



Inter-Parliamentary Union
For democracy. For everyone.

143rd IPU Assembly

Madrid, Spain
26-30 November 2021



Governing Council
Item 14

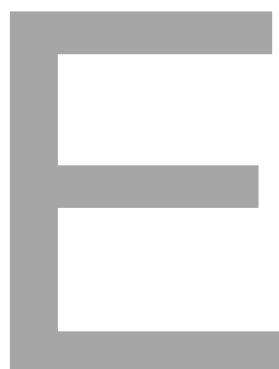
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30 November 2021

Committee on the Human Rights of Parliamentarians

*Decisions adopted by the IPU Governing Council at its
208th session (Madrid, 30 November 2021)*

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#IPU143

Brazil

Decision adopted unanimously by the IPU Governing Council at its 208th session (Madrid, 30 November 2021)



Jean Wyllys de Matos Santos, Rio de Janeiro federal member of parliament for the Socialism and Liberty Party (PSOL), speaks during a rally of Brazilian leftist parties at Circo Voador in Rio de Janeiro, Brazil, on 2 April 2018. © Mauro Pimentel/AFP

BRA-14 – Jean Wyllys de Matos Santos
BRA-15 – David Miranda

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Violation of freedom of opinion and expression
- ✓ Impunity
- ✓ Other violations: Discrimination

A. Summary of the case

Mr. Jean Wyllys was a Brazilian member of parliament from 2010 until 2019 from the Socialism and Liberty Party (*Partido Socialismo e Liberdade* – PSOL), one of the main opposition parties in parliament. From January 2019, Mr. David Miranda succeeded him as a member of the Brazilian Chamber of Deputies. Both are openly gay and are active supporters of the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people.

In January 2019, Mr. Wyllys decided to give up his parliamentary seat and go into exile, owing to a rising number of death threats, the perceived inability of the Brazilian authorities to offer adequate protection and take effective action to hold those responsible to account, and an increasingly hostile environment for vocal advocates of LGBTI rights following the election of Mr. Jair Bolsonaro as President of Brazil. In this regard, the complainants point out that, despite numerous demands made in 2013, 2016, 2017 and 2018, Mr. Wyllys only received a security detail from Congress in 2018 and that this was not sufficient to protect him. In addition, the complainants reported that none of the 17 complaints

Case BRA-COLL-01

Brazil: Parliament affiliated to the IPU

Victims: Two male opposition members of parliament

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

Submission of complaints: February 2019 and September 2020

Recent IPU decision: February 2021

IPU mission(s): - - -

Recent Committee hearing: Hearing with the complainant at the 143rd IPU Assembly (November 2021)

Recent follow-up:

- Communication(s) from the authorities:
- - -
- Communications from the complainants: March 2021 and October 2021
- Communication to the authorities: Letter to the President of the Brazilian IPU Group (November 2021)
- Communications to the complainants: November 2021 and October 2021

that Mr. Wyllys has lodged with the authorities have been successful, and that the threats and acts of intimidation against him remain unpunished.

Another crucial event that led to Mr. Wyllys' decision to leave parliament and the country was the assassination of Ms. Marielle Franco in March 2018. She was a local council member from Rio de Janeiro (the state that Mr. Wyllys represented in the Chamber of Deputies) and a close friend of both Mr. Wyllys and Mr. Miranda. Like them, Ms. Franco actively and vocally supported better respect for the rights of the poor and marginalized, as well as for LGBTI rights. Two ex-police officers were arrested in March 2019 over their alleged involvement in Ms. Franco's murder. On 10 October 2021, Mr. Leuvis Manoel Olivero, the author of a prominent book on Ms. Franco, was shot dead in a drive-by attack by unknown assailants in Rio de Janeiro.

When Mr. Wyllys went into exile, his alternate, Mr. David Miranda, took over his seat in the Chamber of Deputies. The complainants claim that Mr. Miranda has also been repeatedly harassed and subjected to slurs by conservative political forces and that, since he replaced his exiled colleague, the threats against Mr. Miranda and his family, and hostility towards LGBTI people, have gained in intensity and scale. The complainants point out that the security protection offered to Mr. Miranda was inadequate. In addition, according to information provided by a complainant in October 2021, Mr. Miranda's requests for additional protection were ignored and the limited protection provided by congressional security was reportedly discontinued, placing him at even greater risk.

The complainants have provided the IPU with documents on reports of numerous threats and acts of intimidation against both members of parliament, as well as copies of several complaints made by them to the police and of their repeated requests for protection to the parliamentary authorities. The complainants maintain that the police never properly investigated the threats against Mr. Wyllys and Mr. Miranda. They also stress that the threats have to be seen in the context of continued harassment, denigration and defamation of political opponents and minorities by conservative forces in Brazil, as well as the increasing prevalence of discrimination and violence against LGBTI people in the country. An in-depth internal review of the threats made against Mr. Wyllys revealed that they have been constant and serious. Several of them indicate a clear and imminent danger to his life and those of his family, warranting action by the State both to provide them with adequate protection and punish those responsible.

In November 2018, the Inter-American Commission on Human Rights (IACHR) adopted precautionary measures in favour of Mr. Wyllys, asking the Brazilian State to take effective action to protect his right to life, as well as his and his family's physical integrity. According to the complainants, the IACHR's request was denied by the authorities.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. *Regrets* that the Brazilian parliamentary authorities were not able to meet with the IPU Committee on the Human Rights of Parliamentarians during the 143rd IPU Assembly, despite the formal invitation extended by the Committee; *recalls* in this regard that the Committee does everything possible in accordance with its Rules and Practices to promote dialogue with the authorities of the country concerned, and primarily with its parliament, so as to reach a satisfactory settlement in the cases before it;
2. *Is deeply concerned* about the numerous threats and acts of intimidation faced by Mr. Wyllys and Mr. Miranda, which led them to conclude that their lives were in jeopardy, and prompted Mr. Wyllys to go into exile and abandon his seat in parliament; *is also concerned* by the allegation that their complaints to the relevant national authorities have not been adequately investigated; *points out* that, as Mr. Wyllys' successor Mr. Miranda has been subject to the same threats and intimidation, the situation will only repeat itself unless firm action is taken to establish accountability for these acts; and *recalls* that threats to the life and security of members of parliament, if left unpunished, infringe their rights to life, security and freedom of

expression, and undermine their ability to exercise their parliamentary mandate, affecting the ability of parliament as an institution to fulfil its role;

3. *Considers*, therefore, that the National Congress of Brazil has a vested interest in using its powers to the greatest possible extent to help ensure that these threats are fully and immediately investigated, followed by whatever accountability steps are warranted as a result; *urges* the parliamentary authorities to do everything possible to help ensure that those responsible for the threats against Mr. Wyllys and Mr. Miranda are held to account, including through facilitating action by the executive authorities to this end; and *wishes* to receive official information on any action that parliament has taken to this effect;
4. *Is appalled* by the evident homophobic dimension to the threats and acts of harassment and intimidation faced by Mr. Wyllys and Mr. Miranda, and by the allegation that they were denied adequate protection due to their sexual orientation and political views; *is dismayed* by reports that, in spite of continuous threats against Mr. Miranda, the limited security arrangement provided to him by Congress was reportedly discontinued, placing him at even greater risk; *considers* that parliaments should contribute decisively to building a climate of tolerance and respect for the rights of all, without discrimination, in which all people and groups and those who defend their rights can express their thoughts and opinions without fear of being attacked, punished or stigmatized for doing so; *urges* parliament, therefore, to do its utmost to ensure that an adequate level of protection is provided to Mr. Miranda, to take concrete measures to counter the stigmatization and discrimination faced by Mr. Wyllys and Mr. Miranda, and to prevent the repetition of such situations; and *requests* parliament to keep it informed of progress made in this regard;
5. *Requests* the Secretary General to convey this decision to parliament, the judicial authorities, other relevant national institutions, the complainants and any third party likely to be in a position to supply relevant information;
6. *Requests* the Committee to continue examining this case and to report back to it in due course.

Cambodia

*Decision adopted unanimously by the IPU Governing Council at its 208th session
(Madrid, 30 November 2021)*



Former Cambodian National Rescue Party (CNRP) leader Kem Sokha arrives at the Phnom Penh municipal court for his trial in Phnom Penh on 22 January 2020. TANG CHHIN Sothy / AFP

- | | |
|-----------------------------|--------------------------------|
| KHM27 - Chan Cheng | KHM76 - Ky Wandara |
| KHM48 - Mu Sochua (Ms.) | KHM77 - Lath Littay |
| KHM49 - Keo Phirum | KHM78 - Lim Bun Sidareth |
| KHM50 - Ho Van | KHM79 - Lim Kimya |
| KHM51 - Long Ry | KHM80 - Long Botta |
| KHM52 - Nut Romdoul | KHM81 - Ly Srey Vyna (Ms.) |
| KHM53 - Men Sothavarin | KHM82 - Mao Monyvann |
| KHM54 - Real Khemarin | KHM83 - Ngim Nheng |
| KHM55 - Sok Hour Hong | KHM84 - Ngor Kim Cheang |
| KHM56 - Kong Sophea | KHM85 - Ou Chanrath |
| KHM57 - Nhay Chamroeun | KHM86 - Ou Chanrith |
| KHM58 - Sam Rainsy | KHM87 - Pin Ratana |
| KHM59 - Um Sam Am | KHM88 - Pol Hom |
| KHM60 - Kem Sokha | KHM89 - Pot Poeu (Ms.) |
| KHM61 - Thak Lany (Ms.) | KHM90 - Sok Umsea |
| KHM62 - Chea Poch | KHM91 - Son Chhay |
| KHM63 - Cheam Channy | KHM92 - Suon Rida |
| KHM64 - Chiv Cata | KHM93 - Te Chanmony (Ms.) |
| KHM65 - Dam Sithik | KHM94 - Tioulong Saumura (Ms.) |
| KHM66 - Dang Chamreun | KHM95 - Tok Vanchan |
| KHM67 - Eng Chhai Eang | KHM96 - Tuon Yokda |
| KHM68 - Heng Danaro | KHM97 - Tuot Khoert |
| KHM69 - Ke Sovannroth (Ms.) | KHM98 - Uch Serey Yuth |
| KHM70 - Ken Sam Pumsen | KHM99 - Vann Narith |
| KHM71 - Keo Sambath | KHM100 - Yem Ponhearith |
| KHM72 - Khy Vanndech | KHM101 - Yim Sovann |
| KHM73 - Kimsour Phirith | KHM102 - Yun Tharo |
| KHM74 - Kong Bora | KHM103 - Tep Sothy (Ms.) |
| KHM75 - Kong Kimhak | |

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings and excessive delays
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Abusive revocation of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

A. Summary of the case

On 16 November 2017, the Supreme Court dissolved the sole opposition party in Cambodia, the Cambodian National Rescue Party (CNRP). It also banned 118 CNRP members (including all 55 CNRP members of the National Assembly) from political life for five years with no possibility of appeal. Their parliamentary mandates were immediately revoked, and their seats reallocated to non-elected political parties allegedly aligned to the ruling party. The Supreme Court decision was based on charges of conspiracy with a foreign country to overthrow the legitimate government brought against the President of the CNRP, Mr. Kem Sokha. Most former parliamentarians subsequently fled Cambodia and went into exile.

The dissolution of the CNRP left the ruling Cambodian People's Party (CPP) – and Prime Minister Hun Sen – with no viable challengers in the July 2018 elections to the National Assembly. The authorities stated that the National Assembly remained a multi-party parliament composed of four political parties, in line with the Constitution of Cambodia. The CPP gained all 125 seats in the National Assembly elections, after having already gained all seats in the Senate elections in February 2018.

The dissolution of the CNRP took place against the backdrop of long-standing and repeated threats and groundless criminal charges against its members of parliament. They had been repeatedly warned by the Prime Minister that their only choice was to join the ruling party or be prepared for the dissolution and ban of their party. Since 2013, some 13 CNRP members of parliament have faced criminal accusations in relation to protests or statements critical of the CPP and the Prime Minister. All proceedings raised serious issues of due process and lack of judicial independence. Two members of parliament were subjected to physical attacks outside the National Assembly in 2015.

