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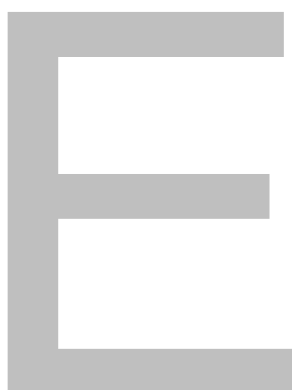
167th session of the Committee on the Human Rights of Parliamentarians

Decisions of the Committee on the Human Rights of Parliamentarians

Virtual session, 30 January to 11 February 2022

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Burundi

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



Norbert Ndiwokubwayo, © IPU, March 2013

BDI-01 - Sylvestre Mfayokurera
BDI-02 - Norbert Ndiwokubwayo
BDI-05 - Innocent Ndikumana
BDI-06 - Gérard Gahungu
BDI-07 - Liliane Ntamutumba (Ms.)
BDI-29 - Paul Sirahenda
BDI-35 – Gabriel Gisabwamana
BDI-60 - Jean Bosco Rutagengwa

Alleged human rights violations

- ✓ Murder
- ✓ Other acts of violence (concerning Mr. Ndiwokubwayo)
- ✓ Impunity

A. Summary of the case

This case concerns, on the one hand, the murders of Mr. Sylvestre Mfayokurera (September 1994), Mr. Innocent Ndikumana (January 1996), Mr. Gérard Gahungu (July 1996), Mr. Paul Sirahenda (September 1997), Mr. Gabriel Gisabwamana (January 2000), Ms. Liliane Ntamutumba (July 1996) and Senator Jean Bosco Rutagengwa in 2002 and, on the other hand, two assassination attempts (September 1994 and December 1995) targeting Mr. Norbert Ndiwokubwayo. These parliamentarians were members of the National Assembly of Burundi elected in 1993. Almost all of them belonged to the Burundi Front for Democracy (FRODEBU), which had won a majority in those elections. The assassinated parliamentarians were reportedly targeted because of their membership of that political party.

These murders have never been examined in court in Burundi. The national authorities have systematically contended that the investigations into these cases fall under the jurisdiction, not of the

Case BDI-COLL-01

Burundi: Parliament affiliated to the IPU

Victims: Eight members (seven men and one woman) of the majority

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

Submission of complaints: August 1994, January and November 1996, February 1997

Recent IPU decision: January 2015

IPU Mission: [June 2013](#)

Recent Committee hearing: Hearing with the delegation of Burundi to the 124th IPU Assembly (April 2011)

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (February 2021)
- Communication from the complainant: February 2021
- Communication to the authorities: Letter to the Speaker of the National Assembly (December 2021)
- Communication to the complainant: January 2022

Burundian courts, but of a transitional justice mechanism. A National Truth and Reconciliation Commission (TRC) was finally established in Burundi in 2014, 14 years after the signing of the Arusha Accords.

According to the complainant, given its legal framework and composition, and the process leading to its establishment, the TRC does not enjoy universal confidence among the Burundian population, or of part of civil society. The lack of financial resources is said to be severely hindering the TRC's work.

In late 2018, the TRC's mandate was extended for four years and its jurisdiction extended to cover all violations committed since 1885. According to the complainant, the issue of the murdered parliamentarians has still not been put on the Commission's agenda, nor have the authorities taken any action to see that justice is served in this case. In February 2021, the Speaker of the National Assembly said that, given the complexity of their mission, the TRC members had not yet started working on the period under consideration involving the assassinated parliamentarians but that the Commission might work on the cases during 2021 and 2022.

