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Virtual session, 8–20 March 2021

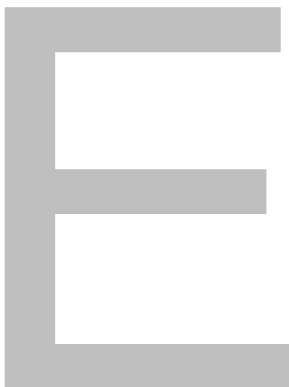
# 164<sup>th</sup> session of the Committee on the Human Rights of Parliamentarians

## *Decisions of the Committee on the Human Rights of Parliamentarians*

Virtual session, 8 to 20 March 2021

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# Burundi

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

BDI-42 – Pasteur Mpawenayo

## Alleged human rights violations

- ✓ Arbitrary arrest and detention
- ✓ Lack of fair trial proceedings
- ✓ Excessive delays
- ✓ Abusive revocation or suspension of the parliamentary mandate

## A. Summary of the case

This case originally involved 22 parliamentarians who were arbitrarily stripped of their parliamentary mandates. Some of them were subsequently held in pretrial detention for years and some were later convicted. This situation followed a split of the majority party, the *Conseil National Pour la Défense de la Démocratie–Forces pour la Défense de la Démocratie* (National Council for the Defence of Democracy–Forces for the Defence of Democracy, CNDD-FDD) in 2007, which was then led by Mr. Hussein Radjabu. Mr. Radjabu, who was also a parliamentarian at the time, was ousted, arrested and convicted. The Committee on the Human Rights of Parliamentarians denounced the termination of the parliamentary mandates and the serious irregularities in judicial proceedings over several years. Mr. Pasteur Mpawenayo's case was the last case examined by the Committee in this long-standing file.

Mr. Mpawenayo was close to Mr. Radjabu at the time of the party split. He was stripped of his mandate, arrested and prosecuted along with other parliamentarians. The proceedings have been marked by excessive slowness and serious irregularities.

According to the complainant, these proceedings were politically motivated. Mr. Mpawenayo was finally acquitted at first instance and released on 31 May 2012 after four years in pretrial detention. However, the prosecution have appealed. In 2015, the authorities stated that Mr. Mpawenayo refused to attend the hearings, which prevented the appeal process from moving forward. According to the complainant, Mr. Mpawenayo did not respond to the court summons for fear of being re-arrested or becoming a victim of extrajudicial execution.

In February 2021, the Speaker of the National Assembly reported that the relevant Burundian courts had ruled on the case and that Mr. Mpawenayo had been released.

## B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Speaker of the National Assembly for the information provided and his cooperation; *notes*, however, that this information has not clarified whether Mr. Mpawenayo is no longer being subjected to intimidation; *urges* the relevant authorities, therefore, to take the necessary measures to ensure his security;

### Case BDI-42

**Burundi:** Parliament affiliated to the IPU

**Victim:** An opposition member of parliament

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

**Submission of complaint:** June 2008

**Recent IPU decision:** February 2017

**IPU Mission:** [June 2013](#)

**Recent Committee hearing:** Hearing with the delegation of Burundi to the 124<sup>th</sup> IPU Assembly (April 2011)

#### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (February 2021)
- Communication from the complainant: February 2017
- Communication addressed to the authorities: Letter addressed to the Speaker of the National Assembly (February 2021)
- Communication addressed to the complainant: February 2021

2. *Notes* that Mr. Mpawenayo has not been a member of parliament since 2008 and that he was acquitted at first instance in May 2012 and subsequently released; *takes note*, in addition, of the fact that the complainant has failed to provide any further information on Mr. Mpawenayo's situation since 2017, despite repeated requests to do so; *considers* that it cannot continue examining his case, or find a satisfactory solution under these circumstances; and *decides* to close the case in accordance with section IX, paragraphs 25(a) and (b) of its Procedure for the examination and treatment of complaints; *recalls*, however, that the Committee reserves the right to re-open the case should any new information be subsequently provided by the complainant to show that Mr. Mpawenayo is still being subjected to acts of intimidation directly linked to the previous exercise of his mandate parliamentary mandate;
3. *Requests* the Secretary General to convey this decision to the parliamentary authorities and the complainant.

# Eritrea

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



Petros Solomon with his wife and their first born © Photo courtesy / Petros Solomon family



Sheriffo with his son Ibu (1988) © Photo courtesy / Aster Fissehatsion and Mahmood Sheriffo family

- ERI/01 - Ogbe Abraha
- ERI/02 - Aster Fissehatsion
- ERI/03 - Berhane Gebregziabeher
- ERI/04 - Beraki Gebreselassie
- ERI/05 - Hamad Hamid Hamad
- ERI/06 - Saleh Kekiya
- ERI/07 - Germano Nati
- ERI/08 - Estifanos Seyoum
- ERI/09 - Mahmoud Ahmed Sheriffo
- ERI/10 - Petros Solomon
- ERI/11 - Haile Woldetensae

## Alleged human rights violations

- ✓ Murder
- ✓ Torture, ill-treatment and other acts of violence
- ✓ Enforced disappearance
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention – including denial of adequate medical care
- ✓ Violation of freedom of opinion and expression
- ✓ Impunity

## A. Summary of the case

There has been no information about the fate of the 11 parliamentarians concerned, as they were detained incommunicado on 18 September 2001 under accusations of conspiracy and attempting to overthrow the legal government after publishing an open letter in support of democracy. Persisting serious concerns include non-compliance with legal safeguards, torture and ill-treatment, inhumane conditions of detention and denial of adequate medical care. They have never been formally

## Case ERI-COLL-01

**Eritrea:** Parliament not affiliated to the IPU

**Victims:** 11 opposition members of the National Assembly of Eritrea (10 men and one woman)

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

**Submission of complaints:** September 2002 and 2013

**Recent IPU decision:** October 2015

**IPU Mission(s):** - - -

**Recent Committee hearing:** Meeting between the IPU Human Rights Programme with two Eritrean diplomats attending the 138<sup>th</sup> IPU Assembly as observers (Geneva, March 2018)

### Recent follow-up:

- Communication(s) from the authorities:  
- - -
- Communication from the complainants:  
January 2021
- Communication addressed to the authorities: Letter addressed to the President and Speaker of the National Assembly (January 2021)
- Communication addressed to the complainants: January 2021

charged before a court. Their parliamentary mandates were revoked in February 2002 by the National Assembly. It is feared that the 11 members of parliament may no longer be alive.

In November 2003, upon examination of a complaint concerning their situation, the African Commission on Human and Peoples' Rights (ACHPR) found that the State of Eritrea had violated the right to liberty and security of person, the right to a fair trial and the right to freedom of expression. It urged the State of Eritrea to order their immediate release and to pay them compensation.

In her report of 11 May 2020, the United Nations Special Rapporteur on the human rights situation in Eritrea urged the authorities once again to take steps to adopt a constitution and reinstate the National Assembly as critical steps towards the restoration of the rule of law. She reiterated her concern about the "use of the practices of indefinite and arbitrary detention and enforced disappearance to suppress dissent, punish perceived opponents and restrict civil liberties", and mentioned reports of scores of people continuing to disappear in the Eritrean prison system, where "basic due process rights are not guaranteed [and] many are not allowed access to legal counsel, judicial review, family visits or medical attention". She specifically recalled that the 11 parliamentarians – known as the G11 – have been held incommunicado since September 2001, adding that the authorities have provided no information about their fate and have not complied with the decisions of the ACHPR regarding this case. The Government of Eritrea has denied the findings and refused to cooperate. The Eritrean authorities have not responded to IPU communications for years.

## B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Is extremely concerned* at the conclusions of the United Nations Special Rapporteur on the human rights situation in Eritrea, as they not only confirm its own findings with regard to the arbitrary detention of the 11 parliamentarians, but also give a comprehensive account of the horrendous backdrop of repression against which those conclusions have to be considered;
2. *Deplores*, once more, the Eritrean authorities' continued contempt for the most basic human rights of the 11 parliamentarians by keeping them in incommunicado detention for 20 years for exercising their right to freedom of expression in calling for the adoption of a constitution and the establishment of a democratically elected parliament;
3. *Is appalled* by the persistent silence of the authorities, all the more so in light of the uncorroborated information that only one of the 11 parliamentarians may still be alive and the fact that the continued uncertainty about the fate of the former parliamentarians leaves their families in absolute agony;
4. *Recalls* that impunity, by shielding those responsible from judicial action and accountability, decisively encourages the perpetration of further serious human rights violations, and that attacks against the life of members of parliament, when left unpunished, violate the fundamental rights of individual parliamentarians and of those they represent – even more so when leading figures of parliament are targeted in the context of a broader pattern of repression, as in the present case; *recalls* also that the widespread or systematic practice of enforced disappearance and torture constitute a crime against humanity; *stresses* the legitimate right of the relatives of the victims to know about the fate of their loved ones and to receive adequate compensation;
5. *Urges*, once more, the Eritrean authorities to provide official information on the fate of the 11 parliamentarians and to release them forthwith;
6. *Cannot but consider* that the international community, including the global parliamentary community, cannot remain silent in the face of these violations and cannot allow them to be erased from public memory; *renews its call* to all IPU members, permanent observers and parliamentary assemblies to take concrete actions for the resolution of this case, including by making representations to the diplomatic missions of Eritrea in their countries and raising the

case publicly; and *hopes* to be able to rely on the assistance of all relevant regional and international organizations to achieve this objective;

7. *Requests* the Secretary General to convey this decision to the Eritrean authorities, the complainants and the United Nations Special Rapporteur on the human rights situation in Eritrea, as well as to any third party likely to be in a position to supply relevant information, and to continue making every effort to draw international attention to this case;
8. *Decides* to continue examining this case.

# Gabon

*Decision adopted by the Committee on the Human Rights of Parliamentarians at its 164<sup>th</sup> 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 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.

### 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 164<sup>th</sup> 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

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 206<sup>th</sup> 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.

# Mauritania

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



© Mohamed Ould Ghadda

MRT-02 – Mohamed Ould Ghadda

## Alleged human rights violations

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

## A. Summary of the case

The complainant alleges that Mr. Mohamed Ould Ghadda, former opposition member of the Senate, was arbitrarily arrested on 10 August 2017 and detained for a period of 10 days without being allowed to receive visits from his family or consult with his lawyer. He was allegedly only informed of the charges against him on 1 September 2017, when his detention was officially converted into pretrial detention in the context of a judicial investigation into corruption.

According to the complainant, the charges against Mr. Ould Ghadda were unfounded and his rights to defence and parliamentary immunity were not respected. The request, filed by Mr. Ould Ghadda's lawyers, to drop the proceedings against him on the grounds of his parliamentary immunity guaranteed under Article 50 of the Constitution of Mauritania, was rejected in October 2017 by the Indictments Chamber of the Court of

## Case MRT-02

**Mauritania:** Parliament affiliated to the IPU

**Victim:** Former opposition member of the Senate

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

**Submission of complaint:** January 2018

**Recent IPU decision:** October 2018

**IPU mission(s):** - - -

**Recent Committee hearing(s):** - - -

### Recent follow-up:

- Communications from the authorities: Letters from the Minister of Justice (February, May and June 2019)
- Communication from the complainant: March 2021  
Communications addressed to the authorities: Letters to the Speaker of the National Assembly and to the Minister of Justice (January 2021 and July 2020)
- Communication addressed to the complainant: March 2021

Cassation, which declared that it had no jurisdiction to decide on this request. In addition, Mr. Ould Ghadda's parliamentary immunity was not respected, as he had been arrested before the effective abolition of the Senate on 15 August 2017 following a presidential decree. In his letters of 9 May and 25 June 2019, the Minister of Justice dismissed this argument, pointing out that Mr. Ould Ghadda had ceased being a senator from the moment the results of the referendum were known, relating to the dissolution of the Senate, on 7 August 2017.

Having also had Mr. Ould Ghadda's case referred to it, the United Nations Working Group on Arbitrary Detention adopted an opinion in 2018 (Opinion No. 33/2018) in which it considered that Mr. Ould Ghadda's detention was arbitrary, given the provisions of Article 50 of the Mauritanian Constitution and the effective abolition of the Senate that had taken place on 15 August 2017. The working group called on the Mauritanian authorities to release Mr. Ould Ghadda immediately.