Mr. Kem Sokha, who became CNRP Acting President after its President, Mr. Sam Rainsy, went into exile in 2015, is accused of attempting to topple the Government on the basis of a 2013 speech he made on television in which he called for peaceful political change in Cambodia, without at any point inciting violence or hatred or uttering defamatory words. It is in connection with this accusation that Mr. Kem Sokha was arrested in September 2017 and placed in solitary confinement for one year, which was considered as arbitrary and politically motivated by the United Nations Working Group on Arbitrary Detention in April 2018. Mr. Kem Sokha was placed under house arrest in September 2018 for medical reasons. He was not able to meet with several persons who had wanted to visit him, as the number of visitors was restricted and subject to strict vetting by the Cambodian authorities.

Case KHM-Coll-03

Cambodia: Parliament affiliated to the IPU

Victims: 57 former opposition parliamentarians (50 male and seven female, 55 from the National Assembly and two from the Senate)

Qualified complainant(s): Section I(1)(c) of the Committee Procedure (Annex I)

Submission of complaint: November 2011

Recent IPU decision: February 2021

IPU mission: February 2016

Recent Committee hearing: Hearing with the Cambodia delegation to the 143rd IPU Assembly (November 2021)

Recent follow-up:

- Communications from the authorities:
 - Letter from the Ministry of Justice to the Secretary General of the National Assembly in response to the Committee's request (September 2019); letter from the Head of the Cambodian delegation to Doha (October 2019); and letter from the Secretary General of the National Assembly (October 2021)
- Communication from the complainant: November 2021
- Communication to the authorities: Letter to the Secretary General of the National Assembly (October 2021)
- Communication to the complainant: November 2021

On 10 November 2019, the Phnom Penh Municipal Court eased the bail restrictions that had effectively placed Mr. Kem Sokha under house arrest. He is still facing a 30-year prison term on treason charges and is reportedly banned from taking part in political life, as well as from leaving Cambodia. Mr. Kem Sokha's trial began in January 2020, but was suspended in March 2020, reportedly until further notice, due to the COVID-19 pandemic.

A mass trial of CNRP supporters, including senior party leaders and at least 12 former parliamentarians belonging to this party, started in November 2020. Some 150 individuals linked to the CNRP reportedly stand accused before the Phnom Penh Municipal Court in six cases. Many of the charges appear to relate to expressions of support for the planned return to Cambodia, which the authorities prevented, of CNRP leaders in exile, Mr. Sam Rainsy and Ms. Mu Sochua, in November 2019 to celebrate the country's Independence Day. Many of the former CNRP parliamentarians who stand accused in the mass trial are in exile. Ms. Mu Sochua, and possibly others, once more attempted to return to Cambodia in January 2021 with a view to defending themselves in the mass trial, but were again not allowed to enter the country because the Cambodian authorities had revoked their Cambodian passports and refused to provide any other entry documents. Meanwhile, 14 former CNRP members of parliament were granted "political rehabilitation" by the Government after applying for a request to have their right to take part in political life reinstated. According to the authorities, they have either freely joined existing parties or created new ones, which the complainant contests, claiming that most of these individuals have been pressured into asking for rehabilitation and that in two cases they had in fact joined the ruling CPP.

On 11 October 2021, the United Nations (UN) Human Rights Council adopted its latest resolution on Cambodia, expressing serious concern at the deterioration in the civil and political environment due to sustained judicial prosecution and calling on the authorities to take immediate action to nurture a vibrant civil society and healthy democratic system, and to protect and ensure freedom of expression, association and peaceful assembly.

In a hearing held with the IPU Committee on the Human Rights of Parliamentarians, the leader of the Cambodian delegation to the 143rd IPU Assembly (November 2021) stated that a new wind of openness was blowing in Cambodia. He stated that 48 political parties had been registered with the Ministry of the Interior and that they would all likely take part in future elections in Cambodia, starting with the council elections due to take place in 2022. He stated that Mr. Kem Sokha was freely meeting with a wide variety of foreign representatives in Cambodia but added that the courts had to give prior authorization for such meetings. As for the delay in his trial, he said that proceedings had been postponed at the request of his lawyers. He also said that, in November 2022, the five-year disbarment of the 118 CNRP members would come to an end, hence allowing them to freely participate in the political process. He pointed out that 14 former CNRP parliamentarians had been politically rehabilitated. In response to a question as to whether they had had to plead guilty, he responded that he did not think that this had been the case. The leader of the delegation invited the Committee to send a delegation to see for itself how the situation in Cambodia was evolving in light of the concerns it had previously expressed. The leader also said that those named in the mass trial were accused of incitement to violence and that the principal leaders who stood accused in this case would certainly be allowed back into the country to defend themselves if they showed that their intentions were good.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. *Thanks* the leader of the Cambodian delegation for the information provided, his spirit of cooperation and the invitation to the Committee on the Human Rights of Parliamentarians to send a delegation to Cambodia;
2. *Sincerely believes* that such a mission, which would include meetings with all the relevant authorities, former parliamentarians from the CNRP present in Cambodia, in particular Mr. Sokha, but also the 14 parliamentarians granted political rehabilitation and others, as well as relevant third parties, would offer a useful opportunity to learn more about the current political

situation and to raise the concerns that have emerged in the cases at hand with a view to seeking their speedy resolution;

3. *Recalls* in this regard its concerns and questions about: (i) the factual and legal basis for the charges brought against at least 12 former CNRP parliamentarians, who now stand accused, along with many other CNRP supporters, as part of a mass trial that could result in hefty prison sentences; (ii) the realistic possibility that those former CNRP parliamentarians who are abroad can return to Cambodia to present their legal defence in the mass trial; (iii) the prospects for the discontinuation of the treason charge against Mr. Kem Sokha or the speedy completion of his trial; (iv) the process followed and requirements met for the political rehabilitation of 14 former CNRP parliamentarians; (v) guarantees to ensure respect for the fundamental rights of the former opposition members of parliament to freedom of expression, association and peaceful assembly, to a fair trial and to take part in the conduct of public affairs, including their ability, both individually and collectively, to take part in future elections, most notably the local and national elections in 2022 and 2023; and (vi) the prospects for the resumption of political dialogue with the main opposition, in the belief that this is essential to help build trust and find solutions to the current political situation;
4. *Requests* the Secretary General to make the necessary arrangements with the parliamentary authorities of Cambodia with a view to the speedy dispatch of the mission subject to the evolution of the current COVID-19 pandemic; and *requests* the parliamentary authorities to help ensure that any documentation that already exists that would help shed further light on the issues raised in the previous paragraph is made available before the mission takes place;
5. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be in a position to help with the successful organization of the mission;
6. *Requests* the Committee to continue examining this case and to report back to it in due course.

Chile/Argentina

Decision adopted unanimously by the IPU Governing Council at its 208th session (Madrid, 30 November 2021)



Chilean former Senator Jaime Guzmán Errázuriz (1946–1991) speaks to the press in Santiago on 20 December 1990. | Juan Carlos CACERES / AFP

CHL-87 – Jaime Guzmán Errázuriz

Alleged human rights violations

- ✓ Murder

A. Summary of the case

Chilean senator, Mr. Jaime Guzmán Errázuriz, was assassinated in Chile in April 1991. Two members of the Chilean Manuel Rodríguez Patriotic Front (*Frente Patriótico Manuel Rodríguez* – FPMR), Mr. Ricardo Palma Salamanca and Mr. Mauricio Hernández Norambuena, were found guilty and sentenced for their involvement in the murder. In 1996 both escaped from a high-security prison in Santiago de Chile.

In February 2002, Mr. Hernández Norambuena was arrested and sentenced for another crime in Brazil. He served part of the 30-year sentence handed down to him by the Brazilian courts until August 2019, when he was extradited to Chile. On 2 September 2019, he received two sentences of 15 years in prison each, one for his involvement in the senator's assassination and the second for his participation in another crime. According to information received, he is currently serving these sentences in a Chilean prison.

Two other accomplices to the murder have been tried in Chile, Mr. Enrique Villanueva Molina, who was sentenced to five years of probation (*libertad vigilada*) in August 2014, and Ms. Marcela Mardones, who was sentenced to a prison term of 10 years and one day in March 2018.

On 22 September 2021, Mr. Raúl Escobar Poblete was temporarily extradited from Mexico to Chile, accused of being the perpetrator of the murder of the senator. Mr. Escobar hid in Mexico for 20 years under a false identity until June 2017, when he was arrested and sentenced to 60 years in prison for

Case CHL-87

Chile and Argentina: Parliaments affiliated to the IPU

Victim: A male opposition member of parliament

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

Submission of complaint: October 2010

Recent IPU decision: February 2018

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communications from the authorities: Letter from the Argentine President of the Senate and the President of the Chamber of Deputies (March 2016); letter from the President of the IPU Group of Chile (October 2021)
- Communication from the complainant: September 2021
- Communication to the authorities: Letter to the Argentine President of the Senate and President of the Chamber of Deputies (October 2021)
- Communication to the complainant: October 2021

another crime. After completion of the legal proceedings in Chile, Mr. Escobar is expected to be sent back to Mexico to continue serving that sentence.

In 2004, Mr. Galvarino Sergio Apablaza Guerra, one of the alleged masterminds of Mr. Guzmán's assassination, was apprehended in Argentina, where he asked for asylum the following year. In September 2010, the Argentine Supreme Court accepted Chile's request for the extradition of Mr. Apablaza; however, a few weeks later, Mr. Apablaza was granted refugee status in Argentina. The Chilean authorities initiated a series of legal actions and proceedings, which led the Argentine National Refugee Commission to revoke Mr. Apablaza's refugee status in December 2017. The Argentine Supreme Court approved his extradition in March 2018. The Chilean courts subsequently issued an international arrest warrant for Mr. Apablaza, who still lives in Argentina, where he regularly appears in public.

In 2012, the Argentine parliamentary authorities informed the IPU about the existence of a bi-national Argentine-Chilean parliamentary committee (the Chile-Argentina Inter-Parliamentary Friendship Group), which could play an active role in promoting dialogue between the two parliaments and contribute to putting an end to impunity in this case. In September 2021, the complainant reported that this parliamentary committee had not met since 2014.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. *Regrets* the lack of response from the Argentine parliamentary authorities to its repeated requests for information and official observations regarding the situation of Mr. Apablaza; *recalls* in this regard that, in accordance with its Rules and Practices, the Committee on the Human Rights of Parliamentarians does everything possible to promote dialogue with national authorities, and primarily with parliaments, with a view to reaching a satisfactory settlement in the cases before it;
2. *Notes with satisfaction* that significant progress has been made in recent years to help ensure accountability in the case of the assassination of Senator Guzmán, particularly in light of the prosecution and punishment of Mr. Mauricio Hernández Norambuena, Mr. Enrique Villanueva Molina and Ms. Marcela Mardones for their involvement in this crime, as well as the recent temporary extradition of Mr. Raúl Escobar Poblete from Mexico to be tried in Chile; *wishes* to be kept informed of significant developments in the pursuit of justice in this long-standing case;
3. *Reiterates its view* that, in light of its mandate, the Chile-Argentina Inter-Parliamentary Friendship Group can, and should, take a keen interest in this matter; *trusts*, therefore, that it will soon be able to meet and will decide to closely monitor developments regarding Chile's pending request for the extradition of Mr. Apablaza; and *wishes* to be kept informed of progress made in this regard as well as to receive official information from the Argentine authorities on the current legal status of Mr. Apablaza in Argentina;
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, irrespective of their opinions, when left unpunished, not only violate the fundamental rights of individual parliamentarians and of those who elected them, but also affect the integrity of parliament and its ability to fulfil its role as an institution; and *calls* on all IPU Member Parliaments to take concrete actions in support of the resolution of this case in a manner consistent with the respect for democratic values and human rights;
5. *Requests* the Secretary General to convey this decision to the parliamentary and other relevant national authorities, the complainant, and any third party likely to be in a position to supply relevant information to assist it in its work;
6. *Requests* the Committee to continue examining this case and to report back to it in due course.