On 20 December 2021, the TCR presented its progress report on crimes committed in the period 1972–1973 to parliament's joint session. The assassination of these parliamentarians remains wholly unpunished to date.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Speaker of the National Assembly for the information provided;
2. *Is aware* of the importance and complexity of the task entrusted to the TRC given its mandate under the law; and *expresses the firm hope*, once more, that the TRC will be able to focus in its work on the political violence committed during the 1990s and 2000s, including against the many parliamentarians murdered during that period;
3. *Invites* the National Assembly, once again, to officially refer the cases of the assassinated parliamentarians to the TRC and *requests* it to keep it informed of the latter's response and progress made in its work, especially regarding the cases in question; and *wishes* in particular to receive copies of the TRC's forthcoming progress reports;
4. *Strongly believes* that the search for and establishment of the truth are prerequisites for enabling all segments of the Burundian population, without distinction, to move towards reconciliation; also *strongly believes* that, beyond the establishment of the truth, justice and reparation are also essential towards reconciliation; and *continues to hope* that a judicial mechanism will also be put in place in the future to punish the perpetrators of the serious human rights violations committed in the past and thus enable victims to obtain justice and reparation in accordance with the international obligations of the Burundian State in this regard;
5. *Recalls* that impunity, by shielding those responsible from justice and accountability, is a decisive factor in encouraging the commission of other serious human rights violations, and that offences against the lives of parliamentarians, when they go unpunished, not only violate the fundamental rights of the parliamentarians concerned and those of their constituents, but also undermine the integrity of parliament and compromise its ability to fulfil its mission as an institution; *requests* the parliamentary authorities to provide information on any developments and on any action taken by parliament to help put an end to impunity in these cases;
6. *Sincerely believes* in the importance of a constant and constructive dialogue with the national authorities, foremost among them the parliament of the country concerned; *encourages* in this respect the Burundian Parliament to maintain dialogue with the Committee in order to ensure a satisfactory settlement of these long-standing cases; *recalls* that the IPU stands ready to provide targeted human rights-related capacity-building assistance to parliament, if so requested, including with respect to the domestic legislation and procedures applicable in this case; and *requests* the parliamentary authorities to provide more information on how the IPU could best provide such assistance;

7. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainants and any third party likely to be in a position to provide relevant information;
8. *Decides* to continue the examination of these cases.

Democratic Republic of the Congo

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



Mr. Mythondeke © IPU June 2013

COD-72 – Dieudonné Bakungu Mythondeke

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Violation of freedom of movement

A. Summary of the case

Mr. Mythondeke was arrested, together with his family and bodyguards, in disputed circumstances, in February 2012. Charged with rebellion and breaches of state security, he was acquitted of all charges brought against him, but was sentenced in first and final instance by the Supreme Court on 25 February 2012 to 12 months' imprisonment for incitement to hatred. The judicial proceedings were characterized by irregularities, which were largely upheld in the Supreme Court decision. Mr. Mythondeke was released on 28 January 2013 after serving his sentence. Mr. Mythondeke won a civil claims case against the Congolese State in 2015. However, according to the complainants, the State has not paid the amount ordered by the court. Consequently, Mr. Mythondeke lodged an appeal for review with the High Court in Goma which, in its decision of 18 March 2021, ordered the Congolese State to pay the amount due to Mr. Mythondeke for damages sustained during the attack on his home in 2012.

Given the concerns for their safety and the absence of any measures by the Democratic Republic of the Congo (DRC) authorities to ensure the protection of Mr. Mythondeke and his family and put an end to the threats, they took refuge abroad in early 2014. Even so, they continue to receive regular threats while in exile and, according to the complainant, their relatives who remained in the DRC are being subjected to intimidation. This is why Mr. Mythondeke cannot return to the DRC at this time without

Case COD-72

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim: A member of parliament for the majority, having joined the opposition at the time of the facts of the case

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

Submission of complaints: August 2012 and May 2014

Recent IPU decision: March 2016

IPU mission: June 2013

Recent Committee hearing: Hearing with the delegation of the DRC at the 152nd session (January 2017)

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly making no reference to the case (January 2020)
- Communication from the complainant: February 2022
- Communications to the authorities: Letter to the President of the Republic and the Speaker of the National Assembly (March and December 2021)
- Communication to the complainant: February 2022

fearing for his life and why he was unable to stand as a candidate in the legislative elections held in December 2018. According to the complainant, Mr. Mythondeke wishes to relocate to another country but has not obtained any assistance in regard to relocation because, according to United Nations reports, he provided substantial financial and political support to an armed group before his arrest. Mr. Mythondeke denies those accusations and invokes the presumption of innocence.

The Speaker of the National Assembly reported in a letter dated 21 August 2017 that he had asked the executive branch to launch investigations into the reasons why Mr. Mythondeke went into exile and to seek proposals on how to facilitate his return. However, since 2017, the parliamentary authorities have not provided any information on Mr. Mythondeke's situation.