Having been charged in another defamation case, Mr. Ould Ghadda was sentenced on 13 August 2018 to six months' imprisonment. On 1 September 2018, Mr. Ould Ghadda was released pending trial under judicial supervision, and in November 2019 the complainant reported that the judicial supervision had been lifted. The former senator's lawyer appealed the conviction.

The complainant refuted all the accusations against Mr. Ould Ghadda in the two corruption and defamation cases, arguing that the former senator had been the victim of the repression of the former regime because he had strongly opposed the plans for a constitutional review aimed primarily at abolishing the Senate and had denounced, in connection with a parliamentary commission of inquiry, acts of corruption involving relatives of the former Head of State.

In March 2021, the complainant reported that the judicial investigation into corruption charges against Mr. Ould Ghadda had resulted in the charges being dropped and the case being finally closed. Regarding the appeal against the former senator's conviction in the defamation case, the complainant reported that he did not appear to want to re-activate his case.

## **B Decision**

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Minister of Justice for his cooperation in 2019 and the information provided in his letters regarding Mr. Ould Ghadda's case, in particular concerning the court ruling handed down in the defamation case;
2. *Notes with satisfaction* that Mr. Ould Ghadda has not been under judicial supervision since 2019 and that the corruption proceedings against him have been dropped, thus signifying the final closure of the case; *decides*, therefore, to close this case under section IX, paragraph 25, of its Procedure for the examination and treatment of complaints, insofar as a satisfactory solution has been reached given the positive outcome of this case, not least its final closure by the relevant authorities and the absence of any threats against Mr. Ould Ghadda;
3. *Deplores*, nevertheless, the lack of dialogue with the parliamentary authorities, which have failed to respond to any of its requests for information since the case was referred to it in 2018; *considers* that this situation is all the more regrettable given that Mr. Ould Ghadda's arrest took place in violation of the parliamentary immunity that he enjoyed under the provisions of Article 50 of the Constitution of Mauritania, as he was not arrested in *flagrante delicto* and remained a senator until 15 August 2017, the date of the effective abolition of the Senate; *recalls* that the United Nations Working Group on Arbitrary Detention reached similar conclusions; and *calls on* the National Assembly to do everything possible to avoid the recurrence of this type of situation and to ensure that the parliamentary immunity of its members is duly respected at all times;
4. *Requests* the Secretary General to convey this decision to the parliamentary authorities and the complainant.

# Mauritania

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



Mauritanian politician and advocate for the abolition of slavery, Mr. Biram Dah Abeid, during a press conference in Dakar on 29 September 2016 © Seyllou / AFP

## MRT-03 – Biram Dah Abeid

### Alleged human rights violations

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

### A. Summary of the case

Mr. Biram Dah Abeid, President of the party *Initiative de la Résurgence du Mouvement Abolitionniste* (Initiative for the Resurgence of the Abolitionist Movement, IRA) was arrested at his home on 7 August 2018 and charged with “causing harm to others, inciting violence and threatening to use violence” on 13 August 2018, following a complaint filed by a journalist.

According to the complainant, the militant campaigning of Mr. Dah Abeid – and of his party, the IRA – to combat slavery in Mauritania has reportedly been the root cause of the political and judicial harassment towards him, in an attempt to exclude him from the political scene. The complainant alleges that the charges against Mr. Dah Abeid were not supported by evidence. According to the complainant, it was the victim’s alliance with the Essawab political party with a view to the September 2018 legislative elections that had triggered the proceedings brought against him, the aim of which had been to invalidate his candidacy in the legislative elections and prevent him from conducting his campaign freely. Mr. Dah Abeid’s candidacy was nevertheless validated by the Independent National Electoral Commission (CENI), which also confirmed his election while he was still being held in detention on 1 September 2018.

### Case MRT-03

**Mauritania:** 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:** October 2018

**Recent IPU decision:** February 2019

**IPU mission(s):** - - -

**Recent Committee hearing:** Hearing with Mr. Dah Abeid at the 161<sup>st</sup> session of the Committee (January 2020)

### Recent follow-up:

- Communications from the authorities: Letters from the Minister of Justice (February, May and June 2019)
- Communication from the complainant: February 2021
- Communications addressed the authorities: Letters to the Speaker of the National Assembly and the Minister of Justice (January 2021)
- Communication addressed to the complainant: February 2021

The complainant emphasized that, despite his election, Mr. Dah Abeid's pretrial detention continued in violation of his parliamentary immunity and in the absence of a trial. Responding to this point in particular, the Minister of Justice explained in his letters of May and June 2019 that the proceedings against Mr. Dah Abeid had been initiated before he stood as a candidate and before he became a member of the National Assembly. Thus, the parliamentary immunity claimed by Mr. Dah Abeid, and which he did not acquire until the day his election was confirmed, could not be retroactive. The Minister of Justice further added that the National Assembly did not request Mr. Dah Abeid's release and did not call on the authorities to drop the charges against him as provided for in Article 50 of the Mauritanian Constitution.

On 31 December 2018, the Criminal Court sentenced Mr. Dah Abeid to six months' imprisonment, four of which were to be suspended. He was therefore immediately released because the duration of his pretrial detention covered the length of his sentence. The appeal lodged by Mr. Dah Abeid's lawyers is still pending, which the complainant says is a way to keep the pressure on the member of parliament.

On his release from prison, Mr. Dah Abeid was able to resume his duties as a member of parliament by taking his seat in the National Assembly on 7 January 2019. He was also able to participate in the presidential elections that took place in June 2019.

## B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Minister of Justice for his cooperation in 2019 and the information provided in his letters regarding Mr. Dah Abeid's case, in particular concerning the court ruling handed down in the case;
2. *Deplores*, nevertheless, the silence of the Mauritanian authorities, which have failed to respond to any of the Committee's requests for information since the case was referred to it in 2018; *considers* that this silence is all the more regrettable as Mr. Dah Abeid's pretrial detention continued after his election as a member of parliament, and even though the National Assembly had not lifted his parliamentary immunity; *reaffirms* that the Committee attaches great importance to dialogue and cooperation with the Mauritanian authorities, in particular with the National Assembly, which plays a fundamental role in protecting the rights of its members, regardless of their political affiliation; and *calls on* the National Assembly once again to respond to its requests as soon as possible in order to resolve this case once and for all;
3. *Notes with concern* that the appeal lodged by Mr. Dah Abeid's lawyers in 2018 has still not been examined by the relevant authorities for reasons that remain inexplicable, thus causing Mr. Dah Abeid to feel apprehensive; *calls on* the Mauritanian authorities to organize an impartial and fair appeal process within the deadlines set in the legal provisions in force, in compliance with applicable national and international standards in this area; and *wishes* to be kept informed of its outcome;
4. *Is pleased* that Mr. Dah Abeid has been able to exercise his parliamentary mandate without hindrance; and *sincerely hopes* that the National Assembly will take the necessary steps to avoid a recurrence of this type of situation and ensure that the parliamentary immunity of its members is respected at all times;
5. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
6. *Decides* to continue examining the case.

# Togo

*Decision adopted by the Committee on the Human Rights of Parliamentarians at its 164<sup>th</sup> 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 his

#### 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

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.

# Colombia

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



© Photo courtesy Galán family

## COL-07 – Luis Carlos Galán Sarmiento

### Alleged human rights violations

- ✓ Murder

#### A. Summary of the case

Senator Galán was murdered in 1989 while campaigning as a candidate for the presidential elections of 1990 and at a time when Colombia's drug cartels' response to state efforts to put an end to drug trafficking had become ever more violent.

After an initial diversion of the course of justice, the case took on fresh momentum in 2011. In September of that year, the Supreme Court convicted and sentenced a high-profile Colombian politician to a 24-year prison term for ordering the crime. The murder, which was subsequently qualified as a crime of humanity, was carried out with the involvement of General Miguel Maza Márquez, at the time Director of the Administrative Department of Security, who was sentenced in 2016 to a 30-year prison term for the crime. General Maza worked together with the then paramilitary leader, Mr. Henry de Jesús Pérez Durán, who in turn had been hired for this purpose by the Medellín drug cartel led by Mr. Pablo Escobar.

Many believed that Senator Galán was destined to win the presidential elections in 1990 and to deliver on his promise of extraditing to the United States of America the drug lords who were creating havoc in Colombia.

In December 2020, the Prosecutor's Office decided to officially investigate two other generals for their alleged direct involvement in the assassination.

#### Case COL-07

**Colombia:** Parliament affiliated to the IPU

**Victim:** Independent member of parliament

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

**Submission of complaint:** October 2008

**Recent IPU decision:** March 2014

**IPU mission:** [October 2010](#)

**Recent Committee hearing(s):** - - -

#### Recent follow-up:

- Communications from the authorities: Letter from the Speaker of the Colombian National Congress (January 2017); letter from the Prosecutor's Office (February 2014)
- Communication from the complainant: July 2018
- Communication addressed to the authorities: Letter addressed to the Speaker of the Colombian National Congress (January 2021)
- Communication addressed to the complainant: July 2018

## B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Recalls* that Senator Galán's assassination shook Colombian society to its core and showed the power and unscrupulousness of the drug cartels and their allies to do whatever it took to pursue and protect their criminal activities; *is deeply concerned* in this regard that the legal proceedings have revealed the extent to which senior political and state officials were involved and working in tandem with illegal groups to execute this highly publicized crime; *stresses*, therefore, that it remains critically important for the Colombian authorities to do everything possible to eliminate drug trafficking and its possible infiltration into politics and state entities;
2. *Considers*, nevertheless, that in this case the pursuit of justice, despite being confronted with initial obstacles in the years immediately following Senator Galán's assassination, has largely been successful in shedding light on the identity, *modus operandi* and motives of those responsible and in holding them to account;
3. *Decides*, therefore, to close the case in accordance with section IX, paragraph 25, and in particular 25(b), of its Procedure for the examination and treatment of complaints in the absence of any further updated information from the complainant to show that further action by the Committee would be warranted;
4. *Requests* the Secretary General to convey this decision to the parliamentary authorities and to the complainant.

# Colombia

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

COL-130 – Jorge Tadeo Lozano Osorio

## Alleged human rights violations

- ✓ Lack of fair trial proceedings
- ✓ Right of appeal

### A. Summary of the case

In May 1990, an investigation into the basis of an accusation of illicit enrichment was launched against the then congressman, Mr. Tadeo Lozano. In May 1992, the case was brought before the Criminal Chamber of the Supreme Court of Justice, which on 28 September 1992 ruled that there were no grounds for prosecuting Mr. Lozano. In December 1992, the same chamber, however, authorized a new investigation against Mr. Lozano on the basis of an accusation of embezzlement on account of unlawful granting of subsidies in 1990 amounting to 184 million pesos. The investigation was formally launched in March 1994 and closed on 17 February 1997. On 17 August 2000, Mr. Lozano was found guilty of this charge and sentenced to 12 years' imprisonment, which was commuted to house arrest in December 2003.

The complainant stated that Mr. Lozano did not receive a fair trial. In this regard, the complainant referred to violations of the right to be tried without undue delay, the right to access to the case file and to defence, the right not to be sentenced for acts or omissions that did not constitute an offence at the time of their commission, the right to appeal and the right to be judged by an impartial and independent court. The complainant underscored in this respect that Mr. Lozano, as a member of the Colombian Congress, had been investigated and judged in single instance by the same entity, a procedure that was only overhauled by law in 2018.

Mr. Lozano brought his case before the Inter-American Commission on Human Rights, which notified him on 11 June 2001 that his petition was not admissible. However, as Mr. Lozano had as a result submitted additional information, the Commission stated in August 2002 that the question of admissibility would be re-examined. No information has become available since to indicate that such a re-examination had taken place.

Mr. Lozano died in September 2013.