Colombia

Decision adopted unanimously by the IPU Governing Council at its 208th session (Madrid, 30 November 2021)



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COL-163 - María José Pizarro Rodríguez (Ms.)
COL-164 - Ángela María Robledo Gómez (Ms.)
COL-165 - Inti Raúl Asprilla Reyes
COL-166 - Jhon Jairo Hoyos García
COL-167 - Iván Cepeda Castro
COL-168 - Wilson Neber Arias Castillo
COL-169 - Alexander López Maya
COL-170 - Gustavo Bolívar Moreno
COL-171 - Antonio Sanguino Páez

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Lack of due process at the investigation stage
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association

A. Summary of the case

The complainants state that the nine members of the National Congress of Colombia, all vocal opponents of the current Colombian President, Ivan Duque, have been subjected to acts of persecution and vilification undermining their parliamentary activities against a background of social protests that has rocked Colombia since the end of April 2021.

Senators Cepeda, Lopez and Bolivar and Representative Hoyos have reportedly faced serious threats because of their support for the demands made by the protesters and of their opposition to the Colombian President and his allies. Senator Bolivar had to leave Colombia temporarily as a result but came back in mid-November 2021 after protection measures were put in place for him. Similarly, Mr. Hoyos received threats after he reported alleged police

Case COL-COLL-05

Colombia: Parliament affiliated to the IPU

Victims: Nine parliamentarians of whom two are women (eight from the opposition and one from the majority)

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

Submission of complaint: June 2021

Recent IPU decision(s): - - -

IPU Mission(s): - - -

Recent Committee hearing: Hearing with the complainant at the 143rd IPU Assembly (November 2021)

Recent follow-up

- Communication(s) from the authorities: - - -
- Communication from the complainants: June 2021
- Communication to the authorities: Letter to the President of the National Congress of Colombia (October 2021)
- Communication to the complainants: November 2021

brutality during the social protests and was intimidated when he wanted to verify the situation of several people who had been detained during the protests. Both Senator Lopez and Representative Hoyos are allegedly not receiving the necessary protection from the authorities.

In almost all cases, the members of parliament have been faced with what appear to be frivolous disciplinary proceedings that could well result in the loss of their parliamentary mandate. Under Colombian law, the Inspector General is empowered to terminate the mandate of a parliamentarian in the event of a disciplinary breach. The IPU and the Inter-American Court of Human Rights, in two rulings (*López Mendoza v. Venezuela* and *Petro Urrego v. Colombia*), have clearly stated their position that, in line with relevant human rights standards, the punishments of disqualification and removal of democratically elected authorities can only be imposed through a sentence handed down by a competent judge in criminal proceedings, thereby guaranteeing the effective right to defence and all due process guarantees. In an apparent attempt to remedy this situation, on 16 June 2021, the National Congress of Colombia adopted a controversial amendment to the Disciplinary Code of the Inspector General's Office. This, however, still seems to run counter to these human rights standards. The amendment provided the Inspector General's Office with jurisdictional and judicial police functions, even though its overall mandate remains focused on disciplinary breaches, given that it is the Prosecutor General's Office that remains in charge of criminal investigations and prosecutions. A petition to the Constitutional Court challenging the constitutionality of the amendment is pending.

Other members of parliament, such as Representative Pizarro, Senator Bolivar, Senator Arias and Senator Sanguino, are also reportedly subject to criminal investigations or complaints allegedly in connection with the legitimate exercise of their parliamentary duties. Senator Arias is said to be under investigation for reporting the arbitrary detention, physical and psychological torture and violation of human rights by the national police against peaceful demonstrators during the national strike. The allegations are based on the argument that, by such conduct, he interfered with legitimate police activity and slandered the security forces. In yet other cases, parliamentarians, such as Senator Cepeda, are facing numerous writs of protection (*recurso de amparo*), which is a mechanism for the protection of the fundamental rights of citizens. These actions have been initiated by many citizens, apparently without their producing any evidence that they had in any way been hampered in their own enjoyment of their human rights or that would show that the parliamentarians concerned are responsible for actions undermining respect for the human rights of other citizens.

On 14 May 2021, United Nations (UN) and Organization of American States (OAS) human rights experts condemned the violent crackdown on peaceful protests in Colombia. The Inter-American Commission on Human Rights, in a report following a working visit to Colombia from 8 to 10 June 2021, seriously criticized the Colombian authorities' handling of the protests. In its report, the Commission notes "with concern the persistence of the logic of the armed conflict in the responses to the current social mobilization and how it is interpreted. In this regard, it reiterates that these disagreements are arising between people who must be protected, not enemies who must be fought". The Commission calls on the Colombian authorities to "respect and guarantee the full enjoyment of the rights to protest, to freedom of expression, to peaceful assembly, and to participate in politics for the entire population" and to "promote the inter-American standard according to which public officials have a duty to refrain from making statements that stigmatize or incite violence against persons who participate in demonstrations and protests". The Commission also asks the Colombian authorities to, "in the context of protests and demonstrations, execute security operations in strict adherence to protocols on legitimate use of force and in compliance with the principles of legality, absolute necessity, and proportionality established in international standards" and to "ensure that the priority of the security forces that intervene to protect and control demonstrations and protests is to defend lives and integrity of person, abstaining from arbitrarily detaining demonstrators or violating their rights in any other way".

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. Notes that the complaint concerning the aforesaid nine individuals is admissible, considering that the complaint: (i) was submitted in due form by qualified complainants 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) concerns nine

- incumbent members of parliament at the time of the initial allegations; and (iii) concerns allegations of threats and acts of intimidation, lack of due process at the investigation stage, and violations of the rights to freedom of opinion and expression and to freedom of assembly and association, which are allegations that fall within the Committee's mandate.
2. *Expresses deep concern* at the serious allegation that the nine opposition members of parliament are facing legal and physical reprisals for their opposition to the Government's policies, their public statements of support for the social protests and their denunciation of abuses committed by security forces against some of the protestors;
 3. *Is deeply concerned* that four parliamentarians have received death threats, as a result of which one of them, Senator Bolivar, felt obliged to go into temporary exile; *urges* the competent authorities to ensure that they receive adequate protection and that the threats are effectively investigated and those responsible held to account; and *wishes* to receive information on this point;
 4. *Is also concerned* that the public vilification of several of the members of parliament is creating an environment that not only hampers their work but also potentially puts them at additional risk; *calls on* everyone, starting with the Colombian authorities directly, to de-escalate tensions and to start a genuine and constructive national discussion on how to advance towards resolving the issues that have emerged through the protests; and *notes* in this regard that the claims made by the protestors mostly underscore that much remains to be done to implement the vision contained in the 2016 peace agreement for a more equal, just, inclusive and peaceful society; and *wishes* to be kept informed of any official steps taken in this regard;
 5. *Is concerned* that disciplinary and criminal proceedings and writs of protection are allegedly being used merely to thwart the political activities of the nine parliamentarians; *notes* in this regard that at least one Colombian court has determined that writs of protection (*recurso de amparo*) are being used to bombard the parliamentarians with legal cases without any serious foundation brought before a number of different judges, in the hope that at least one of the latter will rule in their favour, while at the same time creating legal confusion if other judges rule otherwise;
 6. *Is also concerned* in this regard about the recent amendment to the law that governs the powers of the Inspector General, which appears to contradict the position of the IPU and the Inter-American Court of Human Rights with regard to the termination of the parliamentary mandate as a result of a disciplinary breach; *notes with deep concern* in this regard that, before the amendment was passed, the Inspector General initiated disciplinary proceedings against several parliamentarians who opposed the change in legislation, as a result of which they had to refrain from taking part in the vote due to a conflict of interest; *trusts* that the Constitutional Court, which will have the final say on the constitutionality of the amendment, is carrying out an in-depth examination in this regard; and *wishes* to be kept informed on this point;
 7. *Decides* to send a delegation of the Committee on the Human Rights of Parliamentarians to Colombia, which would meet with all the relevant authorities, complainants and third parties, including relevant civil society organizations, and which would help to raise and discuss the various issues that arise in the case at hand; and *requests* the Secretary General, therefore, to make the necessary arrangements for the visit to take place;
 8. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the offices of the Inspector General and the Prosecutor General of Colombia, and to the complainants;
 9. *Requests* the Committee to continue examining this case and report to it in due course.

Gabon

Decision adopted unanimously by the IPU Governing Council at its 208th session (Madrid, 30 November 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 Criminal Procedure Code 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: March 2021

IPU mission(s): - - -

Recent Committee hearing: Hearing with the parliamentary authorities at the 143rd IPU Assembly (November 2021)

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (November 2020)
- Communication from the complainant: September 2021
- Communication to the authorities: Letter to the Speaker of the National Assembly (October 2021)
- Communication to the complainant: October 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 of Gabon 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 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.

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. 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. He reportedly has no access to a telephone and cannot consult with his lawyers or receive visits from family members.

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 Mr. Ndoundangoye's parliamentary immunity, as well as copies of related documents. On 28 November 2021, during its hearing before the Committee on the Human Rights of Parliamentarians, the Gabonese delegation described the procedure followed by the National Assembly in ruling on the lifting of Mr. Ndoundangoye's parliamentary immunity. It was noted that the *ad hoc* parliamentary committee responsible for examining the request to lift his parliamentary immunity had been created in accordance with 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, and that the resolution for lifting Mr. Ndoundangoye's parliamentary immunity had been adopted by the National Assembly in plenary session (133 votes in favour, 7 votes against and 1 abstention). On the allegations of torture, the delegation said that the prosecutors, 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. The delegation also stated that the member of parliament was no longer being held in solitary confinement and that he could be visited with a specific authorization issued by the competent authority.

Finally, the delegation undertook to keep the Committee on the Human Rights of Parliamentarians informed of any new events and said that the Gabonese Parliament was willing to cooperate with the IPU so as to arrive at a satisfactory settlement of the case.

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 143rd IPU Assembly; and *notes with satisfaction* that the National Assembly is ready to cooperate with the IPU so as to reach a satisfactory settlement of this case as soon as possible;
2. *Notes with interest* the initiative in November 2021 of some members of parliament to visit Mr. Ndoundangoye in prison, even though this was unlikely to have led to success; *remains deeply concerned* about the member of parliament's continued detention, in view of the worrying allegations concerning his conditions of detention and the allegedly political nature of the legal proceedings; and *urges* the national authorities once again to take all necessary steps to ensure Mr. Ndoundangoye can fully enjoy his rights, in particular his rights to life, to the respect for physical integrity, and 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; *urges* in this regard the parliamentary authorities to provide detailed information and copies of relevant documents concerning the conclusions of the investigations reportedly carried out by several Gabonese institutions into these allegations; and *thanks* the Gabonese delegation for the commitment it made at the Committee hearing to provide its support on this issue;
4. *Remains deeply concerned* at the allegations of serious violations of the right to a fair trial in the proceedings against the member of parliament; and *reiterates its wish* to receive official and detailed information on the facts justifying each of the charges brought against Mr. Ndoundangoye and on the current state of the case;
5. *Requests* the Committee on the Human Rights of Parliamentarians to send a delegation to Gabon as soon as possible and as soon as the COVID-19-related public health situation permits, so as to establish the facts and meet with all authorities exercising legislative, executive or judicial powers, as well as the prison authorities and any other institution, civil society organization or individual in a position to provide relevant information; *tasks* the delegation with visiting the detained member of parliament; *hopes* that the competent national authorities will cooperate fully and that the mission will help to swiftly find satisfactory solutions to this case in accordance with applicable national and international human rights standards; and *thanks* the Gabonese delegation to the 143rd IPU Assembly for the assurances of support that it has given on this matter;
6. *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;
7. *Requests* the Committee to continue examining the case and to report back to it in due course.

Iraq

Decision adopted unanimously by the IPU Governing Council at its 208th session (Madrid, 30 November 2021)



Mr. Al-Alwani five weeks after his sentencing. Photo dated 2 January 2015
© Photo courtesy / Mr. Ahmed Jamil Salman Al-Alwani's family.