In December 2020, the complainant reported that Mr. Mythondeke had returned to the DRC in deplorable travel conditions. The return was said to have been motivated by the failure of the Office of the United Nations High Commissioner for Refugees (UNHCR) in Brazzaville to take any action.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Deplores* the lack of information from the parliamentary authorities regarding the situation of Mr. Mythondeke since 2017, especially since the parliamentary authorities continue to provide updated information on the other DRC cases referred to the Committee;
2. *Recalls* that the Supreme Court's decision of 2012 confirmed that, at the time of his arrest, Mr. Mythondeke's fundamental rights had been violated; that he was convicted for an offence that had not even been listed in the initial charges for which he had been prosecuted; that his parliamentary immunity had been violated; and that the authorities had not taken the necessary measures to ensure his security upon his release from prison in 2013, which caused him to leave the DRC and relocate in another country;
3. *Notes* that Mr. Mythondeke and his family had to return to the DRC as the UNHCR in Brazzaville had not made any progress regarding their request for relocation, reportedly because the relocation appears to have been hampered by information contained in the United Nations' reports, even though Mr. Mythondeke had been acquitted by the DRC courts of all the charges brought against him; *notes*, nevertheless, that Mr. Mythondeke's security situation in the DRC has improved, as he is reportedly no longer under surveillance or subject to acts of intimidation;
4. *Notes*, also, the decision of the High Court in Goma ordering the Congolese State to pay the amount due to Mr. Mythondeke for damages sustained during the attack on his home in 2012; *underlines* that the procedure for indemnification was established in 2015 and, consequently, *appeals* to the competent authorities to execute this court decision so that Mr. Mythondeke and his family can close this chapter and return to decent living conditions in the DRC; *invites* the parliamentary authorities to follow the case and take all necessary measures to finally resolve this case; and, in that regard, *wishes* to be informed of the progress made therein;
5. *Requests* the Secretary General to convey this decision to the competent authorities, the Minister for Justice of the DRC, the complainants, as well as to any third party likely to be in a position to supply relevant information;
6. *Decides* to continue examining this case.

Democratic Republic of the Congo

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



© Jean-Jacques Mamba

COD-148 – Jean-Jacques Mamba

Alleged human rights violations

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

A. Summary of the case

On 23 May 2020, Mr. Jean-Jacques Mamba was arrested at his home in a humiliating manner, without an arrest warrant, for allegedly forging the signature of a member of parliament as part of a petition calling for the departure of the First Vice-President of the National Assembly, Mr. Jean-Marc Kabund.

According to the complainant, Mr. Mamba's petition exceeded the 50 signatures required by the Rules of Procedure of the National Assembly and, of the 62 signatures collected, only the authenticity of one has been questioned. In order to ensure the validity of all signatures, the National Assembly set up a committee charged with verifying the signatures, which authenticated the 62 signatures. Thus, on 25 May 2020, the First Vice-President was removed from office. This decision was ratified by the Constitutional Court on 17 June 2020.

On 27 May 2020, the National Assembly passed a resolution calling for the suspension of Mr. Mamba's detention and the proceedings against him, pursuant to Article 107 of the Constitution, during the parliamentary session. On the same day, the court of cassation decided to stay the proceedings until the end of the current parliamentary session.

On 15 September 2020, when the parliamentary session resumed, the prosecution issued a fresh warrant for Mr. Mamba's arrest on the premise that the National Assembly's resolution only applied to the preceding session. During a meeting with the IPU Secretary General in October 2020, the Minister

Case COD-148

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim: Opposition member of parliament

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

Submission of complaint: September 2020

Recent IPU decision: November 2020

Recent IPU mission(s): - - -

Recent Committee hearings(s): - - -

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (November 2020)
- Communication from the complainant: March 2021
- Communications to the authorities: Letter to the President of the Republic and Speaker of the National Assembly (March and December 2021)
- Communication to the complainant: March 2021

for Human Rights of the Democratic Republic of Congo (DRC) confirmed that Mr. Mamba's arrest had been arbitrary and of a political nature. He also explained that Mr. Mamba's case was the result of political tensions within the coalition in power.

In order to avoid detention which, according to the complainant, would have been arbitrary, Mr. Mamba had to leave the country, until he was able to return in November 2020, when he re-entered the DRC without being arrested upon arrival. Mr. Mamba was also able to resume his parliamentary work unhindered.