### B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Deeply regrets* that it was not possible for the alleged irregularities in the legal proceedings against Mr. Lozano to be addressed on appeal; *considers* in this regard that, in the case of Mr. Lozano, the application of the procedure in criminal matters existing at the time for members of the Colombian National Congress provides in and of itself sufficient grounds for concluding that he was deprived of the right to a fair trial; *recalls* that this right is also extensively protected under the American Convention on Human Rights and related jurisprudence; also *regrets*, therefore, that

#### Case COL-130

**Colombia:** Parliament affiliated to the IPU

**Victim:** Majority member of parliament

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

**Submission of complaint:** March 2001

**Recent IPU decision:** October 2011

**IPU mission:** [October 2010](#)

**Recent Committee hearing(s):** - - -

#### Recent follow-up:

- Communications from the authorities: Letter from the Speaker of the Colombian National Congress (January 2017); letter from the Prosecutor's Office (February 2014)
- Communication from the complainant: Complainant has been inactive
- Communication addressed to the authorities: Letter addressed to the Speaker of the Colombian National Congress (January 2021)
- Communication addressed to the complainant: November 2018

the Inter-American Commission on Human Rights seemingly was not in a position to act decisively on his petition and provide redress with regard to the issues raised therein;

2. *Decides*, however, to close the case in accordance with section IX, paragraphs 25(a) and (b), of its Procedure for the examination and treatment of complaints, in the absence of any indication of the current existence of a domestic legal possibility for Mr. Lozano's family to pursue, if it is able and so wishes, to help clear his name and address the reported shortcomings that arose in his original trial;
3. *Requests* the Secretary General to convey this decision to the parliamentary authorities and to the complainant.

# Colombia

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



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## COL-142 – Álvaro Araújo Castro

### Alleged human rights violations

- ✓ Lack of fair trial proceedings
- ✓ Excessive delays
- ✓ Right of appeal

### A. Summary of the case

Mr. Álvaro Araújo Castro was prosecuted on charges of aggravated criminal conspiracy and electoral fraud, accused of cooperating with paramilitary groups for electoral gain. Shortly after being charged, Mr. Araújo relinquished his seat in Colombia's Congress, as a result of which his case was transferred to the ordinary judicial system, under which he was investigated by the Prosecutor's Office and tried by an ordinary court, with the possibility of appeal. Mr. Araújo states that there was no evidence against him and that he was a victim of the confrontation between the Executive and the Supreme Court. He had expected the judge in the case to hand down a judgment by October 2009 and to acquit him. However, on 1 September 2009, the Supreme Court decided that cases regarding alleged links between parliamentarians and paramilitary groups should be investigated and tried by it alone. As a result, Mr. Araújo's case was transferred to the Supreme Court.

On 18 March 2010, the Supreme Court found Mr. Araújo guilty and sentenced him to a prison term of nine years and four months and a fine of 3,700 million Colombian pesos. The Court considered that Mr. Araújo was part of the hierarchical structure of the paramilitary forces in his region and ordered an investigation to be conducted into his possible involvement in the crimes committed by those groups.

In early February 2011, Mr. Araújo was conditionally released, having served three-fifths of his prison sentence.

### Case COL-142

**Colombia:** Parliament affiliated to the IPU

**Victim:** Majority member of parliament

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

**Submission of complaint:** August 2009

**Recent IPU decision:** October 2015

**IPU Mission:** [October 2010](#)

**Recent Committee hearing(s):** - - -

### Recent follow-up:

- Communication from the authorities: Letters from the Ministry of Foreign Affairs (October 2018) and the Secretary of the Criminal Chamber of the Supreme Court (September 2014)
- Communication from the complainant: March 2021
- Communication addressed to the authorities: Letter addressed to the President of the Colombian National Congress (January 2021)
- Communication addressed to the complainant: March 2021

Since the outcome of his trial, Mr. Araújo has become the subject of new investigations by the Supreme Court in relation to the alleged facts that underpinned his conviction in 2010. Most recently, in a letter dated 18 August 2020, he was informed by the Supreme Court that a new preliminary investigation had been opened against him in this regard.

Mr. Araújo has been actively pursuing his case before the Inter-American Commission on Human Rights since he submitted his petition in 2011, in which he sets out how he is the victim of multiple human rights abuses in relation to his trial.

Under the Colombian Constitution in force at the time of Mr. Araújo's conviction, members of the Colombian national Congress were investigated and sentenced in single instance by the Supreme Court, hence with no possibility of appeal. In its ruling C-545 of 2008, Colombia's Constitutional Court highlighted that this matter needed to be rectified in the Constitution to ensure respect for the right to a fair trial. Pending new legislation on this point, and in light of the ruling by the Constitutional Court, the Supreme Court decided to change its procedure so as to ensure that the same judges would not be in charge of the investigation and adjudication. In its ruling C-792 of 2014, the Constitutional Court reiterated the importance of providing for the possibility of appeal and the need for legislative steps in this regard. In early 2018, Legislative Act No. 01 (2018) entered into force whereby different chambers within the Supreme Court would be created to handle the investigation, the first-instance proceedings and the proceedings on appeal. On 20 May 2020, the Constitutional Court adopted ruling SU-146, in which it ruled that all persons convicted in single instance between 30 January 2014 and 17 January 2018, the entry into force of Legislative Act No. 01 (2018), would have the opportunity to take action in the following six months to appeal their sentences. The Constitutional Court referred to 30 January 2014 as the date on which the Inter-American Court of Human Rights had held, in the case of *Liakat Ali Alibux vs. Suriname*, that States were required to guarantee the right to appeal to those who were tried, given their position, by the highest national criminal court, pursuant to the Inter-American Convention on Human Rights.

The complainant has also repeatedly stated that the Supreme Court was biased against him and did not act with the necessary independence and integrity. It has pointed in this regard to decisions by the Supreme Court to discontinue subsequent investigations against several other parliamentarians who had admitted to having cooperated with paramilitary groups and who had been signatories to cooperation agreements with these groups, unlike in Mr. Araújo's case, in which such evidence and admission are absent. The complainant also points out that, in a recent case regarding a sitting senator who was also accused of cooperating with paramilitary groups, the Supreme Court reportedly raised the bar in terms of the evidence needed for the case to proceed and thereby deviated from the standard of proof it applied in Mr. Araújo's situation.

The complainant points out, furthermore, that the Supreme Court has been strongly discredited in recent years, as several members have been investigated since 2017 in the so-called "*cartel de la toga*" scandal, according to which certain Supreme Court judges and others in charge of criminal investigations against senior state officials were asking for bribes to alter the course of justice. In March 2021, a former president of the Supreme Court was convicted in the context of this scandal, in which former Supreme Court member, Mr. Leonidas Bustos, is also being investigated. Mr. Leonidas Bustos was in charge at the time of presenting Mr. Araújo's original case to the other members of the Supreme Court and allegedly insisted on his conviction, even though a lower investigative judge involved in preparing his file had pointed to the lack of evidence.

## **B. Decision**

The Committee on the Human Rights of Parliamentarians

1. *Reaffirms its view* that Mr. Araújo was convicted in 2010 in legal proceedings that violated his right to a fair trial and in the absence of compelling, tangible and direct evidence to substantiate his conviction, on the grounds of complicity with the paramilitary forces, and on charges of aggravated criminal conspiracy and voter intimidation; *points out* in this regard that, on the contrary, events

and statements show that there was clear hostility between Mr. Araújo and the paramilitary groups in his region;

2. *Expresses deep concern* that Mr. Araújo continues to be subject to new investigations with regard to the same accusations that led to his conviction in 2010, a situation that can only give weight to the long-standing allegation that he is the victim of judicial harassment;
3. *Deeply regrets* that Mr. Araújo has still not been afforded the opportunity to raise the serious doubts about his conviction in 2010 on appeal, which in itself runs counter to his basic right to a fair trial; *notes* in this regard that much progress has been made in Colombia in recent years to allow those convicted in single instance to appeal their sentences; *urges* the relevant authorities to do everything possible to offer this possibility to Mr. Araújo and to ensure that his case can be re-examined in a fully independent and impartial manner; and *wishes* to receive the authorities' observations on this point;
4. *Remains convinced* that, in addition, action by the Inter-American Commission on Human Rights is crucial to helping address the injustice suffered by Mr. Araújo; and *sincerely hopes* that the Commission will rule on his petition as soon as possible;
5. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
6. *Decides* to continue examining this case.

# Venezuela

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



Venezuelan National Police members stand guard outside the National Assembly on 7 January 2020 in Caracas – Cristian HERNANDEZ/AFP

- |                                   |  |
|-----------------------------------|--|
| VEN-10 – Biagio Pileri            | VEN-85 – Franco Casella                    |
| VEN-11 – José Sánchez Montiel     | VEN-86 – Edgar Zambrano                    |
| VEN-12 – Hernán Claret Alemán     | VEN-87 – Juan Pablo García                 |
| VEN-13 – Richard Blanco           | VEN-88 – Cesar Cadenas                     |
| VEN-16 – Julio Borges             | VEN-89 – Ramón Flores Carrillo             |
| VEN-19 – Nora Bracho (Ms.)        | VEN-91 – María Beatriz Martínez (Ms.)      |
| VEN-20 – Ismael García            | VEN-92 – María C. Mulino de Saavedra (Ms.) |
| VEN-22 – Williams Dávila          | VEN-93 – José Trujillo                     |
| VEN-24 – Nirma Guarulla (Ms.)     | VEN-94 – Marianela Fernández (Ms.)         |
| VEN-25 – Julio Ygarza             | VEN-95 – Juan Pablo Guanipa                |
| VEN-26 – Romel Guzamana           | VEN-96 – Luis Silva                        |
| VEN-27 – Rosmit Mantilla          | VEN-97 – Eliezer Sirit                     |
| VEN-28 – Renzo Prieto             | VEN-98 – Rosa Petit (Ms.)                  |
| VEN-29 – Gilberto Sojo            | VEN-99 – Alfonso Marquina                  |
| VEN-30 – Gilber Caro              | VEN-100 – Rachid Yasbek                    |
| VEN-31 – Luis Florido             | VEN-101 – Oneida Guaípe (Ms.)              |
| VEN-32 – Eudoro González          | VEN-102 – Jony Rahal                       |
| VEN-33 – Jorge Millán             | VEN-103 – Ylidio Abreu                     |
| VEN-34 – Armando Armas            | VEN-104 – Emilio Fajardo                   |
| VEN-35 – Américo De Grazia        | VEN-106 – Angel Alvarez                    |
| VEN-36 – Luis Padilla             | VEN-108 – Gilmar Marquez                   |
| VEN-37 – José Regnault            | VEN-109 – José Simón Calzadilla            |
| VEN-38 – Dennis Fernández (Ms.)   | VEN-110 – José Gregorio Graterol           |
| VEN-39 – Olivia Lozano (Ms.)      | VEN-111 – José Gregorio Hernández          |
| VEN-40 – Delsa Solórzano (Ms.)    | VEN-112 – Mauligmer Baloa (Ms.)            |
| VEN-41 – Robert Alcalá            | VEN-113 – Arnoldo Benítez                  |
| VEN-42 – Gaby Arellano (Ms.)      | VEN-114 – Alexis Paparoni                  |
| VEN-43 – Carlos Bastardo          | VEN-115 – Adriana Pichardo (Ms.)           |
| VEN-44 – Marialbert Barrios (Ms.) | VEN-116 – Teodoro Campos                   |
| VEN-45 – Amelia Belisario (Ms.)   | VEN-117 – Milagros Sánchez Eulate (Ms.)    |
| VEN-46 – Marco Bozo               | VEN-118 – Denncis Pazos                    |
| VEN-48 – Yanet Fermin (Ms.)       | VEN-119 – Karim Vera (Ms.)                 |
| VEN-49 – Dinorah Figuera (Ms.)    | VEN-120 – Ramón López                      |
| VEN-50 – Winston Flores           | VEN-121 – Freddy Superlano                 |
| VEN-51 – Omar González            | VEN-122 – Sandra Flores-Garzón (Ms.)       |