IRQ-62 – Ahmed Jamil Salman Al-Alwani

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Lack of fair trial proceedings
- ✓ Failure to respect parliamentary immunity

A. Summary of the case

Mr. Al-Alwani was arrested on 28 December 2013 during a raid conducted by Iraqi security forces on his home in Ramadi, in the Al-Anbar Governorate. The complainants believe that Mr. Al-Alwani's arrest was in retaliation for his outspoken support of the grievances of the Sunni population and his vocal opposition to the Iraqi Prime Minister at the time, Mr. Nouri Al-Maliki. The case of Mr. Al-Alwani has also to be seen against the backdrop of sectarian tension and violence in the country.

According to the complainants, Mr. Al-Alwani was initially held in secret detention centres, was exposed to ill-treatment and torture, did not receive a fair trial and saw his right to mount an adequate defence violated. The United Nations Working Group on Arbitrary Detention confirmed these allegations in its 2017 report (Opinion No. 36/2017), particularly following Mr. Al-Alwani's conviction in 2014 for murder and incitement to sectarian violence and his sentencing in 2016 to the death penalty under the Anti-Terrorism Law. Mr. Al-Alwani's lawyers have appealed the court rulings, which are still under review in cassation proceedings, as confirmed by the complainants and the President of the Supreme Judicial Council. Under the General Amnesty Law No. 27 of 2016, Mr. Al-Alwani submitted applications for pardon in three cases, which were subsequently rejected.

The complainants stated that, in November 2020, a parliamentary delegation reportedly visited Mr. Al-Alwani at the Al-Kadhimiya detention centre, located in northern Baghdad, to ensure that he was in good health given that he had allegedly not received visits in the previous four months due to the

Case IRQ-62

Iraq: Parliament affiliated to the IPU

Victim: A male opposition member of parliament

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

Submission of complaint: December 2013

Recent IPU decision: February 2021

IPU Mission(s): - - -

Recent Committee hearing: Hearing with the Iraqi delegation during the 138th IPU Assembly (March 2018)

Recent follow up:

- Communication from the authorities: Letter from the President of the Supreme Judicial Council (January 2020)
- Communication from the complainants: November 2021
- Communications to the authorities: Letters to the Speaker of the Council of Representatives (January and February 2021)
- Communication to the complainants: November 2021

COVID-19 pandemic. The prison visit was also for the purpose of conveying letters of support to Mr. Al-Alwani from the Speaker of Parliament and tribal leaders. The Iraqi authorities have yet to provide information on the reported visit of the parliamentary delegation. According to the complainants, Mr. Al-Alwani's physical health, and especially his mental health, remain weak.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. *Deplores* the continued lack of response from the Council of Representatives, despite its repeated requests for updated information since 2018; and *reiterates its wish* to receive official information about the reported prison visit to Mr. Al-Alwani made in 2020 by a parliamentary delegation, its purpose and outcome;
2. *Urges* the judicial authorities, once again, to lift the death sentence passed against Mr. Al-Alwani, to release him promptly and grant him appropriate compensation in light of: (i) the flawed legal proceedings, given that he did not receive legal assistance, an allegation confirmed by the United Nations Working Group on Arbitrary Detention in its 2017 report; and (ii) the impunity for the alleged acts, namely torture, solitary confinement and lack of medical treatment in the early stages of his detention; and *considers* in this regard that the political dimension of his case, including the rampant sectarian violence in the country at the time of his arrest, puts in further doubt the fairness of the sentence imposed on him;
3. *Remains deeply concerned* by the reported deterioration in Mr. Al-Alwani's physical and mental state of health due to his prolonged detention; *expresses the wish* for a delegation from the Committee on the Human Rights of Parliamentarians to visit Mr. Al-Alwani in detention and to meet with the relevant Iraqi authorities in the near future, provided that the overall security situation allows for such a visit to take place and that the necessary security measures are in place for the delegation to ensure its safety; and *hopes* to receive a positive reply and assistance from parliament to this end, to enable the mission to take place smoothly;
4. *Reiterates its call on* the Iraqi authorities to stand united for the protection and promotion of human rights by reaching a satisfactory resolution in Mr. Al-Alwani's case, in line with the international human rights standards to which the State of Iraq has subscribed; and *invites* the newly elected Council of Representatives to resume dialogue and cooperation with the Committee at its earliest convenience, and to continue monitoring the case of Mr. Al-Alwani while taking urgent measures to ensure respect for his rights;
5. *Requests* the Secretary General to convey this decision to the Iraqi parliamentary authorities, the President of the Supreme Judicial Council, the complainants and any third party likely to be in a position to provide relevant information;
6. *Requests* the Committee to continue examining this case and to report back to it in due course

Libya

Decision adopted unanimously by the IPU Governing Council at its 208th session (Madrid, 30 November 2021)



© Courtesy of the Sergiwa Family

LBY-01 – Seham Sergiwa

Alleged human rights violations

- ✓ Abduction
- ✓ Threats, acts of intimidation
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

A. Summary of the case

Ms. Seham Sergiwa was abducted from her home on 17 July 2019. According to the complainants, more than a dozen masked armed men raided her house at 2 a.m. after it was plunged into darkness, as if electricity had been cut off, and an explosion took place inside the house. During the attack, Ms. Sergiwa's husband was shot in the legs and wounded in his eye, while one of her sons was beaten up as they captured her. Following the attack, Ms. Sergiwa's husband and her son were taken to hospital, where they were not permitted to receive any visits. The complainants also alleged that the abductors had confiscated the telephones belonging to members of Ms. Sergiwa's family in order to prevent them from alerting the media about the attack.

The complainants claim that the abductors are members of the 106th Brigade of the Libyan National Army (LNA) led by Mr. Khalifa Haftar, an assertion based on the *modus operandi* of the abductors and the SUV vehicles used. The perpetrators allegedly spray-painted the message "the army is a red line [not to be crossed]" and the name of the Brigade responsible for Ms. Sergiwa's abduction, "*Awliya al-Dam*" (Avengers of Blood) across her house. The complainants explained that the attackers allegedly arrived in cars belonging to Libya's Criminal Investigation Department of the interim government in eastern Libya.

Case LBY-01

Libya: Parliament affiliated to the IPU

Victim: female independent member of the House of Representatives

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

Submission of complaint: July 2019

Recent IPU decision: May 2021

IPU mission(s): - - -

Recent Committee hearing: Hearing with the Libyan delegation to the 141st IPU Assembly (October 2019)

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the House of Representatives (July 2020)
- Communication from the complainants: September 2021
- Communication to the authorities: Letter to the Speaker of the House of Representatives (October 2021)
- Communication to the complainants: September 2021

Ms. Sergiwa's abduction was allegedly in response to her political stance against the military operations in Tripoli, as she was taken from her home shortly after she gave an interview criticizing the military offensive and calling for an end to the bloodshed. The complainants believe that Ms. Sergiwa's abduction was not a random act of violence, given her vocal criticism of Mr. Khalifa Haftar and the circumstances in which the attack took place. They added that several Libyan officials living nearby, including the mayor of Benghazi, could have intervened with their armed guards to prevent or at least thwart the attack, but deliberately refrained from doing so.

In a statement issued on 18 July 2019, the House of Representatives in Tobruk strongly condemned Ms. Sergiwa's abduction by unknown individuals, and called on the Ministry of the Interior, as well as all the security forces, to scale up their efforts to find Ms. Sergiwa, ensure her prompt release and hold to account those responsible for her abduction. In a hearing held with the First and Second Deputy Speakers of the House of Representatives in October 2019, the IPU Committee on the Human Rights of Parliamentarians learned that the Minister of the Interior of the interim government in eastern Libya had indicated that terrorist groups might be responsible for Ms. Sergiwa's abduction, that the House of Representatives continued to monitor the case, which was still under investigation, and that it could well be that Ms. Sergiwa would turn up alive.

Reportedly, in September 2020, Ms. Sergiwa's case had been referred to a "specialized prosecution service". The Libyan authorities allegedly did not inform Ms. Sergiwa's family about this development or the fact that the investigation had been concluded.

In its report of October 2021, the United Nations Independent Fact-Finding Mission set up to investigate human rights violations committed in Libya since 2016 concluded that there were reasonable grounds to believe that Ms. Sergiwa was a victim of enforced disappearance and found that the relevant authorities in Libya had failed to protect her life. The mission's report also stated that the evidence indicated that Ms. Sergiwa was abducted by either the LNA or affiliated armed groups.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. *Continues to be appalled* by the brutal abduction of Ms. Seham Sergiwa in evident reprisal for expressing her political stance against the violence in Libya and in favour of an end to the bloodshed;
2. *Deeply regrets* that the Libyan House of Representatives has repeatedly failed to respond to requests for information on the status and outcome of the criminal investigation relating to the abduction of one of its members;
3. *Highlights* the findings of the United Nations Independent Fact-Finding Mission set up to investigate human rights violations committed in Libya since 2016 concerning the case of Ms. Seham Sergiwa, which include: (i) the assertion that Ms. Sergiwa is a victim of enforced disappearance and that she was abducted by either the Libyan National Army (LNA) or affiliated armed groups; (ii) the lack of evidence that the relevant authorities have conducted an effective investigation into her disappearance or that they have adequately apprised the family of the efforts undertaken to find her; (iii) the lack of evidence that the relevant authorities have provided effective protection for Ms. Sergiwa, whose life, according to the Mission, was at risk due to her profile and as a result of specific threats; and (iv) the failure of the authorities to protect Ms. Sergiwa's life, to protect her family from cruel and inhuman treatment, to protect her from arbitrary arrest, to ensure her right to be recognized as a person before the law and to protect Ms. Sergiwa and her family from unlawful interference with their privacy;
4. *Notes with grave concern* that these findings are in line with the Committee's conclusions since the case was referred to it in 2019; *sincerely hopes*, in light of the Mission's findings and the present decision, that the authorities, particularly the Ministry of the Interior, will take the appropriate measures to hold those responsible for Ms. Sergiwa's abduction to account and provide information on her fate; and *urges* the Libyan House of Representatives once again to

make serious efforts to monitor the case and use its oversight power to ensure that an effective and thorough investigation is being conducted by the Ministry of the Interior, and to request clear answers from the Government on the identity of the perpetrators; and *wishes* to be kept informed in this respect;

5. *Reaffirms* the long-lasting effects of impunity on the integrity of parliament and its ability to fulfil its role as an institution – even more so when leading figures of parliament are targeted for their political views, as in the present case; and *considers* that, by establishing the truth in the case of Ms. Sergiwa, the Libyan authorities would send a strong message ahead of the upcoming general elections to all parties responsible for committing serious human rights violations that impunity cannot prevail in a country committed to building an effective democracy based on the rule of law and respect for human rights;
6. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Ministry of the Interior, the United Nations Independent Fact-Finding Mission, the complainants and any third party likely to be in a position to supply relevant information;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.

