56 of the Charter, that is: the Applicant's filing of his Response after the expiry of the time limits set by the Court, and the principle of sovereignty and independence of the judiciary.

As for the first objection, the Respondent State asserted that time limits are procedural aspects of cases that the Court must consider, monitor, and enforce before going into the substance of a dispute. The Applicant did not respond to this objection.

The Court held that the admissibility of applications or the extension of time limits is within its discretion, to be considered according to the circumstances of each case. The Court also held that the extension of time limits is an exceptional practice in the interests of justice, but without prejudice to the proper administration of justice. In the instant Application, the Court held that the principle of equality of arms was guaranteed as both parties benefited equally from the extension of time limits. The Court, therefore, dismissed the Respondent State's objection.

As for the second objection, the Respondent State submitted that the subject of the Application relates to a judgment issued by a judicial authority that is independent of everyone, including the State under whose banner it operates, and the infringement of its decisions constitutes an infringement of the state's



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sovereignty, which is considered an essential part of its internal authority. It also submitted that it is not permissible to interfere with the acts of the judicial authority, including by this Court.

For his part, the Applicant responded that the State is responsible for the actions of its internal agencies based on the principle of legal unity of the concept of the state, and it is responsible for the actions of its employees, and that he has the right to sue it before this Court by virtue of its acceptance of its jurisdiction.

The Court held that by joining international treaties and conventions, States have recognized international jurisdiction to protect human rights, and are therefore, subject to oversight by international mechanisms, including this Court. The Court also asserted that the Respondent State is a party to the Charter and to the Protocol, and has deposited the Declaration allowing individuals to submit complaints to this Court. This is consistent with its obligations as a state ratifying the Charter and does not constitute an infringement of its national sovereignty. The Court, therefore, dismissed this objection.

The Respondent State did not raise any objections related to the admissibility requirements set forth in Article 56 of the Charter. The Court nevertheless examined all the conditions in Article 56 and held that the Application satisfied these requirements.

Regarding the amicable settlement request, the Applicant requested the Court to “make all possible conciliatory efforts to reach an amicable settlement with the Respondent State before hearing the case.” The Respondent State did not respond to this request. On 15 October 2024, the Court issued an Order to reopen the proceedings, which was notified to the Respondent State on 17 October 2024, for the purpose of submitting its comments on the amicable settlement request, within a period of 30 days from the date of receipt. By the expiry of this period, the Respondent State had not submitted a response.



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The Court, therefore, concluded that the Respondent State was not willing to participate in the proposed amicable settlement. In this regard, the Court emphasized that the prerequisite for reaching an amicable settlement is the willingness of the parties to participate in this process. Given the failure of the attempt to reach an amicable settlement, the Court also stated that the provisions of the Protocol and the Regulations relating to amicable settlement are not mandatory. The Court, therefore, held that the prerequisites for an amicable settlement had not been met. The Court thus, dismissed the Applicant's request for an amicable settlement.

On the merits, the Applicant alleged two violations, being the alleged violation of the right to a fair trial, and alleged violation of the right to property.

The applicant alleged a violation of his right to a fair trial on two grounds: first, that the national Courts erred in applying the law, and second, that his right to have decisions delivered in a public hearing was violated. The Court considered these allegations separately.

As for the first allegation, the Applicant alleged that the acceptance of the bid of the so-called "The Avenue Real Estate Company" on 15 October 2008, in Case No. 20283, constituted a flagrant violation of the explicit procedural rules required by Tunisian domestic law, as specified in Civil and Commercial Procedure Code, particularly Articles 444 and 425.

In its Response, the Respondent State argued that the judicial rulings issued by the Tunisian judiciary were impeccable, given the guarantees established by the legislature, such as the principle of two-level litigation and the Court of Cassation's oversight of the application of the law. It also asserted that, its courts were administered by judges who possessed competence, impartiality, independence, and experience. It added that its judiciary is independent in its decisions and is subject to no authority other than the law. It concluded by pointing out that its judiciary is independent even from the State under whose



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jurisdiction it operates. It submitted, therefore, that it is not responsible for the decisions issued by the judiciary and is not obligated to compensate for them.

In respect of the Parties' contentions, the Court held that the Court of Cassation's ruling was based on legal and logical grounds and thus justified. The Court also held that the Applicant had failed to demonstrate any clear violation or misapplication of law by the local judges necessitating its intervention. Under these circumstances, the Court held that the Respondent State did not violate the Applicant's right to a fair trial, protected under Article 7 of the Charter.

