



Inter-Parliamentary Union
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Gabon

Decision adopted unanimously by the IPU Governing Council at its 210th session (Kigali, 15 October 2022)



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 at the Central Prison of Libreville since 9 January 2020. Initially accused of instigating misappropriation of public funds (*détournement de fonds publics*), bribery (*concussion*), money laundering and conspiracy offences, he was found guilty of bribe-taking (*corruption passive*) and sentenced at first instance on 10 December 2021 to a five-year prison term. He was also fined 10 million CFA francs and ordered to reimburse 145 million CFA francs to the State of Gabon by way of damages. On 4 March 2022, the Court of Appeal of Libreville upheld the ruling. An application for judicial review is currently under consideration.

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 2021

IPU mission(s): - - -

Recent Committee hearings: Hearing with the parliamentary authorities at the 145th IPU Assembly (2022); hearing online with the complainant at the 145th IPU Assembly (2022)

Recent follow-up:

- Communication from the authorities: Letter from the Deputy Secretary General of the National Assembly (May 2022)
- Communication from the complainant: June 2022
- Communication to the authorities: Letter to the Speaker of the National Assembly (September 2022)
- Communication to the complainant: September 2022

The complainant claims that Mr. Ndoundangoye was kept in police custody for a period of two weeks in violation of the provisions of article 56 of the Criminal Procedure Code of Gabon, which provides for a maximum period of 48 hours, renewable once. During those 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. It is alleged that the lawyers did not have access to the file, either to the procedural documents or to the evidence against him, and that the only document available to the defence at the start of the proceedings was the remand order.

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 on 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.

In a letter dated 19 November 2020, the Deputy Secretary General of the National Assembly of Gabon sent a timetable for the procedure implemented by the National Assembly to lift Mr. Ndoundangoye's parliamentary immunity, as well as copies of related documents. During its hearing before the Committee on the Human Rights of Parliamentarians, the Gabonese delegation to the 145th IPU Assembly indicated that the procedure followed by the National Assembly when ruling on the lifting of Mr. Ndoundangoye's parliamentary immunity had been carried out in accordance with the relevant provisions. On the allegations of torture, the delegation said that the prosecution service and the Directorate General of Research and the National Human Rights Commission had conducted enquiries within their respective remits and concluded that Mr. Ndoundangoye's rights had not been violated, but that the documents relating to the findings of these investigations were not available. The delegation also claimed that a group of members of parliament had gone to the Libreville Central Prison to visit the member of parliament but that he had refused to see them.

According to the complainant, Mr. Ndoundangoye has been held in solitary confinement in inhumane and degrading conditions since the start of his detention. In particular, he is reportedly being held in a very small cell in the disciplinary wing of Libreville Central Prison without access to drinking water. It is said that he is only able to keep himself hydrated thanks to the cans of water brought to him by his family every week. He is reportedly also forbidden from taking part in the religious services held every Sunday in the prison's multi-purpose room. During his online hearing with the Committee at the 145th IPU Assembly, the complainant provided more information on the ongoing proceedings against the member of parliament and the alleged breaches of procedural rules and basic fair-trial standards. The complainant also stated that the time allowed for Mr. Ndoundangoye to take a walk had been increased marginally and that he was now able, with certain restrictions, to receive visits from his relatives, which represented a slight improvement in his situation. Finally, the complainant stated that he was not aware of any investigation or action taken by the competent authorities regarding the allegations of torture.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Gabonese delegation for the information provided at the hearing with the Committee on the Human Rights of Parliamentarians held during the 145th IPU Assembly;

2. *Notes with interest* the initiative taken by some members of parliament to visit Mr. Ndoundangoye in prison; *reaffirms its deep concern* at the worrying allegations regarding his conditions of detention; and *urges* the national authorities once again to take all necessary steps to ensure Mr. Ndoundangoye can fully enjoy his rights, including his right to be treated with humanity and with the respect due to the inherent dignity and value as human beings, in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners ("the Nelson Mandela Rules");
3. *Reaffirms its deep concern* given 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; *stresses* that the findings of the investigations reportedly carried out by several Gabonese institutions into these allegations should be made available; and *urges*, once again, in this regard the parliamentary authorities to provide detailed information and copies of relevant documents concerning these investigations;
4. *Takes note* of the conviction of the member of parliament at first instance, upheld on appeal, and of the cassation appeal under consideration; *remains deeply concerned* at the allegations of violations of the right to a fair trial in the proceedings against the member of parliament; *hopes*, in this respect, that the latter appeal will be examined in an independent and impartial manner and in strict compliance with the relevant national and international standards; and *reiterates its wish* to receive official and detailed information on the facts justifying each of the charges against Mr. Ndoundangoye and copies of the relevant court decisions;
5. *Regrets* that, despite the assurances of support given in this respect by the Gabonese delegation at the 143rd IPU Assembly, the mission to Gabon requested by the Committee on the Human Rights of Parliamentarians has still not been officially approved by the relevant Gabonese authorities; *urges* the parliamentary authorities to redouble their efforts to obtain a response from the executive authorities in this regard as soon as possible; and *hopes* that the competent national authorities will cooperate fully and that the mission will help to bring about a speedy and satisfactory settlement of this case, in accordance with applicable national and international human rights standards;
6. *Requests* the Secretary General to convey this decision to the Speaker of the National Assembly of Gabon, the Ministry of Justice, which is responsible for human rights and gender equality in Gabon, the complainant and any third party likely to be in a position to supply relevant information;
7. *Requests* the Committee to continue examining the case and to report back to it in due course.