Myanmar

*Decision adopted unanimously by the IPU Governing Council at its 208th session
(Madrid, 30 November 2021)*



Soldiers in front of a guest house where Myanmar members of parliament were residing in Naypyidaw shortly after the military takeover. STR / AFP

- | | |
|----------------------------------|----------------------------------|
| MMR-267 - Win Myint | MMR-298 - Nay Myo* |
| MMR-268 - Aung San Suu Kyi (Ms.) | MMR-299 - Zaw Min Thein* |
| MMR-269 - Henry Van Thio | MMR-300 - Myo Naing* |
| MMR-270 - Mann Win Khaing Than | MMR-301 - Zay Latt* |
| MMR-271 - T Khun Myat | MMR-302 - Myat Thida Htun (Ms.)* |
| MMR-272 - Tun Tun Hein | MMR-303 - Shar Phaung Awar* |
| MMR-274 - Than Zin Maung | MMR-304 - Robert Nyal Yal* |
| MMR-275 - Dr. Win Myat Aye | MMR-305 - Lamin Tun (aka Aphyo)* |
| MMR-276 - Aung Myint | MMR-306 - Aung Kyi Nyunt* |
| MMR-277 - Ye Khaung Nyunt | MMR-307 - Lama Naw Aung* |
| MMR-278 - Dr. Myo Aung | MMR-308 - Sithu Maung* |
| MMR-279 - Kyaw Myint | MMR-309 - Aung Kyaw Oo |
| MMR-280 - Win Mya Mya (Ms.) | MMR-310 - Naung Na Jatan |
| MMR-281 - Kyaw Min Hlaing | MMR-311 - Myint Oo |
| MMR-283 - Okka Min | MMR-312 - Nan Mol Kham (Ms.) |
| MMR-284 - Zarni Min | MMR-313 - Thant Zin Tun |
| MMR-285 - Mya Thein | MMR-314 - Maung Maung Swe |
| MMR-286 - Tint Soe | MMR-315 - Thein Tun |
| MMR-287 - Kyaw Thaung | MMR-316 - Than Htut |
| MMR-289 - Phyu Phyu Thin (Ms.)** | MMR-317 - Aung Aung Oo |
| MMR-290 - Ye Mon (aka Tin Thit)* | MMR-318 - Ba Myo Thein |
| MMR-291 - Htun Myint* | MMR-319 - Soe Win (a) Soe Lay |
| MMR-292 - Naing Htoo Aung* | MMR-320 - U Mann Nyunt Thein |
| MMR-293 - Dr. Wai Phyo Aung* | MMR-321 - Khin Myat Thu* |
| MMR-294 - Zin Mar Aung (Ms.)* | MMR-322 - Nay Lin Aung* |
| MMR-295 - Lwin Ko Latt* | MMR-323 - Hung Naing* |
| MMR-296 - Okkar Min* | MMR-324 - Shwe Pon (Ms.)* |
| MMR-297 - Win Naing* | |

* Only the allegations marked with an * concern these parliamentarians.

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation*
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of fair trial proceedings*
- ✓ Violation of freedom of opinion and expression*
- ✓ Violation of freedom of assembly and association*
- ✓ Failure to respect parliamentary immunity*

A. Summary of the case¹

After refusing to recognize the results of the November 2020 parliamentary elections, the military declared a state of emergency that would last for at least a year and proceeded to seize power by force on 1 February 2021, the day that the new parliament was due to take office.

The complainant reports that the Speaker of the Parliament of Myanmar (“*Pyidaungsu Hluttaw*”), Mr. T. Khun Myat, the State Counsellor, Ms. Aung San Suu Kyi, and five other members of parliament of the majority National League for Democracy (NLD) party were placed under house arrest by the military.

According to the complainant, 20 elected members of parliament were arbitrarily arrested shortly after the coup, including the seven aforementioned senior members of parliament who were placed under house arrest. In the weeks thereafter, 11 additional members of parliament were arrested.

To this day, these 31 members of parliament remain in detention or under house arrest. Of those detained, many are reportedly being held incommunicado in overcrowded prisons, where they are facing mistreatment and possibly torture, with limited or no access to medical care or legal counsel. Some of the detainees are reportedly being tried in secret. Meanwhile, State Counsellor Aung San Suu Kyi has been faced with multiple charges in her trial and a verdict is expected to be handed down on 20 November 2021. On 16 November 2021, she and 15 other senior politicians were charged with election fraud during the November elections, possibly leading to imprisonment, suspension of political rights and the dissolution of the NLD party.

According to the complainant, on 4 February 2021, some 70 elected members of parliament from the NLD met in the capital Naypyidaw 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), led by 20 members of parliament. The CRPH is considered illegal by the military regime, while the CRPH have labelled the military-appointed State Administration Council a terrorist organization and on 31 March 2021 appointed a National Unity Government (NUG), which they see as the legitimate interim government. According to the complainant, the 20 members of the CRPH have been forced into hiding, fearing reprisals because of their political activities. Nevertheless, the family members of the CRPH members have apparently been repeatedly subject to harassment and abuse by the military, whereas the father of Mr. Sithu Maung was allegedly tortured to death after his arrest. The former Speaker of the upper house of parliament and Prime Minister of the NUG, Mr. Mann Win Khaing Than, has reportedly been charged with high treason, while several other members of parliament face criminal charges for inciting civil disobedience and other charges carrying heavy penalties.

Case MMR-COLL-03

Myanmar: Parliament affiliated to the IPU until its suspension in May 2021 following the state of emergency declared by the military

Victims: 55 parliamentarians from the opposition (48 male and 7 female)

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

Submission of complaint: March 2021

Recent IPU decision: May 2021

IPU Mission(s): - - -

Recent Committee hearing: Hearing with the Chairperson of the Committee Representing the *Pyidaungsu Hluttaw* (CRPH) at the 143rd IPU Assembly (November 2021)

Recent follow-up:

- Letter from the Permanent Mission of Myanmar to the United Nations Office at Geneva: April 2021
- Communication from the complainant: October 2021
- *Note verbale* to the Permanent Mission of Myanmar in Geneva: November 2021
- Communication to the complainant: October 2021

¹ For the purposes of this decision, the term “opposition” relates to members of parliament from political groups or parties whose decision-making power is limited and who are opposed to the ruling power.

According to the complainant, on 31 March 2021 the CRPH adopted the Federal Democracy Charter in consultation with civil society groups, ethnically aligned parties and armed groups following the repeal of the 2008 Constitution, which was seen as an impediment to the emergence of a democratic federal union and a tool to prolong military rule. The Charter outlines initial agreements on establishing a federal democratic union and interim constitutional arrangement before the country adopts a new constitution through a national referendum. In addition, the complainant reported that the CRPH is developing a bill that would guarantee citizenship rights for the Rohingya population and equality and autonomy for ethnic groups in Myanmar.

Although the military authorities allowed overwhelmingly peaceful protests to take place in the first few weeks, the human rights situation in Myanmar took a devastating turn for the worse in late March, with reports of live automatic ammunition and explosive weapons used against civilians. According to reports by the United Nations (UN) Special Rapporteur on the human rights situation in Myanmar, more than 1,229 people have been killed since the beginning of the coup (as of November 2021). According to credible reports provided by the Assistance Association for Political Prisoners in Myanmar (AAPP), there have been over 9,592 arbitrary arrests, 26 death sentences handed down and 780 extrajudicial killings since the coup began. Some 7,134 people remain in arbitrary detention as of November 2021. Moreover, intensifying ethnic conflicts have resulted in the targeting of civilians, which has reportedly led to at least 219,000 people becoming internally displaced. In addition, Ms. Pramila Patten, UN Special Representative of the Secretary-General on Sexual Violence in Conflict, has highlighted “very disturbing” reports of sexual violence in detention in Myanmar, in particular targeting women from ethnic or religious minority groups.

The UN Special Rapporteur has recognized the widespread and systematic nature of the violations carried out by the military (known as the “*Tatmadaw*”) and declared that their scale met the threshold of crimes against humanity under international law. In addition, some experts have voiced their concern in the UN Security Council and other international forums, declaring that Myanmar was on the brink of state failure, pointing out that the actions of the military were making the country ungovernable.

On 24 April 2021, the Association of Southeast Asian Nations (ASEAN) held a leaders’ meeting to discuss “pressing issues of common interest”, inviting a representative from the military authorities of Myanmar to attend. This meeting led to the adoption of a five-point consensus on Myanmar calling for the immediate cessation of violence and the nomination of a special envoy to Myanmar who was to visit the country to meet with all parties concerned. As the military authorities denied access to the special envoy and showed no willingness to implement the five-point consensus, they have been excluded from ASEAN meetings as of October 2021.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. *Notes* that the current case also includes a new complaint regarding the situation of Mr. Mann Nyunt Thein, Mr. Khin Myat Thu, Mr. Nay Lin Aung, Mr. Hung Naing and Ms. Shwe Pon, 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) concerns incumbent members of parliament at the time of the initial allegations; and (iii) concerns allegations of torture, ill-treatment and other acts of violence, threats and acts of intimidation, arbitrary arrest and detention, inhumane conditions of detention, lack of fair trial proceedings, violation of freedom of opinion and expression, violation of freedom of assembly and association and failure to respect parliamentary immunity, which are allegations that fall under the Committee’s mandate;
2. *Reaffirms* its condemnation of the continuing deliberate policy of the military authorities to disregard the outcome of the 2020 elections and their unwillingness to hand over power to those democratically elected, despite the fact that available international election reports underscore that they were free and fair and that the 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 unwavering resolve to protect the democratic gains made in recent years; *is appalled* by the human toll resulting from the violence that followed the forceful takeover, including reports of war crimes and crimes against humanity; *urges* the military authorities to honour their commitment to implement the five-point consensus brokered by ASEAN and put an immediate end to the violence;
3. *Is deeply concerned* that 55 members of the Parliament of Myanmar, including its presiding officers, have reportedly been subject to reprisals for carrying out their work; *is appalled* by allegations that numerous parliamentarians are detained incommunicado in prisons where they face mistreatment and possibly torture and gender-based violence, as well as inhumane detention conditions with limited or no access to medical care or legal counsel, and that some have reportedly been tried in secret; *is concerned* that the detained parliamentarians are subjected to high risks of being infected by COVID-19, even more so as a senior NLD spokesperson died after contracting the virus in prison; *is deeply concerned* by allegations that some parliamentarians have been subject to charges carrying heavy penalties for exercising their rights;
 4. *Strongly urges* the military authorities to release immediately and unconditionally all members of parliament-elect held in detention and to put an immediate end to all practices aimed at preventing the members of parliament-elect from exercising their political activity, including by putting an end to the use of secret trials in prison; *calls on* the military authorities to respect the human rights of all members of parliament elected in November 2020 and hence to allow them to associate, assemble, express their views, receive and impart information and move about without fear of reprisals; *urges* the military authorities to refrain from taking physical or legal action against the 20 members of the Committee Representing the *Pyidaungsu Hluttaw* (CRPH), and any other person elected in November 2020, in connection with their parliamentary activities; *calls on* the military authorities to immediately cease using lethal force against those exercising their human rights and to abide by international principles of human rights and the rule of law; and *wishes* to receive as a matter of urgency specific information on these points from the military authorities;
 5. *Calls on* its Member Parliaments, IPU permanent observers and parliamentary assemblies, including the ASEAN Inter-Parliamentary Assembly, to press for respect for human rights and democratic principles in Myanmar to show solidarity with the members of parliament who were elected in 2020, including members of the CRPH; *calls on* its Member Parliaments and the IPU Secretariat to further strengthen the international network of solidarity with the Myanmar parliamentarians in partnership with the International Parliamentarians Alliance for Myanmar (IPAM), and to take concrete actions in support of this endeavour together with other international organizations active in the region; and *invites* Member Parliaments to inform it of any steps they may take to that end;
 6. *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;
 7. *Requests* the Committee to continue examining this case and to report back to it in due course.

Pakistan

Decision adopted unanimously by the IPU Governing Council at its 208th session (Madrid, 30 November 2021)



Mohsin Dawar (left), and Muhammad Ali Wazir (right), PTM member of parliament from the North Waziristan tribal district, sit before a media briefing in Islamabad on 27 January 2020. / Farooq NAEEM / AFP

PAK-25 – Muhammad Ali Wazir

Alleged human rights violations:

- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings
- ✓ Excessive delays
- ✓ Right of appeal
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Failure to respect parliamentary immunity

A. Summary of the case

Mr. Muhammad Ali Wazir is a member of the National Assembly of Pakistan. He is also a senior leader of the Pashtun Tahaffuz (Protection) Movement (PTM) and a prolific critic of the Government.

The complainant reports that Mr. Ali Wazir was arrested on 16 December 2020 in connection with a rally he had attended, on charges of preparing a criminal conspiracy and making derogatory remarks against state institutions in his speeches. Mr. Ali Wazir was charged with violating a number of provisions of the Pakistan Penal Code and the Anti-Terrorism Act.

