



Inter-Parliamentary Union
For democracy. For everyone.

Togo

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



Former Prime Minister under the regime of the late President Gnassingbé Eyadéma, and candidate of the Movement of Patriots for Democracy and Development (MPDD), Mr. Agbéyomé Kodjo, reacts after the election of outgoing President Faure Gnassingbé and candidate of the ruling party, the Union for the Republic (UNIR), in Lomé, on 24 February 2020. @ PIUS UTOMI EKPEI / AFP

TGO-14 – Agbéyomé Kodjo

Alleged human rights violations

- ✓ Failure to respect parliamentary immunity

A. Summary of the case

Following the 22 February 2020 presidential elections, Mr. Abéyomé Kodjo, candidate of the Patriotic Movement for Democracy and Development (MPDD) party, a member of parliament and prominent opposition figure in Togo, claimed victory before the Independent National Electoral Commission (CENI) had announced the official provisional results. Convinced that he had won the elections, Mr. Kodjo declared himself the president-elect and appointed a prime minister and a minister of foreign affairs using state symbols and emblems to that effect.

Following those developments, the Public Prosecutor on 9 March 2020 petitioned the National Assembly to lift Mr. Kodjo's parliamentary immunity, accusing him of inciting aggravated public order, spreading fake news, making false claims and undermining internal state security. On 10 March 2020, the Speaker of the National Assembly decided to set up a special committee to examine Mr. Kodjo's case. The parliamentary immunity of the member of parliament was lifted on 16 March 2020.

On 21 April 2020, Mr. Kodjo was arrested at his home by security forces and placed in detention. Mr. Kodjo had reportedly been summoned for the third time to appear before the Public Prosecutor but

Case TGO-14

Togo: Parliament affiliated to the IPU

Victim: Opposition member of parliament

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

Submission of complaint: March 2020

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

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

his failure to honour the summons for the third time in a row resulted in his arrest. On 24 April 2020, Mr. Kodjo was released under judicial supervision.

In addition to considering the proceedings against Mr. Kodjo to be political in nature, the complainant also alleged that Mr. Kodjo's parliamentary immunity had been violated, given that the procedure followed to deprive him of immunity was not in accordance with the law. According to the complainant, the Speaker of the National Assembly had set up a special committee to examine the lifting of immunity in violation of Articles 35 and 36 of the Rules of Procedure of the National Assembly. In their letter of 26 October 2020, the parliamentary authorities nevertheless stated that the legal framework required to set up a special committee responsible for examining requests for the lifting of parliamentary immunity was based on Articles 78 and 79 of the Rules of Procedure of the National Assembly and not Articles 35 and 36. According to the parliamentary authorities, Articles 35 and 36 govern the establishment of special committees responsible for studying legal texts and do not apply to parliamentary immunity, the procedure for which is expressly laid down in Article 79.

Furthermore, the complainant also alleged that the conclusions of the special committee recommending the lifting of Mr. Kodjo's parliamentary immunity were based on the content of a USB key, which was reportedly not passed on to his representative on the parliamentary committee. Mr. Kodjo's right of defence has therefore allegedly been impeded and his lawyers doubt the impartiality of the judicial system, whose shortcomings would prevent a fair examination of his case. On the other hand, the complainant reiterated that the origin of this complaint lay in the alleged fraudulent result of the presidential elections which, according to the complainant, did not reflect the reality of the ballot boxes, which had confirmed Mr. Kodjo's victory. The latter is still convinced of this to this day, and has not denied the charges made against him by the Prosecutor, considering them to be the legitimate acts of a president-elect.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint was submitted in due form by a complainant qualified under section I. 1(a) and (d) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the complaint concerns an incumbent member of parliament at the time of the alleged facts;
3. *Notes* that the complaint concerns failure to respect parliamentary immunity, which is an allegation that falls within the purview of the Committee;
4. *Considers* that the procedure followed to lift Mr. Kodjo's parliamentary immunity was in accordance with the provisions of the Rules of Procedure of the National Assembly; that the origin of the complaint lies in the differing views on the results of the presidential elections that took place in February 2020 and that victory was not awarded to Mr. Kodjo; *notes*, furthermore, that the charges against the member of parliament that led to the lifting of his parliamentary immunity are linked to the disputed presidential election result and have not been denied by the Member concerned or by his legal advisers;
5. *Concludes*, therefore, that the complaint is not admissible under section IV of the Procedure and *decides* not to examine the case; *calls on* the Togolese authorities nevertheless to ensure that Mr. Kodjo's trial is conducted in an impartial and fair manner in accordance with the applicable national standards in this area;
6. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.