

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		

APPLICATION NO. 002/2025

THERESIA VAN DER HOEK (ON BEHALF OF JURRIËN TEN CATE)

V.

THE REPUBLIC OF TUNISIA

CASE SUMMARY

17 MARCH 2026

I. THE PARTIES

1. Theresia Van DER HOEK (herein referred to as Applicant) is a national of the Netherlands who filed the Application against the Republic of Tunisia (herein referred to as the Respondent State) on behalf of her son; Jurriën TEN CATE, also a national of the Netherlands, aged thirty-three years old at the time of filling the Application. Jurriën TEN CATE is currently serving a term of twenty (20) years imprisonment at the Civil Prison of Mornaguia in Tunisia for the offense of murder contrary to the provisions of Article 205 of the Tunisia Criminal Code (Amended by Law No. 89-23 of 27 February 1989).
2. The Respondent State became a party to the African Charter on Human and Peoples' Rights (hereinafter "the Charter") on 21 October 1986. It became a party to the Protocol to the Charter on the Establishment of the African Court on Human and Peoples' Rights (hereinafter "the Protocol") on 5 October 2007. In addition, on 2 June 2017, the Respondent State deposited with the Chairperson of the Commission of the African Union the declaration provided for in Article 34(6) of the Protocol, accepting the jurisdiction of the Court to receive applications from individuals and non-governmental organizations. Tunisia withdrew their Article 34(6) declaration on 7 March 2025. However, according to the Court's settled jurisprudence, this withdrawal has no bearing on pending cases and new cases filed before 8 March 2026, which is the day on which the withdrawal will take effect.¹

II. SUBJECT OF THE APPLICATION

A. FACTS OF THE MATTER

3. It emerges from the file that the Applicant's son Jurriën TEN CATE, in 2012, met Marwa BOUALI, a Tunisian national resident in Tunisia, on a dating site and embarked on a relationship with her, which led to him travelling to Tunisia to meet her and subsequently marrying her on 21 August 2013 in

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

Ben Arous, Tunisia. Jurriën TEN CATE stayed in Tunisia for his honeymoon from 17th - 31st August 2013. He had previously been employed as a planner at Donna Karan New York and at a Supermarket Chain Distribution Centre.

4. The Application states that in October 2013,² Ms. BOUALI threatened to commit suicide after an altercation with her husband Jurriën TEN CATE. On the night of “27 to 28 December 2013, at about 00:30hrs”, Ms. BOUALI allegedly fell from the balcony of their third-floor hotel room at Solaria & Thalasso Hotel. Jurriën TEN CATE allegedly heard her scream as she descended to the ground but did not see her fall. Although she was still alive at that point, she was unconscious. She was subsequently transferred to the hospital where she succumbed to death an hour after the fall.
5. Jurriën TEN CATE was arrested by the Tunisian police authorities on 28 December 2013 at about 06:00hrs and taken for questioning in the death of his wife. Eventually, on 23 June 2014, criminal charges of murder were brought against him.
6. The Applicant alleges that her son’s hearings before the Criminal Chamber of the First Instance Court in Grombalia were scheduled for 11 May 2015, but were postponed nine times. Eventually,³ the case was heard and judgment was delivered on 2 November 2015 by the Criminal Chamber of the First Instance Court. Her son was convicted of murder and sentenced to twenty years imprisonment. The Applicant’s son appealed the conviction and the sentence to the Appeal Court of Nabeul on 13 March 2016, which also postponed the consideration of the matter twice.⁴ The Appeal Court of Nabeul upheld the conviction and sentence on 17 May 2016. The Applicant’s son further appealed to the Supreme Court which also upheld the conviction and sentence of the Appeal Court of Nabeul on 26 September 2017.

² Date not specified but pleadings filed in both English and Arabic

³ Information not provided in the Application but may have been provided in the decision of the Criminal Chamber of the First Instance Court attached hereto in Arabic.

⁴ From 21 January 2016 to 18 March 2016

7. It emerges from the file that on 5 October 2022, the *National Forensisch Onderzoeksbureau* (“NFO”), a Dutch investigation agency recognized by the Dutch authorities provided a new report in relation on the case following a request from a filmmaker who was preparing a documentary about the case. The report identified various flaws in the autopsy conducted on Ms. BOUALI and inconsistencies in the Tunisian police report with regard to the cause of death.
8. On 10 July 2023, Applicant’s son, with the support of the Dutch government and the former Prime Minister of the Netherlands, submitted a request for pardon to the President of Tunisia on the basis that the son had exhibited exemplary conduct within the prison and, furthermore, had served half of his sentence. The President did not accede to this request on the occasion of the Fête de la République, which takes place every 25 July. On 18 January 2024, the son submitted a second request for pardon, however there was no response from the Tunisian authorities on 25 July 2024.

B. ALLEGED VIOLATIONS

9. “ **Right to have access to an effective remedy.** He alleges the violation of Article 7 (1) (a) of the ACHPR and Article 2 (3) (a) of the ICCPR, as the impossibility of the Victim and his representative to ask for a re-opening of the case violated his right to have access to an effective remedy.
10. **Right to defence and to a fair trial.** He alleges the violation of Article 7 (1) (c) of the ACHPR and Article 14 of the ICCPR owing to : the legal obstacles for the Victim and his lawyer to be present in the courtroom during witnesses’ examinations; the failure to be presented with an opportunity to cross-examine witnesses from the prosecution; the failure to have access to the contents of the examination and to exculpatory evidence; and the lack of translation services.
11. **Right to dignity.** He alleges the violation of Article 5 of the ACHPR and Article 10 (1) of the ICCPR owing to the detention conditions, acknowledged by the United Nations through the Special Rapporteur on torture.

12. **Right to enjoy mental and physical health.** He alleges the violation of Article 16 (1) of the ACHPR, because the detention conditions and lack of personal and proper treatment hindered him from enjoying his right to mental and physical health.

13. **Right to a family life and the protection of the family.** He alleges the violation of Article 18 (1) and (2) of the ACHPR and Article 23 of the ICCPR because he was prevented by the Tunisian prison authorities from having regular contact with his family. He further alleges that he cannot write more than a one-page letter to them every two weeks.”

III. PRAYERS

14. The Applicants pray the Court to:

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- i. Find that the Republic of Tunisia violated its obligations under Article 5, Article 7 (1) (a), (c), Article 16 (1), and Article 18 (1), (2) of the African Charter on Human and Peoples’ Rights;
- ii. Find that the Republic of Tunisia violated its obligations under Article 2 (3) (a), Article 10 (1), Article 14 (3) (b), (d), (e) and (f), and Article 23 (1) of the International Covenant on Civil and Political Rights;
- iii. Urge the Republic of Tunisia to acknowledge these violations;
- iv. Urge the Republic of Tunisia to end immediately these violations;
- v. Order the Republic of Tunisia to allow Applicant’s son a re-trial;
- vi. Order the Republic of Tunisia to take immediate steps to transfer Applicant’s son to the Netherlands to serve the remainder of his sentence in his home country;
- vii. To impose interim measures:**
 - a) to order the (temporary) release of Victim, pending the outcome of the above-mentioned requests sub I-V.
 - b) To issue any other order the Court might deem fit. ”