However, the complainant rejects the charges as baseless and politically motivated. The complainant contends that the accusations against Mr. Ali Wazir are intended to interfere with his defence of the rights of the Pashtun minority, in violation of his rights to freedom of expression and to peaceful assembly. In addition, the complainant reports that the prolonged detention of Mr. Ali Wazir violates his

Case PAK-25

Pakistan: Parliament affiliated to the IPU

Victim: Independent member of the National Assembly of Pakistan

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

Submission of complaint: November 2021

Recent IPU decision(s): - - -

IPU Mission(s): - - -

Recent Committee hearing: Hearing with the Pakistani delegation at the 143rd IPU Assembly (November 2021)

Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: November 2021
- Communication to the authorities: Letter to the Speaker of the National Assembly (November 2021)
- Communication to the complainant: November 2021

parliamentary immunity and puts his life at risk, as he suffers from hypertension, diabetes and other ailments, which make him particularly vulnerable to the COVID-19 virus that is reportedly widespread in the penitentiary system.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. *Notes* that the complaint concerning Mr. Ali Wazir is admissible, considering that the complaint: (i) was submitted in due form by a qualified complainant under Section I.(1)(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); (ii) concerns an incumbent member of parliament at the time of the alleged facts; (iii) concerns allegations of arbitrary arrest and detention, inhumane conditions of detention, lack of due process at the investigation stage and fair trial proceedings, excessive delays, lack of a right of appeal, violation of freedom of opinion and expression, and of freedom of assembly and association, and failure to respect parliamentary immunity, which are allegations that fall within the Committee's mandate;
2. *Thanks* the National Assembly of Pakistan for its cooperation, in particular for the information provided by the Pakistani delegation to the 143rd IPU Assembly during a hearing with the Committee on the Human Rights of Parliamentarians; *notes with appreciation* the assurance made by the delegation that the trial of Mr. Ali Wazir could be attended by trial observers, and therefore *decides* to mandate a trial observer to monitor the upcoming court proceedings against him; and *wishes* to be kept informed of the dates of the trial when available, and of any other relevant judicial developments in the case, as well as to *receive* a copy of the relevant legal provisions;
3. *Is concerned* that Mr. Ali Wazir has been detained without bail since December 2020 under the Anti-Terrorism Act; *is perplexed* to find in reports from the Ministry of the Interior that the recordings of the speeches that Mr. Ali Wazir had made prior to his arrest on 17 December 2020 still appear not to have been translated and analysed for their content; and *calls on* the competent authorities to take all necessary steps to ensure that evidence against Mr. Ali Wazir is produced in a timely manner, or otherwise to immediately end the ongoing proceedings against him;
4. *Is deeply concerned* by reports that Mr. Ali Wazir has been held in overcrowded prison cells despite the fact that he suffers from poor health, including hypertension and diabetes, which would make him especially vulnerable to the COVID-19 pandemic; *wishes* to receive detailed information on the detention conditions of Mr. Ali Wazir; and *recalls* that international human rights standards reflected in General Comment No. 35 of the United Nations Human Rights Committee specify that pretrial detention "shall be the exception rather than the rule", should not be general practice, and should never apply automatically to all those charged with a certain crime;
5. *Considers* that the Pakistani Parliament has a vested interest in helping ensure that the human rights of their members are fully protected; *calls on* the parliamentary authorities of Pakistan to therefore do their utmost to help see to it that Mr. Ali Wazir's rights to liberty, a fair trial and to be kept in adequate prison conditions are respected; and *wishes* to receive further information on this point;
6. *Is also concerned*, as mentioned by the United Nations Human Rights Committee in its latest concluding observations, "by the very broad definition of terrorism laid down in the Anti-Terrorism Act; by the Act's supremacy over other laws...; by the power of the authorities to detain a person for up to one year", by the extensive jurisdiction of anti-terrorism courts, and by the reported backlog of terrorism-related cases in Pakistan; *firmly believes* that terrorism and related offences must be clearly and narrowly defined to be consistent with international human rights law and that, when adopting counter-terrorism measures, parliaments and governments should, to the greatest extent possible, act within existing civilian structures, due process guarantees, court processes and ordinary means of response, which are frequently the most effective means available; *calls on* the National Assembly of Pakistan to therefore use its powers to carry out a full

review of this Act and to abolish or amend it in line with Pakistan's international human rights obligations; and *wishes to receive* information on all actions taken to this effect;

7. *Affirms* that the IPU stands ready to provide assistance upon request aimed at building the capacities of parliament and other public institutions to identify any underlying issues that may have given rise to the filing of the present complaint and to rectify such issues, including with regard to the legislation and procedures implemented in the case; and *requests* the competent authorities to provide further information on how the IPU could best provide such assistance;
8. *Requests* the Secretary General to convey this decision to the parliamentary and other relevant national authorities, the complainant and any interested third party likely to be in a position to supply relevant information to assist the Committee in its work;
9. *Requests* the Committee to continue examining this case and to report back to it in due course.

Sri Lanka

Decision adopted unanimously by the IPU Governing Council at its 208th session (Madrid, 30 November 2021)



© Courtesy Mr. Rishad Bathiudeen's family

LKA-77 – Rishad Bathiudeen

Alleged human rights violations

- ✓ Arbitrary arrest and detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of freedom of opinion and expression

A. Summary of the case

Mr. Abdul Rishad Bathiudeen, a leading Muslim opposition member, was arrested on 24 April 2021 under the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979, on accusations of having aided and abetted the suicide bombers, allegedly linked to the Islamic State, who caused the deaths of close to 300 people on Easter Sunday, 21 April 2019. The attacks were on churches and hotels and targeted the Christian community in Sri Lanka.

At the time, Mr. Bathiudeen was Minister of Industry and Commerce. One of the entities that came under the purview of his ministry was the Industrial Development Board (IDB), which, *inter alia*, was responsible for selling scrap metal to businesses and for issuing related export licences. It turns out that a company, Colossus (Pvt) Ltd, managed by a director who later became one of the suicide bombers, purchased scrap metal and sought to obtain an export

Case LKA-77

Sri Lanka: 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: May 2021

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing: - - -

Recent follow-up:

- Communication from the authorities: August 2021
- Communication from the complainant: November 2021
- Communication to the authorities: October 2021
- Communication to the complainant: November 2021

licence from the IDB, and that some of the money obtained thereby may have been used to finance the terrorist bombings.

According to the complainant, Mr. Bathiudeen was in no way involved directly in the process of authorizing the sale of scrap metal or the issuance of export licences, these powers having been delegated to others in the ministry. Moreover, the complainant underscored that Mr. Bathiudeen had no relations whatsoever with the director of Colossus (Pvt) Ltd. In this regard, the complainant also points out that, in addition to a ministerial investigation committee, a parliamentary select committee and presidential commission of inquiry found no evidence incriminating Mr. Bathiudeen with regard to the suicide bombings. The complainant states that Mr. Bathiudeen has been targeted with criminal proceedings for his opposition to the current President, Mr. Rajapakse, and owing to anti-Muslim sentiment in the country in the aftermath of the Easter Sunday attacks.

According to the complainant, upon arrest, Mr. Bathiudeen was not shown a warrant nor was he later charged. Mr. Bathiudeen immediately submitted a Fundamental Rights Application challenging his arrest and detention. According to the Secretary General of Parliament, inasmuch as the matter was of direct concern to parliament, in line with the procedure in place, the Speaker had been informed at the time of Mr. Bathiudeen's arrest by the competent authorities. Mr. Bathiudeen's Fundamental Rights Application was before four different Supreme Court judges, with each one deciding to recuse themselves. On 14 October 2021, the Forts Magistrate Court granted Mr. Bathiudeen bail, but still considered him a suspect in the investigation.

On 4 October 2021, Sri Lankan prosecutors indicted over 20 suspects along with the alleged Islamic State "mastermind" of the suicide bombings in the Colombo High Court. These individuals are said to have had direct involvement with the suicide bombers. There are still many others, possibly amounting to 300 persons, who are reportedly still being held without charge or prosecution in connection with the Easter Sunday Attacks.

It should be noted that Mr. Bathiudeen is also a suspect in another legal case that is not part of the complaint before the IPU Committee on the Human Rights of Parliamentarians.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. Notes that the complaint concerning Mr. Rishad Bathiudeen is admissible, considering that the complaint: (i) 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) concerns an incumbent member of parliament at the time of the alleged facts; and (iii) concerns allegations of arbitrary arrest and detention, lack of due process in proceedings against parliamentarians, and violation of freedom of opinion and expression, which are allegations that fall within the Committee's mandate.
2. *Thanks* the Secretary General of the Sri Lankan Parliament for his communication and cooperation;
3. *Is concerned* that Mr. Bathiudeen was detained for six months under the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979, in the absence of the prompt processing of his Fundamental Rights Application;
4. *Is also concerned* that no official information has been made available to show on what concrete factual basis Mr. Bathiudeen is considered a suspect in the investigation, which may only give weight to the statement by the complainant that there is in fact no case against him;
5. *Calls on* the competent authorities, therefore, to either swiftly charge Mr. Bathiudeen, if solid and credible evidence is available, or to abandon the case against him; and *wishes* to receive specific information on this point;

6. *Is deeply concerned* that the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979, has not been abolished or amended as recommended on many occasions by United Nations human rights mechanisms and despite previous commitments made by the Sri Lankan authorities; *recalls* in this regard that the Act allows arrests for unspecified “unlawful activities” without warrant and permits detention for up to 18 months without the authorities bringing the suspect before a court, and that this has led to multiple abuses; *calls on* parliament, therefore, to use its powers to carry out a full review of this Act and to abolish or amend it in line with Sri Lanka’s international human rights obligations; and *wishes* to receive information in this regard, including on whether parliament wishes to receive IPU assistance to that end;
7. *Requests* the Secretary General to convey this decision to the parliamentary and prosecuting authorities, the complainant and any third party likely to be in a position to supply relevant information;
8. *Requests* the Committee to continue examining this case and report to it in due course.

Sri Lanka

*Decision adopted unanimously by the IPU Governing Council at its 208th session
(Madrid, 30 November 2021)*



© [Ranjan Ramanayake \(@RamanayakeR\)](#)

LKA-78 – Ranjan Ramanayake

Alleged human rights violations

- ✓ Threat, acts of intimidation
- ✓ Inhumane conditions of detention
- ✓ Lack of fair trial proceedings
- ✓ Lack of right to appeal
- ✓ Violation of freedom of opinion and expression
- ✓ Abusive revocation or suspension of the parliamentary mandate

A. Summary of the case

On 21 January 2021, the Supreme Court sentenced Mr. Ranjan Ramanayake, an opposition member of the Parliament of Sri Lanka, to four years of rigorous imprisonment for contempt of court under Article 105(3) of the Constitution.

The Attorney General had brought the case against Mr. Ramanayake following a complaint filed in the Supreme Court by the Venerable Mr. Magalkande Sudantha Thero and retired Air Force officer Mr. Sunil Perera. The case was brought in connection with remarks made by Mr. Ramanayake to the media following a discussion with the then Prime Minister, Mr. Ranil Wickremesinghe, at Temple Trees on 21 August 2017. The interview was broadcast on the “News 1st” news bulletin on MTV Channel (Private) Limited’s Sirasa TV on the same day. During the interview, Mr. Ramanayake stated, *inter alia*, the following: “The majority of judges in Sri Lanka are corrupt. Corrupt lawyers. About 95 per cent of them. They work for money. Every day they protected murderers, corrupt people and drug dealers for money”.

The complainant states that Mr. Ramanayake’s prison sentence comes in response to his strong opposition to the Government and his efforts to denounce and root out corruption. The complainant

Case LKA-78

Sri Lanka: Parliament affiliated to the IPU

Victim: Male opposition member of parliament

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

Submission of complaint: August 2021

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: Letter from the Attorney General (November 2021)
- Communication from the complainant: August 2021
- Communication to the authorities: October 2021
- Communication to the complainant: November 2021

considers that Mr. Ramanayake's sentencing and conviction run counter to his right to freedom of expression, all the more so considering that ample information is available to show the level of corruption in the judiciary, and to his right to participate in the conduct of public affairs, given that his parliamentary mandate was terminated as a result on 7 April 2021. Moreover, the complainant, as well as the United Nations (UN) Special Rapporteur on the independence of judges and lawyers, state that in the Sri Lankan legal system "contempt of court" has not been defined clearly, and that the verdict cannot be appealed. Moreover, as a consequence of the sentence, pursuant to Article 89(d) of the Constitution, Mr. Ramanayake will be barred from voting and standing in elections for a period of seven years following completion of his sentence.