VEN-52 – Stalin González	VEN-123 – Armando López
VEN-53 – Juan Guaidó	VEN-124 – Elimar Díaz (Ms.)
VEN-54 – Tomás Guanipa	VEN-125 – Yajaira Forero (Ms.)
VEN-55 – José Guerra	VEN-126 – Maribel Guedez (Ms.)
VEN-56 – Freddy Guevara	VEN-127 – Karin Salanova (Ms.)
VEN-57 – Rafael Guzmán	VEN-128 – Antonio Geara
VEN-58 – María G. Hernández (Ms.)	VEN-129 – Joaquín Aguilar
VEN-59 – Piero Maroun	VEN-130 – Juan Carlos Velasco
VEN-60 – Juan A. Mejía	VEN-131 – Carmen María Sivoli (Ms.)
VEN-61 – Julio Montoya	VEN-132 – Milagros Paz (Ms.)
VEN-62 – José M. Olivares	VEN-133 – Jesus Yanez
VEN-63 – Carlos Paparoni	VEN-134 – Desiree Barboza (Ms.)
VEN-64 – Miguel Pizarro	VEN-135 – Sonia A. Medina G. (Ms.)
VEN-65 – Henry Ramos Allup	VEN-136 – Héctor Vargas
VEN-66 – Juan Requesens	VEN-137 – Carlos A. Lozano Parra
VEN-67 – Luis E. Rondón	VEN-138 – Luis Stefanelli
VEN-68 – Bolivia Suárez (Ms.)	VEN-139 – William Barrientos
VEN-69 – Carlos Valero	VEN-140 – Antonio Aranguren
VEN-70 – Milagro Valero (Ms.)	VEN-141 – Ana Salas (Ms.)
VEN-71 – German Ferrer	VEN-142 – Ismael León
VEN-72 – Adriana d'Elia (Ms.)	VEN-143 – Julio César Reyes
VEN-73 – Luis Lippa	VEN-144 – Ángel Torres
VEN-74 – Carlos Berrizbeitia	VEN-145 – Tamara Adrián (Ms.)
VEN-75 – Manuela Bolívar (Ms.)	VEN-146 – Deyalitzza Aray (Ms.)
VEN-76 – Sergio Vergara	VEN-147 – Yolanda Tortolero (Ms.)
VEN-78 – Oscar Ronderos	VEN-148 – Carlos Prospero
VEN-79 – Mariela Magallanes (Ms.)	VEN-149 – Addy Valero (Ms.)
VEN-80 – Héctor Cordero	VEN-150 – Zandra Castillo (Ms.)
VEN-81 – José Mendoza	VEN-151 – Marco Aurelio Quiñones
VEN-82 – Angel Caridad	VEN-152 – Carlos Andrés González
VEN-83 – Larissa González (Ms.)	VEN-153 – Carlos Michelangeli
VEN-84 – Fernando Orozco	VEN-154 – César Alonso

### Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Excessive delays
- ✓ Violation of the right to freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity
- ✓ Other acts obstructing the exercise of the parliamentary mandate
- ✓ Impunity
- ✓ Other violations: Right to privacy

#### A. Summary of the case

The case concerns credible and serious allegations of human rights violations affecting 134 parliamentarians from the coalition of the *Mesa de la Unidad Democrática* (Democratic Unity Roundtable – MUD), against the backdrop of continuous efforts by Venezuela's executive and judicial authorities to undermine the functioning of the National

#### Case VEN-COLL-06

**Venezuela:** Parliament affiliated to the IPU

**Victims:** 134 opposition members of parliament (93 men and 41 women)

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

**Submission of complaint:** March 2017

**Recent IPU decision:** November 2020

**Recent IPU mission(s):** - - -

**Recent Committee hearings:** Hearings with members of the governing and opposition parties at the 141<sup>st</sup> IPU Assembly (October 2019)

#### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly – Juan Guaidó (January 2021)
- Communication from the complainant: February 2021
- Communication addressed to the authorities: Letter to the President of the Republic (November 2020)
- Communications addressed to the complainant: January and February 2021

Assembly elected in 2015. The MUD is opposed to President Nicolas Maduro's government and obtained a majority of seats in the National Assembly in the parliamentary elections of 6 December 2015.

The parliamentarians elected in 2015 have been subject to the following:

- Almost all parliamentarians listed in the present case have been attacked or otherwise intimidated with impunity by law enforcement officers and/or pro-government officials and supporters during demonstrations, inside parliament and/or at their homes. At least 11 National Assembly members were arrested and released later, reportedly due to politically motivated legal proceedings. In all of these cases, the members were detained without due respect for the constitutional provisions on parliamentary immunity. There are also serious concerns regarding respect for due process and their treatment in detention. People associated with opposition parliamentarians have also been detained and harassed. At least 17 parliamentarians have gone into exile, sought the protection of foreign embassies in Caracas or gone into hiding due to continued harassment. Six have been barred from holding public office and the passports of at least 13 members of parliament have been confiscated, not been renewed, or cancelled by the authorities, reportedly as a way to exert pressure and to prevent them from travelling abroad to denounce what is happening in Venezuela.

On 31 August 2020, President Maduro pardoned 110 members of the political opposition, who had been accused of committing criminal acts. The decision meant the closure of ongoing criminal proceedings against 23 parliamentarians listed in the present case and the release of four of them. Nevertheless, according to the complainant, the political persecution of opposition members of parliament continues. In his programme *Con el Mazo Dando*, Mr. Diosdado Cabello, President of the National Constituent Assembly, referring to the presidential pardon decree, warned that "if these people start tomorrow to invent again there will always be the judiciary to act". The Attorney General has also publicly threatened to bring the beneficiaries of the presidential pardon to justice again if they "re-offend" in an alleged crime similar to the one that led to their prosecution.

In its resolution 42/25 of 27 September 2019, the United Nations Human Rights Council established an independent fact-finding mission on Venezuela, the final report of which was published in September 2020. Among other findings, the report states that there were reasonable grounds to believe that the following crimes against humanity were committed in Venezuela: murder, imprisonment and other severe deprivations of physical liberty, torture, rape and other forms of sexual violence, enforced disappearance of persons, and other inhumane acts of a similar nature intentionally causing great suffering or serious injury to body or to mental or physical health. Some of the same conduct may also constitute the crime against humanity of persecution, as defined by the Rome Statute. The mission also had reasonable grounds to believe that the President, the Minister of People's Power for Interior Relations, Justice and Peace and the Minister for Defence ordered or contributed to the commission of the crimes documented in the report and, having the effective ability to do so, failed to take preventive and repressive measures. According to the mission report, opposition parliamentarians became a focus of repression after the opposition won a majority of seats in the National Assembly in 2015.

Parliamentary elections took place on 6 December 2020. According to the complainant, in the lead-up to the elections, the Supreme Court adopted a number of decisions that removed minimum guarantees for a free and fair parliamentary election, including by appointing new leaders subordinate to President Maduro on the main opposition political parties, appointing the board of directors of the National Electoral Council which, according to the Constitution, is the exclusive responsibility of the National Assembly, and granting powers to the National Electoral Council to legislate on electoral matters, which also violates the Venezuelan Constitution. For its part, the National Electoral Council increased the number of members of parliament to be elected, disregarding the constitutional provisions on the matter, and imposed extremely complex processes for validation of political parties, after which very few parties have been able to register for the elections. The complainant has repeatedly pointed out that the composition of the National Electoral Council and the Supreme Court, which both have important powers regarding electoral matters, is severely flawed and totally subject to executive control.

According to information provided to the IPU by the Venezuelan executive authorities, 6.2 million Venezuelans participated in the December 2020 parliamentary elections in the full exercise of their political rights and in compliance with Venezuelan law. The electoral event was organized and supervised by the National Electoral Council, which is the highest electoral authority in the country. Some 107 political parties participated in the election, 98 of which define themselves as opposition parties. More than 200 international observers from different countries and continents praised the Venezuelan electoral system for being auditable, safe and transparent.

Several opposition parties, including Mr. Juan Guaidó's party, decided to boycott the elections. As a result, a coalition of the ruling party and other pro-government parties won the election, with 67.6 per cent of the vote, according to Venezuela's electoral authorities, which translates into 253 seats – 91 per cent of the seats available in the National Assembly. The new legislative body was formally inaugurated on 5 January 2021. The National Assembly elected in 2015 has, however, decided to continue functioning through a delegated committee "until free, fair and verifiable presidential and parliamentary elections have been held in 2021, an exceptional political event occurs in 2021 or even for an additional annual parliamentary term after 5 January 2021".<sup>1</sup>

The complainant states that persecution, harassment and intimidation of opposition parliamentarians elected in 2015 have increased and that these members of parliament fear for their lives, freedom and physical integrity. One example of the above-mentioned acts of intimidation and persecution recently communicated by the complainant is that, on 7 January 2021, the National Assembly inaugurated on 5 January 2021 put in place a "Special Commission to Investigate Actions Perpetrated against the Republic by the leadership and members of the National Assembly in the period 2016–2021", with a clear mandate to investigate the parliamentarians elected in 2015 in order to initiate legal proceedings against them. Another example is that, on 23 February 2021, the Comptroller General of the Republic, Mr. Elvis Amoroso, reported that 28 parliamentarians elected in 2015 were disqualified from holding any public office for "failing to submit a sworn declaration of assets to the Supreme Fiscal Control Body of Venezuela".

Long-standing efforts since 2013 to send a delegation of the Committee on the Human Rights of Parliamentarians to Venezuela have failed in the absence of clear and decisive cooperation from the Government to welcome and work with the delegation.

## B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Denounces*, once again, the extensive repression to which the authorities and their supporters have resorted over the past few years against opposition parliamentarians because of their political opinions, as attested by the continuous extremely serious incidents of ill-treatment, harassment, threats and stigmatization carried out by state agents, paramilitary groups and violent groups of government supporters in a climate of impunity; *strongly denounces* the multiple steps taken by the executive and judicial authorities over the course of the opposition-led legislature to undermine the integrity and independence of the National Assembly; *reiterates* that this situation taken as a whole amounts to a clear attempt to thwart the effective exercise of the will of the people as expressed in the election results of December 2015;
2. *Considers* that the ongoing repression of parliamentarians elected in 2015 is a direct consequence of the prominent role they have played as outspoken opponents of President Maduro's government and as members of the opposition-led National Assembly; *urges* the authorities once again to put an immediate end to all forms of harassment against parliamentarians elected in 2015, to ensure that all relevant state authorities respect their human rights, and to fully investigate and establish accountability for reported violations of their

<sup>1</sup>

See article 12 of the Statute Governing the Transition to Democracy to Restore the Validity of the Constitution of the Bolivarian Republic of Venezuela, adopted by the National Assembly elected in 2015 on 26 December 2020, <https://asambleanacional-media.s3.amazonaws.com/documentos/leyes/estatuto-que-rige-la-transicion-a-la-democracia-para-restablecer-la-vigencia-de-la-constitucion-de-la-republica-bolivariana-de-venezuela-20201226172249.pdf>

rights; *requests* the Venezuelan authorities to provide official information on any relevant developments in this regard and on any action taken to this end;

3. *Remains deeply concerned* about the findings of the mission report of the United Nations Human Rights Council independent international fact-finding mission on Venezuela, which was published in September 2020 and gives further weight to the accusations of political repression and the responsibility of the State at the highest level; *expresses its firm hope*, once again, that the State of Venezuela, with the support of the international community, will be able to address the extremely serious violations and crimes documented in the report;
4. *Deeply regrets* that the Government of Venezuela has still failed to offer any assurances in writing that the long-proposed mission to Venezuela can finally take place; *remains convinced* that such a mission could help address the concerns at hand; *requests*, once again, therefore, the Secretary General to work with the relevant authorities of Venezuela with a view to the mission taking place as soon as the COVID-19 pandemic-related travel restrictions are lifted, on the basis of a written official communication on their part guaranteeing that such a mission can take place under the conditions required for it to be effective;
5. *Reaffirms its view* that the issues in the cases at hand are part of the larger political crisis in Venezuela, which can only be solved through political dialogue and by the Venezuelans themselves; *reaffirms* the IPU's readiness to assist in any efforts aimed at strengthening democracy in Venezuela; and *requests* the relevant authorities to provide further information on how this assistance can best be provided;
6. *Reiterates its calls on* all IPU Member Parliaments, IPU permanent observers, parliamentary assemblies and relevant human rights organizations to take concrete actions in support of the urgent resolution of the individual cases at hand and the political crisis in Venezuela in a manner consistent with democratic and human rights values; and *hopes* to be able to rely on the assistance of all relevant regional and international organizations;
7. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
8. *Decides* to continue examining the case.

# Afghanistan

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



© IPU – Fawzia Koofi

AFG-05 – Fawzia Koofi  
AFG-08 – Maryam Koofi

## Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation<sup>2</sup>
- ✓ Impunity
- ✓ Lack of due process at the investigation stage
- ✓ Right of appeal
- ✓ Other violations: Right to take part in the conduct of public affairs
- ✓ Other violations: Discrimination

## A. Summary of the case

Ms. Fawzia Koofi, a former member of the House of the People (*Wolesi Jirga*) of Afghanistan, has been a long-standing champion of women's rights in Afghanistan. She has been the victim of numerous unpunished attacks and death threats and her case has been before the Committee on the Human Rights of Parliamentarians since 2010. Ms. Maryam Koofi, her sister, is also a member of parliament. The complaint regarding Ms. Maryam Koofi's situation was received in 2018.