As for the second allegation, relating to the violation of the public delivery of judgments, the Applicant alleged that the procedural violation amounted to a violation of the right to have the judgment delivered in a public, in accordance with Article 108 of the Tunisian Constitution of 2014.

The Respondent State did not respond to this argument.

The Court asserted that, from a combined reading of Article 7 of the Charter and Article 14(1) of the International Covenant on Civil and Political Rights (ICCPR), the public administration of justice is partly guaranteed by the requirement that any judgment be delivered in a public session and failure to comply with this obligation constitutes a violation of international human rights law. This obligation extends even to cases heard in closed sessions. Article 121 of the Civil and Commercial Procedure Code stipulates demonstrates that the Respondent State has incorporated into its legal system the right claimed by the Applicant in this Application.

Referring to the judgments attached to the Application, the Court found that Judgment No. 20283 issued by the Ben Arous Court of First Instance on 15 October 2008 stated, on the first page, that it was issued in a public session. Decision No. 22538, issued by the First Chamber of the Ben Arous Court on 3 November 2010, stated on page five, "Publicly delivered the following judgment." Decision No. 82390, issued by the Tunis Court of Appeal on 8 April 2016, stated



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on its first page, "In its public session held on Friday, 8 April 2016..." Meanwhile, Decision No. 31528 issued by the Tunis Court of Appeal on March 12, 2013, and Decision No. 45501/46360 issued by the Supreme Court on 4 December 2017, did not state whether they were delivered in public sessions. The Court held, therefore, that the failure of the two judgments above to indicate that they were delivered in public sessions constituted a violation of Article 7(1) of the Charter, read together with Article 14(1) of the ICCPR.

Regarding the allegation of violation of the right to property, the Applicant alleged that he was subjected to a violation of the right to property resulting from an error by the national judiciary in applying explicit and clear domestic legal rules recognizing his right as the sole party eligible to participate in the auction.

In its Response, the Respondent State argued that the Applicant's submission was invalid, given that the public auction process is open to the public and to anyone seeking to own the property. It explained that when the property at issue was put up for auction, another party, The Avenue Real Estate Company, joined the Applicant, and enjoyed the same opportunity as the Applicant. The sale was confirmed in its favor, and it subsequently acquired ownership of the property and it had a real right thereto pursuant to a final Court judgment. The Respondent State also responded that the property was not owned by the Applicant and thus could not be returned to his ownership.

The Court reiterated its previous judgment that the right of ownership, as specified in Article 14 of the Charter, includes the right to use the thing that is the subject of the right (*usus*), the right to enjoy its fruits (*fructus*), and the right to dispose thereof (*abusus*). In the instant Application, the Applicant alleged that the trial judges erred in applying the law, which prevented him from owning the property. However, the Court found that the Applicant's allegation was misplaced as he failed to prove any of the aforementioned rights, rendering his allegation unfounded. The Court, therefore, dismissed this argument and held that the



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Respondent State had not violated the Applicant's right to property under Article 14 of the Charter.

As to reparations, the Court rejected the compensation for material damages sought by the Applicant and granted him 600 Tunisian Dinars in compensation for moral damages. Regarding reparations for the non-financial damages, the Court ordered the publication of this judgment within three months of the date of notification on the websites of the Respondent's judiciary and the Ministry of Justice, and to guarantee that the text of the judgment shall remain available for at least one year after the date of publication thereof. The Court also ordered the Respondent State to submit a periodic report on the implementation of this judgment, in accordance with Article 30 of the Protocol, detailing the measures taken to implement this judgment within six (6) months of its date of delivery.

As for costs, the Court decided that each party would bear its own costs.

Further Information

Further information about this case, including the full text of the decision of the Court, may be found on the website at: <https://www.african-court.org/cpmt/details-case/0322018>

For any other queries, please contact the Registry by email: registrar@african-court.org

The African Court on Human and Peoples' Rights is a continental Court established by African Union Member States to ensure the protection of human and peoples' rights in Africa. The Court has jurisdiction over all cases and disputes submitted to it concerning the interpretation and application of the African Charter on Human and Peoples' Rights and any other relevant human rights instrument ratified by the States concerned. For further information, please consult our website at: <https://www.african-court.org/>