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Gabon

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 164th session (virtual session, 8 to 20 March 2021)



© Justin Ndoundangoye

GAB-04 – Justin Ndoundangoye

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

A. Summary of the case

Mr. Justin Ndoundangoye, a Gabonese member of parliament, has been held in pretrial detention at the Central Prison of Libreville since 9 January 2020, allegedly accused of instigating misappropriation of public funds, bribery, money laundering and conspiracy offences.

Among other irregularities, the complainant claims that Mr. Ndoundangoye was reportedly kept in police custody for a period of two weeks in violation of the provisions of article 56 of the Code of Criminal Procedure of Gabon, which provides for a maximum period of 48 hours, renewable once. During these two weeks, he was allegedly questioned by officials of the Directorate General for Counter-Interference and Military Security, who were not judicial police officers. He was reportedly unable to speak to his lawyers while in police custody. The lawyers did not

Case GAB-04

Gabon: Parliament affiliated to the IPU

Victim: Member of the majority

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

Submission of complaint: May 2020

Recent IPU decision: November 2020

Recent IPU mission(s): - - -

Recent Committee hearing: Hearing of the parliamentary authorities at the 164th session (March 2021)

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (November 2020)
- Communication from the complainant: February 2021
- Communication addressed to the authorities: Letter addressed to the Speaker of the National Assembly (March 2021)
- Communication addressed to the complainant: February 2021

have access to the file, either to the procedural documents or to the evidence against him. The only document available to the defence was the remand order.

Mr. Ndoundangoye was reportedly unable to comment on the facts of the case as he had allegedly been charged at the start of the preliminary examination. Moreover, the indictment issued by the Public Prosecutor is said to be seriously flawed, for example it does not include the precise date when the offences were committed or any other concrete evidence establishing the alleged offences. The complainant claims that the member of parliament was detained without being questioned by an investigating judge, in violation of applicable domestic legislation.

On 26 December, Mr. Ndoundangoye was reportedly arrested "*manu militari*" by armed officers before the Bureau of the National Assembly had endorsed the lifting of his parliamentary immunity and therefore before it had come into effect. Likewise, Mr. Ndoundangoye's bank assets were said to have been frozen from the beginning of December 2019 in the absence of any legal action and before his parliamentary immunity had been lifted.

The complainant claims that, on the night of 25 to 26 January 2020, after ordering him to take all his clothes off, three hooded prison officers tied up Mr. Ndoundangoye with his hands behind his back. They allegedly asked him to lie flat on his stomach, legs apart. Held by each leg by an officer, he was reportedly beaten in his testicles, carried out by the third officer using a thick rope knotted at the end. He reportedly received sustained blows to his testicles for some time, and was then turned over, knees pressed against his temples, legs still apart, and subjected to blows by the knotted rope to his penis. He also reportedly at this time received several punches and kicks to his ribs and hips. The officers allegedly photographed him while he was naked. Before leaving him, they are said to have strongly advised him not to say a word to his lawyer, otherwise they would come back for "a killing". In taking these threats further, they allegedly threatened to rape his wife and kill his children if the matter was publicized.

A request for intervention in the form of protection was reportedly sent to the specialized investigating judge, with an official copy sent to the Public Prosecutor. In particular, the judge was reportedly asked to order that Mr. Ndoundangoye be admitted to hospital so he could undergo appropriate examinations following the alleged acts of torture. This request reportedly remained unanswered. On 7 February 2020, during a press conference, the Public Prosecutor reportedly stated that the acts of torture had not been proven and contested their existence on the basis of a report not communicated in the proceedings, without having heard the victim beforehand. The case has reportedly been referred to the Speaker of the National Assembly, the Minister of Justice, the Public Prosecutor and other bodies. No action has been taken to date.

The complainant claims that Mr. Ndoundangoye has been held in inhumane and degrading conditions in solitary confinement since the start of his detention. In particular, he is reportedly being held in a very small cell without access to drinking water and in temperatures of 40°C. It is said that he is only able to stay hydrated thanks to the cans of water brought to him by his family every week.

In a letter dated 19 November 2020, the Deputy Secretary General of the National Assembly of Gabon provided a timetable for the procedure implemented by the National Assembly to lift the parliamentary immunity of the member of parliament, as well as copies of related documents. On 11 March 2021, during his hearing before the Committee on the Human Rights of Parliamentarians, the Chairperson of the *ad hoc* parliamentary committee responsible for examining the request for the lifting of Mr. Ndoundangoye's parliamentary immunity described the procedure followed by the National Assembly in ruling on the matter. He said that the *ad hoc* parliamentary committee had been created in implementation of the combined provisions of Article 38 of the Gabonese Constitution and Article 96 of the Rules and Procedures of the National Assembly, in strict adherence to the procedure laid down. He also stated that he was not aware of the member of parliament's conditions of detention, or of the alleged acts of torture or the irregularities in the judicial process reported by the complainant. He took note, however, of the Committee's concerns and conveyed them to the parliamentary authorities.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the parliamentary authorities for the information provided in writing and during the hearing;

2. *Remains deeply concerned* about the member of parliament's continued detention, in view of the worrying allegations concerning his conditions of detention; *urges* the national authorities once again to take all necessary steps to ensure Mr. Ndoundangoye's full enjoyment of his rights, in particular his right to life, to physical integrity and to access to judicial guarantees, especially in the current context of the COVID-19 pandemic, which has meant that those detained in prison and other confined places are at increased risk of catching the disease;
3. *Expresses its deep concern* at the allegations of threats, acts of torture and other cruel, inhumane or degrading treatment against the member of parliament concerned and at the fact that, according to the complainant, the perpetrators have not been prosecuted; *is surprised* that the Gabonese delegation, during its hearing, claimed to be unaware of such allegations, even though the offences in question have already been mentioned in a previous decision of the Committee and that, according to information brought to the Committee's attention, the press has reported them widely both nationally and internationally;
4. *Reaffirms* that the failure to launch an inquiry into the alleged cases of torture against parliamentarians shields the perpetrators from any legal action and removes their accountability; *considers* that impunity undoubtedly encourages the commission of other serious human rights violations and that any attack on the life and personal integrity of parliamentarians left unpunished not only constitutes a violation of the fundamental rights of each of these parliamentarians and of those who elected them, but also undermines the integrity of parliament and prevents it from fulfilling its mandate as an institution; *urges*, therefore, the Gabonese Parliament to properly exercise its oversight role to ensure that the very serious and specific allegations of torture referred to in this decision lead to a thorough investigation without delay and the adoption of appropriate sanctions against those responsible; *requests* the parliamentary authorities to provide information on any new developments and on any steps taken by parliament in this regard;
5. *Remains deeply concerned* at the allegations of serious violations of the right to a fair trial in the proceedings against the member of parliament; *reiterates its wish* to receive official and detailed information on the facts justifying each of the charges brought against Mr. Ndoundangoye;
6. *Recalls* that the IPU, as indicated by the IPU Governing Council at its 206th session (November 2020), stands ready to provide assistance to strengthen the capacities of parliament, if it so requests, in order to identify and remedy any underlying issues that could have given rise to the complaint, in collaboration with other relevant national institutions, including with regard to the legislation and procedures implemented in this case; *requests* the relevant authorities to provide it with more information on how the IPU could best provide this assistance;
7. *Requests* the Secretary General to convey this decision to the Speaker of the National Assembly of Gabon, the complainant and any third party likely to be in a position to supply relevant information;
8. *Decides* to continue examining this case.