The complainants have claimed in the past that the investigations into attacks and death threats against Ms. Fawzia Koofi led to no arrests, except for two officials who were briefly detained in 2010

<sup>2</sup> This allegation concerns events that occurred between 2010 and 2018 in relation to Ms. Fawzia Koofi exclusively. In October 2018, the Committee decided to merge the cases of Ms. Fawzia Koofi and Ms. Maryam Koofi.

## Case AFG-COLL-01

**Afghanistan:** Parliament affiliated to the IPU

**Victims:** Two female opposition members of parliament

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

**Submission of complaints:** April 2010 (Ms. Fawzia Koofi) and September 2018 (Ms. Maryam Koofi)

**Recent IPU decision:** October 2018

**IPU mission(s):** - - -

**Recent Committee hearing:** Hearing with members of the delegation of Afghanistan to the 132<sup>nd</sup> IPU Assembly (March 2015)

### Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainants: February 2021
- Communications addressed to the authorities: Letters addressed to the President of Afghanistan and the President of the House of the People (*Wolesi Jirga*) (January 2021)
- Communication addressed to the complainants: February 2021

and later released. The complainants have also made allegations that the attackers acted in complicity with police officers and officials in the judiciary suggest that impunity is carefully maintained. On 14 August 2020, both sisters were the target of another assassination attempt, which left Ms. Fawzia Koofi wounded in the arm.

In early August 2018, the Independent Electoral Complaints Commission invalidated the candidacies of Ms. Fawzia Koofi and Ms. Maryam Koofi for the 20 October 2018 parliamentary elections on the strength of complaints by two officials, alleging their affiliation to illegal armed groups. A total of 35 other candidates, including 10 incumbent parliamentarians, were also disqualified. These decisions are final and no domestic legal remedies are available under Afghan law. According to the complainants, the two women parliamentarians were never officially informed that accusations were levelled against their candidacies until they were notified that they had been disqualified from the elections. The complainants report that the only opportunity Ms. Fawzia Koofi had to defend herself was during a public hearing held by the Independent Electoral Complaints Commission, at which she had to appear without being informed of the accusations against her, whereas Ms. Maryam Koofi did not even have the opportunity to be heard. According to the complainants, Ms. Fawzia Koofi was asked to respond on the spot and given no time to prepare a defence, nor was she given the opportunity to provide any counterevidence.

The complainants allege that the process violated guarantees of due process and the presumption of innocence protected under the Afghan Constitution. The complainants claim that the decisions were politically motivated and excluded the two parliamentarians from the electoral process because they had been critical of the Government. According to the complainants, the accusations against them are false and baseless.

In December 2018, the complainants reported that Ms. Fawzia Koofi has filed a criminal case, through an international lawyer, against the two officials who have accused her and her sister of being affiliated to an armed group. In October 2020, the complainants reported that a court of first instance had found the two officials guilty of providing false information, ordered them to pay a fine and ruled that they should be removed from office. According to the complainants, Ms. Fawzia Koofi has appealed the decision, requesting stronger measures to punish the officials for the harm she and her sister have sustained as a result of their actions.

No information has been forthcoming from the Afghan authorities on these latest developments.

Ms. Fawzia Koofi has become a prominent member of the Afghan peace negotiation team representing the Government in intra-Afghan peace talks.

## **B. Decision**

The Committee on the Human Rights of Parliamentarians

1. *Deeply regrets* the lack of response from the Afghan authorities;
2. *Is deeply concerned* that it has now become clear that Ms. Fawzia Koofi and Ms. Maryam Koofi were arbitrarily prevented from taking part in the 2018 legislative elections; *points* in this regard to the false testimony against both women, which supported their disqualification, the fact that the two parliamentarians were not informed in due time of the accusations against them, that Ms. Fawzia Koofi had no opportunity to prepare a defence or provide any counterevidence, that Ms. Maryam Koofi was not given any opportunity to appear at a hearing, and that neither of the two members of parliament had the right to appeal the decision; *wishes* to receive information from the authorities and the complainants on the appeal, which is still pending;
3. *Considers* that the disqualification of Ms. Fawzia Koofi and Ms. Maryam Koofi and the way the process was handled is a direct consequence of the prominent role they have played as members of the Afghan Parliament and their world-renowned engagement in championing women's rights; *considers* also that the invalidation decision of the Independent Electoral Complaints Commission violated their rights to take part in the conduct of public affairs, to vote and to be elected, and to have access, under general conditions of equality, to public

service in their country; *recalls* that women's political participation and full contribution to political processes is first and foremost a question of democracy and human rights; *urges*, therefore, the Afghan authorities to remove all barriers to their full participation in public life and to do everything possible to guarantee the full enjoyment of their human rights;

4. *Considers* that the issues that have arisen in this case highlight the need to strengthen the vetting process of parliamentary candidates and to ensure that existing legislation is amended so as to comply with relevant international human rights standards regarding the right to a fair trial and the right to take part in the conduct of public affairs, including standards on transparency, inclusivity, accessibility, the presumption of innocence and the right to appeal; *calls on* parliament to promote steps to this end; *recommends* that the IPU offer capacity-building assistance in this regard if so requested; and *invites* the Afghan Parliament to provide their official view on the usefulness of such assistance, as well as further information on how this assistance could best be provided;
5. *Is deeply concerned* by reports that numerous attacks against Ms. Fawzia Koofi and Ms. Maryam Koofi have remained largely unpunished, that they were the target of yet another attempt on their lives on 14 August 2020 and that they were targeted because they are women and prominent women's rights advocates; *remains convinced* that any arrangements to ensure the safety of women parliamentarians are bound to fail if the perpetrators of threats and attacks are not punished and if they believe that they can act with impunity; *stresses* that impunity in cases of violence against women parliamentarians also sends a message to other women that violence awaits them in the political sphere, and to Afghan people that women should not participate in politics; *strongly urges* the Afghan authorities to ensure an environment free of violence against women in politics in general and to adopt decisive action to guarantee that the repeated attacks against the two former members of parliament with the alleged complicity of State officials are fully and immediately investigated and followed up by whatever accountability steps are warranted as a result; *requests* the parliamentary authorities to provide information on any relevant developments in this regard and on any action taken by parliament to this end;
6. *Requests* the Secretary General to convey this decision to the competent authorities, the complainants and any third party likely to be in a position to supply relevant information;
7. *Decides* to continue examining this case.

# Mongolia

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



© Zorig Foundation

## MNG-01 – Zorig Sanjasuuren

### Alleged human rights violations

- ✓ Murder
- ✓ Impunity

#### A. Summary of the case

Mr. Zorig Sanjasuuren (“Mr. Zorig”) was assassinated on 2 October 1998. Regarded by many as the father of the democratic movement in Mongolia in the 1990s, Mr. Zorig was a member of parliament and acting Minister of Infrastructure at the time and was being considered as a candidate for the position of Prime Minister on the day he was killed.

Between 2015 and 2017, three suspects were identified, arrested, expeditiously tried and sentenced based on classified evidence, during trials held behind closed doors. Several reports indicated that the suspects were allegedly tortured to make false confessions and framed by the intelligence services. The murder of Mr. Zorig is widely believed to have been a political assassination that was covered up. The investigation into the mastermind(s) of his murder is still open and has not yielded any results yet.

Despite the governmental declassification order of the files relating to the Zorig case in December 2017, the lack of transparency is still prevalent, as the court verdicts have remained inaccessible.

Since the submission of the complaint 20 years ago, the Committee has undertaken three fact-finding missions to Mongolia at crucial phases in the case. In June 2019, the Committee returned to Mongolia following the invitation of the parliamentary authorities and was updated on the important developments in the case, in particular the release of a video in March 2019 showing the torture and ill-treatment of two of

#### Case MNG-01

**Mongolia:** 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 complaints:** October 2000, March 2001, September 2015

**Recent IPU decision:** November 2019

**Recent IPU Missions:** August 2001, [September 2015](#), [September 2017](#), [June 2019](#)

**Recent Committee hearing:** Hearing with the Mongolian delegation to the 141<sup>st</sup> IPU Assembly (October 2019)

#### Recent follow up:

- Communication from the authorities: Letter from the Vice-Chairman of the State Great Hural (February 2021)
- Communication from the complainants: March 2021
- Communication addressed to the authorities: Letter addressed to the Vice-Chairman of the State Great Hural (January 2021)
- Communication addressed to the complainants: March 2021

the convicts, Ms. Chimgee and Mr. Sodnomdarjaa, as well as the establishment of a parliamentary *ad hoc* committee on the case of Mr. Zorig. The two convicts in question were transferred to the prison hospital as a result of the video and a criminal case was opened against intelligence and law enforcement officials allegedly responsible for torturing them. Nevertheless, they are still being held in detention.

On 22 July 2020, the Ulaanbaatar Court of First Instance concluded that Ms. Chimgee and Mr. Sodnomdarjaa, two of the three persons who had been convicted of Mr. Zorig's murder, had been tortured during the investigation into this crime. It convicted the former Chief of the General Intelligence Agency, Mr. Bat Khurts, as well as other intelligence officers, to prison terms ranging from one to three years for their involvement in the torture. However, on 30 October 2020, the appeals court dismissed the verdict of the Ulaanbaatar Court of First Instance and ordered a retrial of the case, arguing that the first-instance court had made a wrongful interpretation of the Criminal Code and violated two articles of the Code on Criminal Procedure. In their letter of 23 February 2021, the parliamentary authorities stated that Mr. Khurts and the other defendants in the torture case had been released on bail due to the annulment of the case by the appeals court.

According to the complainants, on 10 March 2021, the Mongolian Government allegedly issued a decree to declassify the video showing that in 2015 Ms. Chimgee was allegedly drugged, undressed by investigators and had her fingerprints taken. The Justice Minister reportedly said that, despite the evidence disclosed in 2019, the torture case was still pending with unjustifiable delays.

## B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Mongolian parliamentary authorities for the information provided in their letter of 23 February 2021; *deplores*, nevertheless, the lack of response regarding the Committee's mission report of June 2019;
2. *Deplores* the continued detention of Ms. Chimgee and Mr. Sodnomdarjaa while the six defendants in the torture case have been released on bail; *fails to understand* that the release of the two convicts is still contingent upon the completion of this case, despite the compelling evidence justifying their immediate release, including the video watched by the delegation during its mission in 2019, their testimonies, the recent allegations concerning Ms. Chimgee and the ruling of the first-instance court in 2020 concluding that they had been tortured;
3. *Stresses*, therefore, that any further delays in releasing Ms. Chimgee and Mr. Sodnomdarjaa are unacceptable; and *urges*, once more, the authorities to release them promptly and to seriously consider abandoning the legal proceedings against them; *is deeply concerned* by the delays in the torture case and the ruling adopted by the appeals court, and *wishes* to receive additional information on the provisions of the Code on Criminal Procedure that had been allegedly wrongfully interpreted by the court of first instance; *renews its call* for the relevant authorities to provide copies of the verdicts of the first-instance court and the appeals court in the torture case;
4. *Deeply regrets* that the authorities did not take any measures to implement the findings and recommendations of the 2019 mission report, including the setting up of a parliamentary committee on the Zorig case; *strongly reiterates* that parliamentary oversight remains crucial towards helping to ensure that justice finally prevails in this case; *renews its call* on the State Great Hural to set up the *Ad Hoc* Committee on the Zorig case again, with a strong and clear mandate to continue monitoring the ongoing investigation into the mastermind(s) and the judicial proceedings relating to the torture of the two convicts;
5. *Stresses*, once more, in this regard that justice can only be achieved when the identity of those responsible for murdering Mr. Zorig, including the mastermind(s), is established; *further underlines* that only full transparency can turn the tide of mistrust and secrecy that has come to define this murder case; *urges* the authorities, therefore, to make more robust efforts to conduct

an effective investigation into establishing the identity of those accountable for this crime and to make information regularly available to the public at large on progress; *reiterates its wish* to be kept regularly apprised of all developments related to the case;

6. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainants and any third party likely to be in a position to supply relevant information;
7. *Decides* to continue examining this case.