The complainant is concerned about Mr. Ramanayake's state of health and prison conditions. It states that Mr. Ramanayake was only given a bed in the prison hospital where he was admitted in October 2021 because of his diabetes, hypertension, knee pain and backache. However, the prison officers, rather than the doctors, could decide at any point to send him back to prison. According to the complainant, when he is in prison, Mr. Ramanayake is only allowed to receive visitors once a month for 15 minutes. He is reportedly not allowed to make any phone calls and can only post letters, which are often sent with a significant delay.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. *Notes* that the complaint concerning Mr. Ranjan Ramanayake is admissible, considering that the complaint: (i) was submitted in due form by a qualified complainant under Section I.1.(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); (ii) concerns an incumbent member of parliament at the time of the initial allegations; and (iii) concerns allegations of threats and acts of intimidation, inhumane conditions of detention, lack of fair trial proceedings, lack of the right to appeal, violation of freedom of opinion and expression, and the abusive revocation of the parliamentary mandate, which are allegations that fall within the Committee's mandate;
2. *Is alarmed* that Mr. Ramanayake is currently serving a four-year prison term owing to a highly questionable verdict and sentence, neither of which, in violation of basic fair trial standards, is open to judicial review, as the Supreme Court ruled at single instance;
3. *Considers* that, in making the statement, Mr. Ramanayake was exercising his right to freedom of speech and his parliamentary mandate, which includes oversight of the overall state of administration of justice; *considers* also in this regard that both common law jurisprudence and human rights doctrine amply demonstrate that freedom of speech must be the overriding value where contempt of court is concerned; and *considers*, therefore, that the prison sentence is totally inappropriate and that, should any sanction have been considered necessary, this should have been limited to a warning or a small fine at the most;
4. *Is deeply concerned* that, as a result of the sentence and conviction, Mr. Ramanayake's parliamentary mandate was terminated and that, in addition, he will be prevented from voting and standing in elections for seven years after serving his sentence;
5. *Calls on* the President of Sri Lanka, therefore, to grant Mr. Ramanayake a pardon so that he can regain his freedom and, if not resume his parliamentary mandate, at least vote and stand in elections, thereby redressing the injustice suffered by him as a result of the contempt of court proceedings; and *expresses* the hope that the President will give its plea due consideration;
6. *Firmly believes* that every parliament has a particular interest in ensuring that its members, irrespective of party affiliation, can freely express themselves without fear of reprisal by the other state branches, as otherwise the very independence of the institution would be at stake; *calls on* the Sri Lankan Parliament to take this matter into serious consideration by ensuring that legislation is in place that clearly defines contempt of court, establishes clear sanctions for the

most serious of cases in which there is a real and imminent danger concerning the administration of justice, and offers persons convicted an opportunity to appeal; and *would appreciate* receiving observations on this point;

7. *Is deeply concerned* about Mr. Ramanayake's alleged state of health and prison conditions; *urges* the competent authorities, for as long as he remains imprisoned, to ensure that he receives the necessary medical care and is allowed to communicate regularly, through telephone calls and visits, with his lawyer and family members; and *wishes* to receive specific information on this point;
8. *Requests* the Secretary General to convey this decision to the President of Sri Lanka, the parliamentary authorities and prison authorities, the complainant and any third party likely to be in a position to supply relevant information;
9. *Requests* the Committee to continue examining this case and report to it in due course.

Tunisia

Decision adopted unanimously by the IPU Governing Council at its 208th session (Madrid, 30 November 2021)



Abir Moussi (centre), president of the Free Destourian Party (PLD), lifts her face mask as she gestures during a parliamentary session as Tunisian lawmakers debate ahead of a confidence vote on the new government reshuffle by the Prime Minister at the Tunisian Assembly headquarters in the capital Tunis on 26 January 2021. FETHI BELAID/AFP

TUN-06 – Abir Moussi

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Impunity
- ✓ Other violations²

A. Summary of the case

A member of the Assembly of People's Representatives, Ms. Abir Moussi, was the victim of acts of verbal and physical violence and sexist, degrading insults directly linked to the exercise of her parliamentary mandate. The abuse suffered by Ms. Moussi is allegedly based, on the one hand, on the fact that she is the leader of an opposition political party and, on the other hand, on her gender. Ms. Moussi has also received death threats, which she has taken seriously and reported to the police, who are providing her with security.

The complainant's allegations were supported by videos and excerpts from social media posts that helped identify the alleged perpetrators, including two members of the majority party in the Assembly, Mr. Seifeddine Makhlouf and Mr. Sahbi Smara. The latter physically assaulted her during Assembly proceedings on 30 June 2021. The two members of parliament were apparently not punished, as before the suspension of the Tunisian parliament on 25 July 2021 no disciplinary measures had been taken by the parliamentary authorities

²

The acts of violence suffered by Ms. Moussi were reportedly gender-based, that is, "violence which is directed against a woman because she is a woman or that affects women disproportionately". For a full definition, see general recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 of the Committee on the Elimination of Discrimination against Women (CEDAW), United Nations.

Case TUN-06

Tunisia: Parliament affiliated to the IPU

Victim: Female opposition member of parliament

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

Submission of complaint: October 2020

Recent IPU decision: February 2021

IPU mission(s): - - -

Recent Committee hearing: Hearing with the complainant at the IPU's 143rd Assembly (November 2021)

Recent follow-up:

- Communications from the authorities: Letters from the Chief of Staff of the Speaker of the Assembly of People's Representatives (April and May 2021); meeting between the IPU Secretary General and the Permanent Representative of Tunisia to the United Nations Office in Geneva (November 2021)
- Communication from the complainant: September 2021
- Communications to the authorities: Letter to the Speaker of the Assembly of People's Representatives (August 2021); and letter to the President of the Republic (October 2021)
- Communication to the complainant: November 2021

against either of them or against other members of the same political party accused of harassing Ms. Moussi. According to the complainant, these attacks are aimed at intimidating the member of parliament in order to remove her from political life.

In their letters of November 2020 and April and May 2021, the parliamentary authorities stated that they had strongly condemned the actions of member of parliament Mr. Makhoul, as had the parliamentary committee set up by the Speaker of Parliament in this regard. In their letter, received on 14 April 2021, the parliamentary authorities stated that an initiative to create a code of parliamentary ethics and conduct as a mechanism to eliminate violence in parliament is under discussion. The authorities also expressed their willingness to cooperate with the Inter-Parliamentary Union in order to restore a climate of peace and eliminate all forms of violence in parliament. In their letter of May 2021, the parliamentary authorities nevertheless pointed out that Ms. Moussi had allegedly caused disturbances and verbally abused other members of the Assembly, allegations which were refuted by the complainant.

After months of prolonged political crisis in the country, President Kaïs Saïed suspended parliament on 25 July 2021, invoking Article 80 of the Constitution. President Saïed also lifted the parliamentary immunity of all members of parliament, dismissed the Prime Minister and his government and assumed all state powers. Although their parliamentary immunity was lifted, none of the members of parliament guilty of the acts of violence were apprehended to answer for their actions towards Ms. Moussi.

At the hearing with the IPU Committee on the Human Rights of Parliamentarians on 26 November 2021, during the 143rd IPU Assembly (November 2021) in Madrid, the complainant explained that Ms. Moussi had been the victim of serious harassment and threats for several years, which justified the police protection provided by the Ministry of the Interior that she had enjoyed long before she became a member of parliament. However, the threats against her reportedly intensified when she became a member of parliament in 2019. According to the complainant, the police protection provided to her is ineffective given the recent assaults she suffered. The complainant added that the parliamentary authorities had no mechanism to review disputes between members of parliament. However, the acts of violence suffered by Ms. Moussi were, rather, offences punishable by law, meaning that the parliamentary authorities should have forwarded her complaints to the Public Prosecutor, which was not done.

The complainant also pointed out that Ms. Moussi, like all members of the Assembly of People's Representatives, was suffering from the consequences of the suspension of parliament and the campaign of defamation and harassment against all members of parliament.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. *Notes* that the complaint concerning Ms. Abir Moussi's situation, a member of the Assembly of People's Representatives of Tunisia at the time she received threats and suffered sexist acts of intimidation and verbal and physical violence, was declared admissible by the Committee on the Human Rights of Parliamentarians under its Procedure in February 2021;
2. *Thanks* the Tunisian parliamentary authorities for the information they provided in their letters received in November 2020 and April and May 2021 respectively; and *welcomes* the willingness of the parliamentary authorities to settle Ms. Moussi's case and to cooperate with the Committee;
3. *Regrets*, nevertheless, that, despite the exchanges held on Ms. Moussi's situation with the parliamentary authorities when they were still in office, they did not take the necessary steps to prevent the assaults committed against her on 30 June 2021 by two other members of parliament on parliamentary premises; *also regrets* the decision of the Bureau of the Assembly to remove Ms. Moussi's security escort within parliament, given the real and serious threats against her and the prevailing general climate of violence in parliament;
4. *Strongly condemns* the acts of violence committed against Ms. Moussi and all other forms of violence suffered by her, as well as all demeaning practices aimed against female

parliamentarians; *stresses* that such attacks are a step backwards and represent a danger both to women's political rights and to the proper functioning of parliament; and *calls on* the competent authorities to take appropriate action to hold to account those responsible for the acts of violence against Ms. Moussi;

5. *Affirms* that all parliamentarians, in particular female Tunisian parliamentarians, should be able to perform their political duties in a respectful environment in which their rights are effectively and seriously defended; *wishes*, with the support of the Inter-Parliamentary Union, to assist the Assembly of People's Representatives, when it resumes its functions, in strengthening democracy, promoting parliamentary dialogue and combating the intimidation of women in politics; and *sincerely hopes* to be able to help in the drafting of the code of parliamentary ethics and conduct;
6. *Expresses its concern* about the suspension of the Tunisian Parliament under extraordinary measures, which were supposed to be of limited duration but which are still in place, thereby plunging the Tunisian Parliament into a situation of total uncertainty; *stresses* that this suspension directly affects the individual rights of members of parliament and deprives Tunisian citizens of political representation; *points out* in this respect that the achievements of the young Tunisian democracy that emerged from the Arab Spring should be maintained by all possible means; and *looks forward* to the resumption of the work of the Tunisian Parliament as soon as possible;
7. *Requests* the Secretary General to convey this decision to the President of the Republic, the complainant and any third party likely to be in a position to supply relevant information to assist it in its work;
8. *Requests* the Committee to continue examining this case and to report back to it in due course.

Tunisia

*Decision adopted unanimously by the IPU Governing Council at its 208th session
(Madrid, 30 November 2021)*



Tunisian security forces guard the entrance to the country's parliament in Tunis, Tunisia, on 1 October 2021. © Anadolu Agency via AFP

| | |
|---------------------------------------|---------------------------------|
| TUN-07 - Seifedine Makhlouf | TUN-19 - Samira Chaouachi (Ms.) |
| TUN-08 - Maher Zid | TUN-20 - Belgacem Hassan |
| TUN-09 - Maher Medhioub | TUN-21 - Kenza Ajela (Ms.) |
| TUN-10 - Yosri Dali | TUN-22 - Emna Ben Hmayed (Ms.) |
| TUN-11 - Fethi Ayadi | TUN-23 - Bechr Chebbi |
| TUN-12 - Awatef Ftirch (Ms.) | TUN-24 - Monjia Boughanmi (Ms.) |
| TUN-13 - Omar Ghribi | TUN-25 - Wafa Attia (Ms.) |
| TUN-14 - Faiza Bouhlel (Ms.) | TUN-26 - Jamila Jouini (Ms.) |
| TUN-15 - Samira Smii (Ms.) | TUN-27 - Mohamed Lazher Rama |
| TUN-16 - Mahbouba Ben Dhifallah (Ms.) | TUN-28 - Nidhal Saoudi |
| TUN-17 - Mohamed Zrig | TUN-29 - Neji Jmal |
| TUN-18 - Issam Bargougui | TUN-30 - Zeinab Brahmi (Ms.) |

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage and of fair trial proceedings
- ✓ Violation of 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

A. Summary of the case³

On 25 July 2021, President Kais Saïed invoked Article 80 of the Constitution to suspend parliament, lift the parliamentary immunity of members of parliament, remove the Prime Minister and his government from office and take on executive power after months of protracted political crisis in the country.

