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Niger

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 163rd session (virtual session, 1 to 13 February 2021)



© Seidou Bakari

NER-116 – Seidou Bakari

Alleged human rights violations

- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Excessive delays
- ✓ Failure to respect parliamentary immunity
- ✓ Violation of freedom of opinion and expression

A. Summary of the case

On 28 July 2015, the Bureau of the National Assembly authorized the arrest of member of parliament Seidou Bakari, chairperson of the parliamentary group of the MODEN/FA Lumana-Africa party, without first affording him a hearing. When he failed to be re-elected, he was arrested at the end of his parliamentary mandate, on 16 May 2016, and has been held in pretrial detention without trial since that date. Following serious health problems, he is currently in hospital, as his condition requires specialized medical care that is not available in prison.

Mr. Seidou Bakari is accused of embezzling public funds in 2005, while he was coordinating a food crisis unit under the aegis of the Office of the Prime Minister, who at that time was Mr. Amadou Hama, one of the main opponents of the Head of State, and whose case is also under examination by the Committee on the Human Rights of Parliamentarians.

According to the complainant, Mr. Bakari's parliamentary immunity was not respected, in that he was not given a hearing by the Bureau and no criminal charges had been laid against him before his

Case NER-116

Niger: Parliament affiliated to the IPU

Victim: A former opposition member of the National Assembly

Qualified complainant(s): Section I.(1)(a) of the [Committee Procedure](#) (Annex I)

Submission of complaint: September 2015

Recent IPU decision: March 2018

IPU Mission(s): - - -

Recent Committee hearing: Hearing with the delegation of Niger at the 140th IPU Assembly (Doha, April 2019)

Recent follow up:

- Communication from the authorities: Letter from the Deputy Speaker of the National Assembly (April 2019)
- Communication from the complainant: January 2021
- Communications addressed to the authorities: Letter to the Minister of Justice (May 2019) and letter to the Speaker of the National Assembly (December 2020)
- Communication addressed to the complainant: January 2021

immunity was lifted. The complainant considers that his continuing detention and the lack of progress in the judicial proceedings are deliberate and represent violations of Mr. Bakari's fundamental right to fair trial proceedings conducted without excessive delays. His requests for interim release were reportedly rejected in violation of the Code of Criminal Procedure. The complainant also alleges violation of his rights to defence and failure by the investigating judge to take account of the exculpatory evidence provided by Mr. Bakari's lawyer.

The complainant asserts that the charges brought against Mr. Bakari are unfounded and that he is the victim of political and judicial harassment purely because he is a member of the opposition and a close collaborator of Mr. Amadou Hama. As a member of parliament and chairperson of his parliamentary group, he supported Mr. Hama – then Speaker of the National Assembly – when the latter was subjected to criminal proceedings and had announced that his party would be siding with the opposition in the next presidential elections.

According to the parliamentary authorities, the case is not political in nature and procedures have been followed. No information has been provided recently by the authorities on Mr. Bakari's continued detention, nor on the status of the judicial proceedings. In a letter sent in April 2019, the Deputy Speaker of the National Assembly stated that the case was pending before the courts of Niger and that, under the principle of the separation of powers, the National Assembly was unable to intervene in any way.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Reiterates its deep concern* at the prolonged length of Mr. Bakari's pretrial detention, which does not appear to be in keeping with articles 131 to 133 of the Niger Code of Criminal Procedure, and at the length of the preliminary investigation; *urges* the competent authorities, therefore, to release Mr Bakari immediately, also taking into account his deteriorating health, and to expedite the processing of the case;
2. *Recalls* its previous conclusions concerning the undeniable political dimension of the case, as well as its concerns about the parliamentary procedure followed in authorizing the lifting of Mr. Bakari's immunity; *notes with great interest*, however, that the Rules of Procedure of the National Assembly were subsequently amended to better regulate the lifting of parliamentary immunity by the Bureau when parliament is in recess; *thanks* the parliamentary authorities for providing a copy of the new Rules to the Committee;
3. *Urges* the Niger authorities to do their utmost to ensure the impartial and independent processing of the case as soon as possible and in strict compliance with national, regional and international standards in terms of a fair trial and the fight against corruption; *requests* the authorities to keep it informed of the decisions to be taken by the Niger courts and of any new developments concerning the proceedings and, if applicable, of the trial dates; *reaffirms its wish* to appoint a trial observer to follow the trial; and *looks forward* to receiving a positive response from the national authorities to this end and to obtaining their collaboration in ensuring the smooth conduct of the trial observation;
4. *Notes* the position of the National Assembly with respect to being unable to intervene in the case owing to the principle of the separation of powers and the independence of the judiciary; and *encourages* it nevertheless to continue dialogue with the Committee and transmit the concerns that remain in this case to the competent authorities; *recalls* in this regard that the Committee, in accordance with its Rules and Practices, does everything possible to promote dialogue with the authorities of the country concerned, and primarily with its parliament, with a view to reaching a satisfactory settlement of the cases before it;
5. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be in a position to supply relevant information or to contribute to the satisfactory resolution of the case;
6. *Decides* to continue examining the case.