# Myanmar

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



Soldiers in front of a guesthouse where Myanmar members of parliament have been residing in Naypyidaw. STR / AFP

- |                                  |                                 |
|----------------------------------|---------------------------------|
| MMR-267 - Win Myint              | MMR-287 - Kyaw Thaug            |
| MMR-268 - Aung San Suu Kyi (Ms.) | MMR-288 - Zo Bwe                |
| MMR-269 - Henry Van Thio         | MMR-289 - Phyu Phyu Thin (Ms.)  |
| MMR-270 - Mann Win Khaing Than   | MMR-290 - Ye Mon (aka Tin Thit) |
| MMR-271 - T Khun Myat            | MMR-291 - Htun Myint            |
| MMR-272 - Tun Tun Hein           | MMR-292 - Naing Htoo Aung       |
| MMR-273 - Aye Thar Aung          | MMR-293 - Dr. Wai Phyo Aung     |
| MMR-274 - Than Zin Maung         | MMR-294 - Zin Mar Aung (Ms.)    |
| MMR-275 - Dr. Win Myat Aye       | MMR-295 - Lwin Ko Latt          |
| MMR-276 - Aung Myint             | MMR-296 - Okkar Min             |
| MMR-277 - Ye Khaung Nyunt        | MMR-297 - Win Naing             |
| MMR-278 - Dr. Myo Aung           | MMR-298 - Nay Myo               |
| MMR-279 - Kyaw Myint             | MMR-299 - Zaw Min Thein         |
| MMR-280 - Win Mya Mya (Ms.)      | MMR-300 - Myo Naing             |
| MMR-281 - Kyaw Min Hlaing        | MMR-301 - Zay Latt              |
| MMR-282 - Min Thu                | MMR-302 - Myat Thida Htun (Ms.) |
| MMR-283 - Okka Min               | MMR-303 - Shar Phaung Awar      |
| MMR-284 - Zarni Min              | MMR-304 - Robert Nyal Yal       |
| MMR-285 - Mya Thein              | MMR-305 - Lamin Tun (aka Aphyo) |
| MMR-286 - Tint Soe               |                                 |

## Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Failure to respect parliamentary immunity

## A. Summary of the case

Following the military takeover on 1 February 2021, a complaint was submitted to the IPU Committee on the Human Rights of Parliamentarians regarding the situation of 22 members of the Parliament of Myanmar (“*Pyidaungsu Hluttaw*”), elected in general elections held on 8 November 2020, who have reportedly been placed in incommunicado detention or under house arrest. One of them has since reportedly been released. Seventeen others, who make up the Committee Representing the Pyidaungsu Hluttaw (CRPH), are said to be in hiding, fearing reprisals due to their political activities.

The situation of these individual parliamentarians has to be seen against the following backdrop:

In the general elections held on 8 November 2020, the National League for Democracy (NLD), as in 2015, won a majority, this time obtaining at least 397 parliamentary seats out of 476, according to official results. The main national opposition party, the military-established Union Solidarity and Development Party (USDP), suffered a significant defeat.

On 1 February 2021, the day on which the newly elected parliament was due to be sworn in, the military forcefully took power, declaring itself the “State Administrative Council”. It arrested senior political figures of the ruling NLD – including the country’s *de facto* civilian leader, Aung San Suu Kyi – and seized executive, legislative and judicial power for at least a year under a state of emergency.

The Myanmar military justified overthrowing the elected government by citing alleged fraud in the 2020 elections. Myanmar’s election commission firmly rejected those allegations. In late January 2021, the USDP filed over 170 cases of alleged election irregularities with the Supreme Court. The Court took arguments on 29 January 2021 but has yet to decide whether to hear the cases. On 5 February 2021, the military regime removed Supreme Court judges, who have since been replaced by military appointees. According to international observers, important aspects of the electoral process were impacted by restrictions imposed to combat the pandemic, but generally it was found that voters were able to freely express their will at the polls.

After the military takeover on 1 February 2021, newly elected members of parliament were forced to leave their parliament residences in the capital, Nay Pyi Taw, and return to their homes. According to the complainant, on 4 February 2021, some 70 elected members of parliament from the NLD met in Nay Pyi Taw and took an oath of office pledging to abide by the mandate granted to them by the people. On 5 February, 300 members of parliament met online and established the Committee Representing the *Pyidaungsu Hluttaw* (CRPH). The CRPH aims to fulfil parliament’s role, despite the coup and in circumstances where members of parliament were under close watch by the military and police. Initially formed with 15 NLD members of parliament on 5 February, its membership was extended to 17, with representatives of the Kayah State Democratic Party and Ta’ang National Party joining on 10 February 2021.

The CRPH has since formed an interim government and appointed some ministers, as well as issuing a statement of its political objectives on 5 March 2021, the aims of which include to end “the military dictatorship” and to build a federal democratic system. The CRPH has also appointed Mahn Win Khaing Than, an ethnic Kayin NLD member of parliament and Speaker of the House of Nationalities 2016–2021, as acting Vice President of Myanmar. The military have declared the CRPH to be illegal and that its members and those working with them are liable under Criminal Code section 122 for high treason, punishable by death or up to 22 years of imprisonment. Moreover, even those who do not directly communicate with the CRPH can face seven years’ imprisonment under Criminal Code section 124(d) for backing the CRPH through expressions of support. All 17 CRPH members have gone into hiding, fearing reprisals by the military.

### Case MMR-COLL-03

**Victims:** 39 parliamentarians (35 male and four female)

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

**Submission of complaint:** March 2021

**Recent IPU decision(s):** - - -

**Recent IPU Mission(s):** - - -

**Recent Committee hearing(s):** - - -

#### Recent follow-up:

- Communication from the authorities: Letter from the Permanent Mission of Myanmar to the United Nations at Geneva: February 2021
- Communication from the complainant: March 2021
- Communication(s) addressed to the authorities: - - -
- Communication addressed to the complainant: March 2021

Immediately following the military takeover, large-scale peaceful protests started in Myanmar and have continued to this day. In response, the military has increasingly resorted to violent means and repression to quell the protests. The United Nations Special Rapporteur on the human rights situation in Myanmar has stated that, “there is growing evidence that the Myanmar military is likely engaging in crimes against humanity, including the acts of murder, enforced disappearance, persecution, torture, and imprisonment in violation of fundamental rules of international law”, but that, “a full investigation and a trial before a court of law are required to formally find crimes against humanity”. More than 2,000 people have been arrested and 120 killed since 1 February 2021 (as of 10 March 2021). Moreover, since 1 February 2021, the military has issued draconian decrees amending existing laws, establishing new regulations and imposing its will on telecommunications companies, all illegitimately and in violation of the people of Myanmar’s right to freedom of expression, freedom of peaceful assembly and association, and access to information.

On 1 February 2021, the IPU issued a statement condemning the coup d’état, which was followed by another statement on 5 February in which the IPU Committee on the Human Rights of Parliamentarians expressed its concern about the allegations of arbitrary arrests of elected members of parliament, the Speaker and other members of parliament.

## B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that: (i) the complaint was submitted in due form by a qualified complainant under section I.1(a) 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); (ii) the complaint concerns 39 members of parliament, who had been elected before the alleged violations took place; and (iii) the complaint concerns allegations of threats, acts of intimidation, arbitrary arrest and detention, violations of freedom of opinion and expression, and freedom of assembly and association, and failure to respect parliamentary immunity, allegations that fall within the Committee’s mandate; *considers* that the complaint is therefore admissible under the provisions of section IV of the Procedure; and *declares itself* competent to examine the case;
2. *Is alarmed* that the military chose to forcefully prevent the Myanmar Parliament from convening on and after 1 February 2021, to outlaw those intent on exercising their parliamentary mandate, as entrusted to them by the people of Myanmar, to put in place exorbitant legal restrictions to people’s human rights and to violently repress public dissent; *stresses* that electoral disputes should be settled through existing legal channels, never by force, and that available reports on the elections held in November 2020 underscore that they were free and fair and raised reservations only in relation to the restrictions imposed by COVID-19; *considers* in this regard that the mass and peaceful protests that have taken place since 1 February 2021 are further signs of the public’s faith in the outcome of the electoral process and its wish to protect the democratic gains made in recent years;
3. *Urges* the military authorities to respect the basic human rights of all parliamentarians elected in November 2020 and hence to allow them to associate, assemble, express their views and move about without fear of reprisals; *is deeply concerned*, therefore, that at least 39 members of the Myanmar Parliament, including its presiding officers, have reportedly been subject to direct reprisals for carrying out their political work; *urges* the military authorities to release those in detention and under house arrest immediately, and to refrain from taking physical or legal action against the 17 members of the CRPH, and any other person elected in November 2020, in connection with their parliamentary activities; *wishes* to receive as a matter of urgency specific information on these points from the military authorities and, for as long as parliamentarians are held against their will, detailed information on the factual and legal situation in which they find themselves;

4. *Requests* the Secretary General to convey this decision to the military authorities, the complainant and any third party likely to be in a position to supply relevant information; also *requests* the Secretary General to explore all other possibilities for the concerns and requests for information raised in this decision to be effectively addressed, including the usefulness of a visit by a Committee delegation to Myanmar;
5. *Decides* to continue examining this case at its next session.

# Thailand

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



© Courtesy the complainant

## THA-183 – Jatuporn Prompan

### Alleged human rights violations

- ✓ Arbitrary arrest and detention
- ✓ Violation of freedom of opinion and expression
- ✓ Arbitrary invalidation of the election of a parliamentarian
- ✓ Other violations: Right to take part in the conduct of public affairs

### A. Summary of the case

By June 2010, Mr. Jatuporn, then an incumbent member of the Thai House of Representatives, and a prominent leader of the “Red Shirts” movement, was charged with participating in an illegal gathering that contravened the state of emergency declared by the Government and with terrorism in relation to arson attacks on several buildings that took place on 19 May 2010, when he and other Red Shirt leaders had already been taken into police custody. Mr. Jatuporn was quickly released on bail thereafter.

On 10 April 2011, Mr. Jatuporn took the stage during the commemoration organized at the Democracy Monument in Bangkok to mark the first anniversary of the Government’s response to the Red Shirt demonstrations. In his speech, he criticized the then government and the Royal Thai Army for using the pretext of “protecting the monarchy”. The Thai Army filed a complaint alleging that Mr. Jatuporn had committed lese-majesty in his speech. The Department of Special Investigations asked the Criminal Court to revoke his bail following the complaint, which it did on 12 May 2011. Mr. Jatuporn was subsequently held in Bangkok

### Case THA-183

**Thailand:** 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:** June 2012

**Recent IPU decision:** [March 2016](#)

**IPU Mission(s):** - - -

**Recent Committee hearing:** Hearing with the Thai delegation to the 134<sup>th</sup> IPU Assembly (Lusaka, March 2016)

### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the House of Representatives (February 2021)
- Communication from the complainant: January 2018
- Communication addressed to the authorities: Letter addressed to the Speaker of the House of Representatives (January 2021)
- Communication addressed to the complainant: February 2021

Remand Prison until 2 August 2011. The Department of Special Investigations subsequently dismissed the charge and the case was referred to the Office of the Attorney General for consideration. It seems that no further action was taken on this matter subsequently.

In July 2011, Mr. Jatuporn stood in the legislative elections while in detention. His requests to be allowed to vote on Election Day were denied, although he was released on bail one month later. Mr. Jatuporn was elected to the House of Representatives, and his election was initially certified by the Election Commission. However, in May 2012, the Constitutional Court disqualified Mr. Jatuporn's election on the grounds that he was no longer a member of his political party owing to his failure to vote on Election Day. The complainant states that the decision violates Mr. Jatuporn's human rights and Thailand's international obligations. It also states that the legal basis for the charges brought against Mr. Jatuporn and for his detention violate international standards. An IPU trial observer attended the hearings on 30 and 31 May and 6 and 7 June 2013 in this case before the Bangkok criminal court.

On 14 August 2019, the Criminal Court acquitted Mr. Jatuporn and 23 other United Front for Democracy against Dictatorship co-defendants of the terrorism charges. On 17 February 2021, the parliamentary authorities shared updated information on the case, confirming that Mr. Jatuporn had no longer been the subject of any judicial proceedings against him since his release and subsequent acquittal. They also claimed that the former member of parliament had been able to fully exercise his civil and political rights, as illustrated by the active role he has played in diverse political activities since his release from prison on 4 August 2018.