This suspension has had additional implications for a number of members of parliament from the *Ennahda* and *Al Karama* groups who were targeted directly because of their opposition to President Saïed. In addition to being stripped of their parliamentary immunity, salary, medical insurance, and freedom of movement that all members of parliament enjoy, some members of parliament are being prosecuted for matters that occurred before the events of 25 July 2021. Currently, the members of parliament Mr. Seifedine Makhlouf et Mr. Nidhal Saoudi are in prison while three others were placed under house arrest until the beginning of October 2021. Other members of parliament are abroad and do not wish to return to Tunisia for fear of reprisals. The uncertain future of parliament is a cause for concern for all members of parliament elected for a five-year term who have now been stripped of the right to exercise their parliamentary mandate.

A vigorous smear campaign has allegedly been waged against all members of parliament, especially those from the two groups above, who are said to have been branded incompetent or deemed traitors, which has exacerbated the threats and hate speech against them. In this context, it should be stressed that the repeated acts of violence in parliament have sparked a widespread public mood of frustration with members of parliament.

On 24 August 2021, President Saïed renewed the extraordinary measures in place and on 22 September 2021 he published presidential decree No. 2021-117, which granted him all powers of the State. The instrument allows the President to legislate by issuing presidential decrees, none of which are subject to judicial review. Parliament remains suspended despite the provisions of Article 80 of the Constitution, which provide that parliament is deemed to be continuously in session whenever the President invokes extraordinary measures. On 11 October 2021, President Saïed announced a new 25-member government led by Ms. Najla Bouden Romdhan.

At a hearing with the Committee on the Human Rights of Parliamentarians on 26 November 2021 during the 143rd IPU Assembly in Madrid, the complainants stated that the members of parliament in the *Al Karama* political coalition were victims of a campaign of defamation and humiliation designed to tarnish their image. The members of parliament were said to be liars, looters of public property and traitors. Mr. Makhlouf and Mr. Saoudi are accused of offences that carry the death penalty under the provisions of the Tunisian Criminal Code. In addition, the complainants highlighted that certain measures were entirely arbitrary, as some members of parliament who had been placed under house arrest without knowing why were no longer subject to this restriction, even though the authorities had provided no explanation.

Regarding the two members of parliament currently in detention, the complainants said that the legal proceedings in the airport case had started before their parliamentary immunity was lifted on 25 July 2021. These cases reportedly came before the civil investigating judge at first, and the Public Prosecutor and the Bureau of the Assembly had corresponded about their immunity. However, the measures of 25 July 2021 were said to have accelerated the processing of these cases as they were referred to a military court in light of the alleged offences committed by the two members of parliament. Their continued

Case TUN-COLL-01

Tunisia: Parliament affiliated to the IPU

Victim: 24 members of the opposition (13 men and 11 women)

Qualified complainants: Section I.1 (a) and (b) of the Committee Procedure (Annex I)

Submission of complaints: August, September and October 2021

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing: Hearing with the complainant at the 143rd IPU Assembly (November 2021)

Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: November 2021
- Communication to the authorities: Letter to the President of the Republic (October 2021)
- Communication to the complainants: November 2021

³ For the purposes of this decision, the term "opposition" relates to members of parliament from political groups or parties whose decision-making power is limited and who are opposed to the ruling power.

detention appeared to be arbitrary and designed to weaken their morale. In this regard, the hearing scheduled for Mr. Makhlouf's case was said to have been initially postponed until 14 December before being brought forward to 7 December 2021. The complainants pointed out that the military judges used provisions from the presidential decrees to support decisions against certain members of parliament.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. *Notes* that the collective complaint concerning 24 parliamentarians, who are all members of the Assembly of the representatives of the Tunisian people, is admissible, considering that the complaint: (i) was submitted in due form by qualified complainants under Section I.1 (a) and (b) 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) concerns incumbent members of parliament at the time that the initial allegations were made; (iii) concerns allegations of threats and acts of intimidation, arbitrary arrest and detention, lack of due process at the investigation stage and fair trial proceedings, violations of freedom of opinion and expression, of freedom of assembly and association and of freedom of movement, abusive revocation or suspension of the parliamentary mandate, failure to respect parliamentary immunity, and other acts obstructing the exercise of the parliamentary mandate, which are all allegations that fall within the Committee's mandate;
2. *Expresses concern* that the cases of Mr. Seifedine Makhlouf and Mr. Nidhal Saoudi were referred to a military court, as they are both members of parliament entitled to parliamentary immunity; *questions* whether it is within the jurisdiction of a military court to try cases involving civilians, notwithstanding that this is authorized under the provisions of Tunisian law; and *invites* the Tunisian authorities to review those provisions to ensure that military courts are not used in cases relating to the civilian legal system;
3. *Notes with concern* that, since the suspension of parliament on 25 July 2021, all Tunisian members of parliament have been subjected to a campaign of defamation and demonization, particularly those from the *Al Karama* coalition; and *considers* that this campaign violates their physical and moral integrity;
4. *Highlights* that this campaign of defamation and demonization must not deprive the indicted members of parliament, including Mr. Makhlouf and Mr. Saoudi, of their right to be tried in accordance with international standards that guarantee equitable and due process; and *wishes* in that regard to receive from the Tunisian authorities detailed information on the two cases of the members of parliament to understand the basis and substance of the charges against them;
5. *Expresses its concern* about the suspension of the Tunisian Parliament under extraordinary measures, which were supposed to be of limited duration but which are still in place, thereby plunging the Tunisian Parliament into a situation of total uncertainty; *stresses* that this suspension directly affects the individual rights of members of parliament and deprives Tunisian citizens of political representation; *points* out in this respect that the achievements of the young Tunisian democracy that emerged from the Arab Spring should be maintained by all possible means, and *looks forward* to the resumption of the work of the Tunisian Parliament as soon as possible in a climate of peace that promotes dialogue and respect for the rights of all parliamentarians and in which members of parliament can carry out their functions free from violence;
6. *Requests* the Secretary General to convey this decision to the President of the Republic, the complainants and any third party likely to be in a position to supply relevant information;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.

Venezuela

*Decision adopted unanimously by the IPU Governing Council at its 208th session
(Madrid, 30 November 2021)*



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

- | | |
|-----------------------------------|--|
| VEN-10 – Biagio Pilieri | 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 Garcia | 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 Guaiepe (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 Proserpi |
| 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 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 ⁴

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 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.

According to the complainant, 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. One parliamentarian is currently under house arrest, 36 are in exile, six have recently returned to Venezuela, 23 are engaged in court proceedings, and six have been barred from holding public office. 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 Nicolas 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 26 parliamentarians listed in the present case and the release of four of them.

Parliamentary elections took place on 6 December 2020. A 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”. 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.

Since 2013, the IPU had been making sustained efforts to send a delegation to Venezuela. In October 2018, the IPU governing bodies decided that the mission would comprise members of both the IPU Committee on the Human Rights of Parliamentarians (CHRP) and the IPU Executive Committee, given the complexity of the political situation and the recurrent finding that individual human rights cases of parliamentarians were part of a broader context of institutional and political crisis. Following receipt of an official invitation from Venezuela, the IPU joint mission travelled to Venezuela from 23 to 27 August 2021. The delegation was able to meet with a large variety of state authorities and stakeholders as well as with more than 60 of the 134 parliamentarians elected in 2015 with cases under examination by the CHRP and to obtain first-hand information on their individual situations.

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: March 2021

IPU mission: August 2021

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

Recent follow-up:

- Communication(s) from the authorities:
- - -
- Communication from the complainant:
November 2021
- Communication to the authorities:
Letter to the President of the Republic
(November 2020)
- Communication to the complainant:
November 2021

⁴ For the purposes of this decision, the term “opposition” relates to members of parliament from political groups or parties whose decision-making power is limited and who are opposed to the ruling power.

In preparing for the mission, the IPU delegation had requested facilitation of a visit to Freddy Guevara, opposition member of parliament elected in 2015, who had been arrested on 12 July 2021 – his whereabouts remaining unknown until 15 July, when he was brought before the court. Having had persistent concerns about the circumstances of his incarceration and right to due process, the IPU was pleased to learn of Mr. Guevara's release on 15 August 2021, one week before the delegation's arrival in Caracas.

B. Decision

The Governing Council of the Inter-Parliamentary Union,

1. *Thanks* the Venezuelan authorities for their cooperation during the recent joint mission by the IPU Executive Committee and the CHRP to Venezuela and for facilitating its conduct;
2. *Thanks* also all persons involved in Venezuelan political life and civil society actors who agreed to meet with the IPU delegation and provide their various points of view; *acknowledges* that meeting with them allowed the Committee to gain a better understanding of the issues at hand; *regrets*, nevertheless, that, despite requests in this regard, neither the President of the Republic, nor the Attorney-General, the Minister of People's Power for Foreign Affairs, the Ombudsman, the President of the Supreme Court of Justice or the President of the National Electoral Council met with the delegation, although it *appreciates* the willingness of the representatives of some of these institutions who attended the scheduled meetings to share very valuable information;
3. *Regrets* that it was not possible for the delegation to visit Mr. Gilberto Sojo, an opposition parliamentarian elected in 2015 who was in detention at the time of the mission, despite repeated requests to the Venezuelan authorities in this regard; *welcomes*, nevertheless, Mr. Sojo's release on 3 September 2021, barely a week after the delegation's departure from Caracas; *regrets* also that the competent Venezuelan authorities were not able to facilitate the delegation's access to the residence of the member of parliament elected in 2015, Mr. Juan Requesens, who is under house arrest, despite numerous requests;
4. *Is deeply concerned* by detailed information received by the IPU delegation about acts of physical violence against parliamentarians, disproportionately targeting women parliamentarians merely for being women, during public demonstrations over the past years; and *recalls* in this regard that sexism and gender-based violence against women parliamentarians undermine their dignity, create an intimidating, hostile, degrading, humiliating or offensive environment and perpetuate gender inequality and stereotypes;
5. *Notes with great concern* that, according to information received by the IPU delegation, political dissidents, including opposition parliamentarians, are arrested and released recurrently as a means used by state forces to pressure the opposition, particularly considering that it is common for the whereabouts of detainees to remain unknown for several hours or even days before appearing in court or being released;
6. *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 2016–2021 legislature to undermine the integrity and independence of the National Assembly; and *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;
7. *Reiterates* its view that the harassment of opposition 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 elected in 2015; *urges* the authorities once again to put an immediate end to all forms of persecution against

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

8. *Remains deeply concerned* about the findings of the mission reports of the United Nations Human Rights Council Independent International Fact-Finding mission on Venezuela, published in September 2020 and September 2021, which give further weight to the accusations of political repression and the responsibility of the State at the highest level, also reinforced by the recent announcement of the opening of an investigation into the situation in Venezuela by the International Criminal Court; and *expresses its firm hope*, once again, that the State of Venezuela, with the support of the international community, will be able to address the violations and crimes documented in these reports;
9. *Reaffirms its view*, reinforced by the findings of the IPU mission, 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; *considers* that the current process of dialogue is a golden opportunity to reach broad consensus across the political spectrum on how to move forward; *trusts* in this regard that the government representatives will soon decide to resume the talks in Mexico; *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;
10. *Reiterates its calls on* all IPU Member Parliaments, IPU permanent observers, parliamentary assemblies, in particular regional parliamentary bodies such as *Parlatino*, *ParlAmericas* and *Parlasur*, as well as 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;
11. *Requests* the Secretary General to convey this decision to the relevant Venezuelan authorities, including the President of the 2020 National Assembly, the offices of the Public Prosecutor and Ombudsperson, the National Council on Human Rights, as well as to the complainant and any third party likely to be in a position to supply relevant information;
12. *Requests* the Committee to continue examining this case and to report back to it in due course.

*

* *