On 20 July 2017, Mr. Jatuporn was sentenced to a one-year prison term for defamation, following a lawsuit filed by the then prime minister, Mr. Abhisit Vejjajiva, with allegations that Mr. Jatuporn had defamed the former prime minister during speeches made on 11 and 17 October 2009. Mr. Jatuporn served the prison sentence in full. However, he still appears to be subject to a legal prohibition barring him from taking part in parliamentary elections for 10 years following his release from prison.

## **B. Decision**

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Speaker of the House of Representatives for his letter of 17 February 2021 and the information contained therein;
2. *Notes* that Mr. Jatuporn was acquitted on the terrorism charge and that he is no longer subject to any other legal proceedings;
3. *Reaffirms its view* that the disqualification in 2012 of Mr. Jatuporn's election to the House of Representatives was based on grounds that appear directly to contravene Thailand's international human rights obligations; *considers* in this regard that denying an incumbent member of parliament temporary release from prison to exercise the right to vote was an "unreasonable restriction" and was at odds with the provisions of the International Covenant on Civil and Political Rights, in particular the right to take part in the conduct of public affairs (Article 25);
4. *Is concerned* that Mr. Jatuporn was prosecuted, sentenced and convicted on appeal on charges of defamation, which led to a suspension of his right to take part in elections to parliament for a prolonged period of time; *concurs* with the recommendation made by the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression that defamation should not be considered an offence under criminal law;
5. *Reaffirms*, in this regard, that legislation on defamation should be in line with international standards on freedom of expression and the right to take part in public life; *considers* that it is imperative that Thai legislation regarding defamation be reviewed in order to avoid the recurrence of such situations; *underscores* that the Thai Parliament has a particular

responsibility to promote steps to this end, including so as to ensure that all of its members can speak out freely without fear of suspension of their right to take part in elections to parliament;

6. *Calls on* the authorities to make use of the expertise of the United Nations special procedures, in particular the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, to ensure that existing legislation is amended so as to comply with relevant international human rights standards; *suggests* also that the IPU offer assistance to the Thai authorities in any such legal review;
7. *Decides* to close the case in accordance with section IX, paragraph 25(b), of Annex I of its Procedure for the examination and treatment of complaints, given that no new information has been forthcoming from the complainant, despite several requests made for this purpose;
8. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.

# Belarus

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



Mr. Anatoly Lebedko, the then leader of the United Civil Party, is pictured as he talks to the media in Minsk on 6 July 2005. AFP PHOTO / VIKTOR DRACHEV / AFP

## BLR-07 – Anatoly Lebedko

### Alleged human rights violations

- ✓ Abduction
- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of fair trial proceedings
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Arbitrary invalidation of the election of a parliamentarian
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Impunity
- ✓ Other violations: Right to take part in the conduct of public affairs

### A. Summary of the case

Mr. Anatoly Lebedko was elected to the 12<sup>th</sup> Supreme Soviet of Belarus in 1990 and later re-elected to the 13<sup>th</sup> Supreme Soviet in 1995 for a period of five years. He is a senior member and former leader of the prominent United Civil Party, which has been in opposition to the incumbent president, Mr. Aleksandr Lukashenko, since 1996.

### Case BLR-07

**Belarus:** Parliament affiliated to the IPU

**Victim:** Male opposition member of parliament

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

**Submission of complaint:** March 2021

**Recent IPU decision(s):** - - -

**Recent IPU mission(s):** - - -

**Recent Committee hearing(s):** - - -

#### Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: March 2021
- Communication(s) addressed to the authorities: - - -
- Communication addressed to the complainant: March 2021

Mr. Anatoly Lebedko became a vocal critic of President Lukashenko following two historical votes that took place in 1995 and 1996. Both referenda consolidated the sweeping powers of the President and rolled back democratic reforms that had taken place in the first five years since the independence of Belarus by amending the country's Constitution. Both votes were accompanied by allegations of voter fraud and were condemned by the Parliamentary Assembly of the Organization for Security and Co-operation in Europe (OSCE) as falling far short of democratic standards. The complainant alleges that, in the power struggle that ensued, a new House of Representatives was assembled consisting exclusively of people loyal to Mr. Lukashenko. Up to 60 members of the Supreme Soviet who rejected the new constitution continued to work in the Supreme Soviet, which was recognized as the legitimate parliament by the IPU and the international community until the end of its mandate in 2000.

According to the complainant, all the members of parliament who were elected in the 1995 elections and did not agree to submit to the President were blacklisted and faced continuous harassment. The complainant asserts that, as a direct result of being blacklisted, Mr. Lebedko suffered repeated human rights violations every year between 1996 and 2020. In 1996, Mr. Lebedko allegedly received threats three times after his articles were published in the independent press. According to the complainant, on 10 February 1997, Mr. Lebedko was badly beaten in the lift of his apartment block by two unknown assailants, which he describes as an act of intimidation sanctioned by the Government in retaliation for his activities. The complainant alleges that numerous proceedings were brought against Mr. Lebedko for his alleged participation in the demonstrations of 14 and 15 March 1997, with several alleged irregularities violating his right to a fair trial. Mr. Lebedko allegedly faced heavy court penalties in 1999 for taking part in street protests, which the complainant described as reprisals for Mr. Lebedko's vocal international parliamentary activity, including speeches he gave on the floor of the United States Congress and at the OSCE Parliamentary Assembly. Some of these matters were the subject at the time of a collective complaint to the IPU Committee on the Human Rights of Parliamentarians. However, although the Committee had stated that the arbitrary actions against Mr. Lebedko and others had come in response to their parliamentary activities, the examination of the case was subsequently closed in the absence of the information required to proceed any further.

According to the complainant, after the end of his mandate in 2000, Mr. Lebedko continued to take an active role in the country's politics, including by organizing protests against reported voter fraud in the 2004 elections, when he was allegedly arbitrarily arrested and severely beaten by police, leaving him with fractured ribs. The complainant reports that, during the eruption of mass demonstrations for free and fair elections following the contested results of the presidential elections in August 2020, Mr. Lebedko was abducted, placed in a KGB pretrial detention facility, and later released without ever being charged.

The United Nations Human Rights Council has repeatedly expressed deep concern at the continuing violations of human rights in Belarus, which it found to be of a systemic and systematic nature, as well as the use of torture and ill-treatment in custody, the lack of response by the Government of Belarus to cases of torture and the lack of participation of opposition political parties in parliament.<sup>3</sup> In 2016, the OSCE concluded that, despite the admission of two "token" opposition members, the voting process was once again marred by procedural irregularities and a lack of transparency. In 2019, the two members of parliament mentioned above lost their seats, resulting in a parliament bereft of any kind of opposition. In September 2020, the UN Human Rights Council held an urgent debate on the situation in Belarus following the 2020 elections and adopted a resolution condemning the reported use of violence, arbitrary arrests and torture against hundreds of thousands of protestors.

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<sup>3</sup> See also Resolution A/HRC/RES/38/14 of 16 July 2018 adopted at the 38th session of the UN Human Rights Council; Resolution A/HRC/32/L.10/Rev.1 of 28 June 2016; Resolution 29/17 adopted at the 29th session of the Human Rights Council (26 June 2015), A/HRC/29/L.12; and Resolution 26/25, 27 June 2014.

## B. Decision

### The Committee on the Human Rights of Parliamentarians

1. *Refers* to the collective case of Mr. Anatoly Lebedko and 11 other members of the 13<sup>th</sup> Supreme Soviet that was pending before the Committee between 1998 and 2000, and the case of Mr. Victor Gonchar, which is pending before the Committee;
2. *Notes* that the complaint was submitted in due form by a qualified complainant under section I.1.(a) of the Procedure for the examination and treatment of complaints (Annex I to the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
3. *Notes* that the complaint concerns a former member of parliament who was a sitting parliamentarian when several of the alleged violations to which he was subjected took place;
4. *Notes*, further, that the complaint concerns allegations of abduction, torture, ill-treatment and other acts of violence, threats and acts of intimidation, arbitrary arrest and detention, lack of fair trial proceedings, violation of freedom of opinion and expression, violation of freedom of assembly and association, arbitrary invalidation of the election of a parliamentarian, abusive revocation or suspension of the parliamentary mandate, impunity, and the right to take part in the conduct of public affairs; *considers* that these allegations fall within the Committee's mandate insofar as they are connected to the time when Mr. Lebedko was a parliamentarian and/or directly linked to the previous exercise of his parliamentary mandate;
5. *Considers*, therefore, that the complaint is admissible under the provisions of section IV of the Procedure; *decides* to reopen the case under the provisions of section IX, paragraph 26, of the Procedure; and *declares itself* competent to examine the case.

# Turkey

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



A supporter of the pro-Kurdish People's Democratic Party (HDP) holds pictures of jailed former party leader, Mr. Selahattin Demirtaş, during a 'peace and justice' rally in Istanbul on 3 February 2019. Yasin AKGUL / AFP

- |                                       |                                   |
|---------------------------------------|-----------------------------------|
| TUR-69 - Gülser Yıldırım (Ms.)        | TUR-105 - Erol Dora               |
| TUR-70 - Selma İrmak (Ms.)            | TUR-106 - Ertuğrul Kürkcü         |
| TUR-71 - Faysal Sariyıldız            | TUR-107 - Ferhat Encü             |
| TUR-73 - Kemal Aktas                  | TUR-108 - Hişyar Özsoy            |
| TUR-75 - Bedia Özgökçe Ertan (Ms.)    | TUR-109 - Idris Baluken           |
| TUR-76 - Besime Konca (Ms.)           | TUR-110 - Imam Taşçier            |
| TUR-77 - Burcu Çelik Özkan (Ms.)      | TUR-111 - Kadri Yıldırım          |
| TUR-78 - Çağlar Demirel (Ms.)         | TUR-112 - Lezgin Botan            |
| TUR-79 - Dilek Öcalan (Ms.)           | TUR-113 - Mehmet Ali Aslan        |
| TUR-80 - Dilan Dirayet Taşdemir (Ms.) | TUR-114 - Mehmet Emin Adiyaman    |
| TUR-81 - Feleknas Uca (Ms.)           | TUR-115 - Nadir Yıldırım          |
| TUR-82 - Figen Yüksekdağ (Ms.)        | TUR-116 - Nihat Akdoğan           |
| TUR-83 - Filiz Kerestecioğlu (Ms.)    | TUR-118 - Osman Baydemir          |
| TUR-84 - Hüda Kaya (Ms.)              | TUR-119 - Selahattin Demirtaş     |
| TUR-85 - Leyla Birlik (Ms.)           | TUR-120 - Sirri Süreyya Önder     |
| TUR-86 - Leyla Zana (Ms.)             | TUR-121 - Ziya Pir                |
| TUR-87 - Meral Daniş Beştaş (Ms.)     | TUR-122 - Mithat Sancar           |
| TUR-88 - Mizgin İrgat (Ms.)           | TUR-123 - Mahmut Toğrul           |
| TUR-89 - Nursel Aydoğan (Ms.)         | TUR-124 - Aycan Irmez (Ms.)       |
| TUR-90 - Pervin Buldan (Ms.)          | TUR-125 - Ayşe Acar Başaran (Ms.) |
| TUR-91 - Saadet Becerikli (Ms.)       | TUR-126 - Garo Paylan             |
| TUR-92 - Sibel Yiğitalp (Ms.)         | TUR-128 - Aysel Tuğluk (Ms.)      |
| TUR-93 - Tuğba Hezer Öztürk (Ms.)     | TUR-129 - Sebahat Tuncel (Ms.)    |
| TUR-94 - Abdullah Zeydan              | TUR-130 - Leyla Guven (Ms.)       |
| TUR-95 - Adem Geveri                  | TUR-131 - Ayşe Sürücü (Ms.)       |
| TUR-96 - Ahmet Yıldırım               | TUR-132 - Musa Farisogullari      |
| TUR-97 - Ali Atalan                   | TUR-133 - Emine Ayna (Ms)         |
| TUR-98 - Alican Önlü                  | TUR-134 - Nazmi Gür               |
| TUR-99 - Altan Tan                    | TUR-135 - Ayla Akat Ata (Ms)      |
| TUR-100 - Ayhan Bilgen                | TUR-136 - Beyza Üstün (Ms)        |
| TUR-101 - Behçet Yıldırım             | TUR-137 - Remziye Tosun (Ms)      |
| TUR-102 - Berdan Öztürk               | TUR-138 - Kemal Bulbul            |

## Alleged human rights violations

- ✓ Failure to respect parliamentary immunity
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings
- ✓ Excessive delays
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Arbitrary arrest and detention
- ✓ Ill-treatment
- ✓ Abusive revocation or suspension of the parliamentary mandate

### A. Summary of the case

Over 600 criminal and terrorism charges have been brought against the members of parliament of the People's Democratic Party (HDP) since 15 December 2015, when the Constitution was amended to authorize the wholesale lifting of parliamentary immunity. As a result, hundreds of trial proceedings are ongoing throughout the country against HDP parliamentarians and former parliamentarians. They are being tried on terrorism-related charges and charges of defamation of the President, Government or State of Turkey. Some of them also face older charges in relation to the Kurdistan Communities Union (*Koma Civakên Kurdistan* – KCK) first-instance trial that has been ongoing since 2011, while others face more recent charges. In these cases, their parliamentary immunity was allegedly not lifted.

Since 2018, over 30 parliamentarians have been sentenced to terms of imprisonment. Since 4 November 2016, scores of parliamentarians have been detained and others have gone into exile. Thirteen parliamentarians are currently in prison, including the former HDP co-chairs, Mr. Selahattin Demirtaş and Ms. Figen Yüksekdağ, as well as Mr. Abdullah Zeydan, Ms. Çağlar Demirel, Ms. Gülser Yıldırım, Mr. Idris Baluken, Ms. Leyla Güven, and Mr. Musa Farisoğulları. In September 2020, former members of parliament Mr. Nazmi Gür, Ms. Ayla Akat Ata, Mr. Ayhan Bilgen, Ms. Beyza Üstün, and Ms. Emine Ayna were arrested, although the accusations against them relate to the distant events that unfolded soon after the siege of Kobane in Syria in 2014. Thirteen HDP members of parliament have lost their parliamentary mandates in recent years, largely due to the fact that their prison sentences became final, most recently in the cases of Ms. Leyla Güven and Mr. Musa Farisoğulları in June 2020. If their sentence is confirmed by the Supreme Court, the same fate is said to await Ms. Remziye Tosun and Mr. Kemal Bulbul. The four last mentioned individuals all gained parliamentary immunity after being elected in parliamentary elections in June 2018, but the criminal cases against them were reportedly not suspended, with the justification that they were prosecuted with terrorism-related charges.

According to the complainant, the charges against HDP members of parliament are groundless and violate their rights to freedom of opinion and expression, and freedom of assembly and association. The complainant claims that the evidence adduced to support the charges against the members of parliament relates to public statements, rallies and other peaceful political activities carried out in furtherance of their parliamentary duties and political party programme. Such activities include mediating between the Kurdistan Workers' Party (*Partiya Karkerên Kurdistanê* – PKK) and the Turkish Government as part of the peace process between 2013 and 2015, publicly advocating political autonomy, and criticizing the policies of President Erdoğan in relation to the current conflict in south-eastern Turkey and at the border with Syria (including denouncing the alleged crimes committed by the Turkish security forces in that context). The complainant alleges that such statements, rallies and

### Case TUR-COLL-02

**Turkey:** Parliament affiliated to the IPU

**Victims:** 64 opposition members of parliament (34 men and 30 women)

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

**Submission of complaint:** June 2016

**Recent IPU decision:** May 2020

**IPU mission:** June 2019

**Recent Committee hearings:** Hearing with the Turkish delegation and the complainant at the 141<sup>st</sup> IPU Assembly (October 2019)

#### Recent follow-up:

- Communications from the authorities: Responses from the President of the Turkish IPU Group and the Government of Turkey (January 2020); letter from the President of the IPU Group (March 2021)
- Communication from the complainant: March 2021
- Communication addressed to the authorities: Letter to the Speaker of the Turkish Parliament (January 2021)
- Communication to the complainant: March 2021

activities did not constitute any offence, and that they fall under the clear scope and protection of the fundamental rights of members of parliament.

An IPU trial observer concluded in 2018 that the prospects of Ms. Yüksekdağ and Mr. Demirtaş receiving fair trials were remote and that the political nature of both prosecutions was evident. A 2018 IPU review of 12 court decisions issued against HDP members reached similar conclusions. It concluded, *inter alia*, that the judiciary in Turkey, from the first-instance courts to the Constitutional Court, completely disregarded the case law of the European Court of Human Rights and the main judgment of the Turkish Constitutional Court in relation to freedom of expression when evaluating whether an expression constituted incitement to violence or one of the other crimes with which the members of parliament were charged.

On 22 December 2020, the Grand Chamber of the European Court of Human Rights delivered its judgment in the case of *Demirtaş v. Turkey* (No. 2) (Application No. 14305/17), which concerned the former's detention on 4 November 2016 on the basis of accusations made in the context of street demonstrations that turned violent in Turkey in October 2014, allegedly resulting in 37 deaths in 32 cities across the country, in protest against the lack of government action by the Turkish Government following the Islamic State's attack on the Kurdish town of Kobane, located over the border in Syria. The accusations against Mr. Demirtaş were based on certain tweets issued from the HDP Twitter account in October 2014, as well as public speeches by him, which called for people to attend the demonstrations. The Grand Chamber of the European Court held that there had been violations of his rights to freedom of expression, to liberty and security, to a speedy decision on the lawfulness of detention and to free elections. The Court also found that Mr. Demirtaş' detention, especially during two crucial campaigns relating to the referendum of 16 April 2017 and the presidential elections of 24 June 2018, had pursued the ulterior purpose of stifling pluralism and limiting freedom of political debate, which was at the very core of the concept of a democratic society. The Court held that the respondent state was to take all necessary measures to secure his immediate release. Since then, European parliamentary and executive institutions have called on the Turkish authorities to implement the judgment without delay. On 7 January 2021, the Ankara 22<sup>nd</sup> Assizes Court accepted a 3,500-page indictment against Mr. Demirtaş and 107 other defendants, issued by the Ankara public prosecutor on 30 December 2020, regarding the same protests that took place in October 2014, this time charging Mr. Demirtaş with 30 new offences.

The Turkish authorities have provided extensive information on the legal status of the criminal proceedings against the HDP parliamentarians, without, however, providing information on the precise facts to support the charges or convictions. The Turkish authorities have repeatedly justified the legality of the measures taken against the HDP parliamentarians, and invoked the independence of the judiciary, the need to respond to security and terrorism threats, and legislation adopted under the state of emergency. The authorities have provided detailed information on parliament's May 2016 "provisional constitutional amendment" on parliamentary immunity, which has been used to prosecute parliamentarians from all parties. They have asserted that there is no "HDP witch-hunt" in Turkey; that women parliamentarians are not being specifically targeted; that there is no Kurdish issue in Turkey and no current conflict in south-eastern Turkey; that Turkey is facing a terrorism issue at multiple levels involving the PKK and its "extensions"; that the HDP has never publicly denounced the violent activities of the PKK; that HDP members, including members of parliament, have made many statements in support of the PKK and their "extensions"; that HDP members have attended funerals of PKK suicide bombers and called for people to take to the streets, which has resulted in violent incidents with civilian casualties; that this does not fall within the acceptable limits of freedom of expression; that the Constitutional Court has reached such conclusions in several cases and, in other cases, domestic remedies have not yet been exhausted; and that the independence of the judiciary and the rule of law in Turkey must be respected.

According to the complainant, the legal harassment of the HDP continues to this date: as of 1 March 2021, a total of 1,267 summaries of proceedings are under the review of the joint parliamentary, constitutional and justice Committees, of which 955 (75 per cent) have reportedly been prepared against 59 HDP parliamentarians (who comprise around 10 per cent of the Turkish Parliament).

In March 2021, the Turkish authorities launched Turkey's Human Rights Action Plan, the drafting of which has been guided by the standards and norms of the United Nations, the Council of Europe and

the European Union. According to the authorities, the main goal of this initiative is to reorganize the Turkish judicial system and to amend relevant laws and regulations in order to promote the effective protection of fundamental freedoms. These reform processes have already resulted in certain progress, especially by strengthening freedom of expression and victims' rights, as well as the introduction of limitations to the length of pretrial detention.

On 17 March 2021, the chief prosecutor of the Turkish Court of Cassation referred a request for the dissolution of the HDP to the Constitutional Court, accusing the HDP of terrorist activities.

## B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the President of the Turkish IPU Group for her latest communication of 5 February 2021 and for her continuous cooperation and spirit of dialogue;
2. *Notes* that the current case also includes a new complaint regarding the situation of Ms. Remziye Tosun, Mr. Kemal Bulbul, Mr. Musa Farisoğulları, Mr. Nazmi Gur, Ms. Ayla Akat Ata, Ms. Beyza Üstün and Ms. Emine Ayna, and that: (i) the complaint was submitted in due form by a qualified complainant under section I.1(a) 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); (ii) the complaint concerns seven individuals who are, or were, members of parliament at the time of the alleged violations of their human rights and/or of the alleged events that form the basis for the legal proceedings brought against them; and (iii) the complaint concerns allegations of arbitrary arrest and detention, violations of the right to freedom of expression and the right to a fair trial, and failure to respect parliamentary immunity, allegations that fall within the Committee's mandate; *considers* that the complaint is therefore admissible under the provisions of section IV of the Procedure; and *declares itself* competent to examine the case;
3. *Is alarmed* by the recent demand for the dissolution of the HDP party; *considers* that this step shows once again that the authorities continue to view, wrongly, the PKK and the HDP as one and the same entity; *recalls* in this regard that, while recognizing that the two organizations rely largely on the same support base and pursue similar objectives, the HDP is a legal political party that does not in any way advocate violence to achieve its goals; *is concerned* that its dissolution will deprive not only HDP parliamentarians of their right to participate in public life, but also their electorate of their representation in the Turkish parliament; *underlines* that the European Court of Human Rights has ruled that the dissolution or ban of a party is an extreme measure only justified as a last resort, in very exceptional circumstances, and that it has already handed down several rulings, notably against Turkey, in which the ban on a political party had been considered a human rights violation; *urges* the Turkish authorities, therefore, to do their utmost to comply with its obligations under the European Convention on Human Rights in this area;
4. *Is deeply concerned* at the conclusions of the Grand Chamber of the European Court of Human Rights according to which Mr. Demirtaş' first detention order not only violated his own basic human rights but was aimed at stifling the opposition; *is alarmed* that, 10 days after the judgment of the Grand Chamber of the European Court, a new indictment was brought against Mr. Demirtaş with regard to the same protests that took place in October 2014; *considers* that both the timing of this indictment and the fact that they represent a reclassification of the same set of facts and incidents can only give further weight to the European Court's conclusions that "*Mr. Demirtaş pretrial detention has merely been cover for an ulterior political purpose*"; *calls on* the Turkish authorities to release him forthwith and to drop the related old and new charges against him;
5. *Is deeply concerned* also that five former parliamentarians have recently been detained in connection with the aforesaid protests of October 2014; *considers* that the European Court's judgment also provides an important analysis of what transpired during those events to the point that it is very difficult to understand that the prosecution of these five individuals could be justified; *wishes* to receive official clarifications on this point;

6. *Considers* that the judgment in the case of Mr. Demirtaş is yet further proof that the Turkish authorities have not been striking the right balance between their legitimate fight against terrorism and respect for the human rights of opposition members of parliament, in particular their freedom of expression; *welcomes*, therefore, the launch by the Turkish authorities of their Human Rights Action Plan, which provides for additional steps to promote respect for basic human rights: *sincerely hopes* that they will indeed take the necessary measures to this end; *recalls* in this regard the recommendations made in the 2019 IPU mission report that the Turkish authorities need to take more decisive action to ensure that current national legislation and its application are in line with international and regional standards on freedom of opinion and expression, assembly and association, and on the independence of the judiciary, as well as to ensure that ongoing criminal proceedings are freshly and critically reviewed with this perspective in mind; and *looks forward to* hearing about concrete steps taken to this end;
7. *Notes* that reports are indicating that a new wave of legal proceedings are being prepared or brought against current HDP parliamentarians; *calls on* the Turkish Parliament to ensure that their parliamentary immunity is scrupulously protected, that any requests made for the lifting immunity is carefully analysed with regard to each parliamentarian concerned, and only lifted if the legal proceedings appear to be founded in law and do not run counter to basic human rights; *wishes* to receive detailed information from the authorities on these points;
8. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
9. *Decides* to continue examining these cases.

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