A hearing on the case was held on 10 February 2021 and, in its decision of 10 March 2021, the court issued a decision acquitting Mr. Mamba of the charges brought against him.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the parliamentary authorities and, in particular, the former Congolese Minister for Human Rights, for their cooperation in this case and for the measures taken to protect and guarantee Mr. Mamba's fundamental rights;
2. *Welcomes* Mr. Mamba's unimpeded return to the country in November 2020, and *notes with satisfaction* that he was acquitted of the charges brought against him, which closes the case definitively; and *decides*, therefore, to close the case pursuant to section IX, paragraph 25, of the Procedure for the examination and treatment of complaints, as a satisfactory settlement has been reached given the positive outcome of the case, namely its definitive closure by the relevant authorities and Mr. Mamba's resumption of his parliamentary work;
3. *Hopes* that the diligence exerted by the Congolese authorities and the measures taken in Mr. Mamba's case will be applied to the other cases of the Democratic Republic of the Congo before the Committee on the Human Rights of Parliamentarians; and *encourages*, therefore, the authorities to take all necessary measures to guarantee respect for the fundamental rights of all members of the National Assembly, former and present, and to reach a final and satisfactory resolution in their cases;
4. *Requests* the Secretary General to convey this decision to the parliamentary authorities and the complainant.

Eswatini

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



Members of the Royal Eswatini Police Service (REPS) monitor affiliates of the Trade Union Congress of Swaziland (TUCOSWA) as they sing political slogans in central Manzini on 28 October 2021 during a pro-democracy protest. Michele Spatari - AFP

- SWZ-02 – Mduduzi Bacede Mabuza
- SWZ-03 – Mthandeni Dube
- SWZ-04 – Mduduzi Gawuzela Simelane

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
- ✓ Violation of freedom of expression and opinion
- ✓ Violation of freedom of assembly and association
- ✓ Failure to respect parliamentary immunity
- ✓ Other acts obstructing the exercise of the parliamentary mandate

A. Summary of the case

Parliamentarians Mduduzi Bacede Mabuza and Mthandeni Dube were arrested on the evening of 25 July 2021 and have been held in detention at Mbabane police station ever since. A third parliamentarian, Mr. Mduduzi Simelane, fled the country before arrest warrant could be implemented. They all reportedly face vaguely worded charges under the Suppression of Terrorism Act and for contravening COVID-19 regulations. A proper examination of the bail applications from the two parliamentarians in detention has reportedly been systematically thwarted.

According to the complainant, the charges against the three parliamentarians serve as reprisals and aim to silence them given that they have been at the forefront of demands for democratic reforms in Eswatini, an absolute monarchy led by King Mswati III for over 30 years, where political parties are not legally recognized. In fact, according to the complainant, their demands served as an important catalyst for widespread protests that started in June 2021, at which thousands of people took to the streets demanding political and democratic freedoms. In response, security forces reportedly shot and killed over 80 people, injured scores more, and arrested hundreds of others.

Case SWZ-COLL-01

Eswatini: Parliament affiliated to the IPU

Victim: Three independent members of parliament

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

Submission of complaint: January 2022

Recent IPU decision(s): - - -

Recent IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authority(ies): - - -
- Communication from the complainant: January 2022
- Communication to the authority(ies): - - -
- Communication to the complainant: January 2022

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint was submitted in due form by a qualified complainant under section I.1(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);
2. *Notes* that the complaint concerns three members of the House of Assembly of the Kingdom of Eswatini at the time of the alleged events;
3. *Notes* that the complaint concerns allegations about arbitrary arrest and detention, inhumane conditions of detention, lack of fair trial proceedings, violations of the rights to freedom of opinion and expression, and to freedom of assembly and association, acts obstructing the exercise of the parliamentary mandate and failure to respect parliamentary immunity, all of which fall within the Committee's mandate;
4. *Considers*, therefore, that the complaint is admissible under the provisions of section IV of the Procedure for the examination and treatment of complaints; and *declares itself* competent to examine the case;
5. *Is deeply concerned* that Mr. Mabuza and Mr. Dube were reportedly arrested and detained soon after they publicly made an appeal to strengthen democracy, which falls squarely within the legitimate exercise of their right to freedom of expression and, additionally, would be covered by parliamentary immunity; *is concerned*, also, about the allegation that, six months after their arrest, their bail application has still not been examined; and *recalls* in this regard that the right to a fair trial also entails the right to be brought promptly before a judge;
6. *Wishes* to receive detailed information on: (i) the precise charges brought against the three parliamentarians and the underlying facts to support them; (ii) respect for their parliamentary immunity; (iii) the existence of a schedule for consideration of the bail application of the two detained parliamentarians; and (iv) their conditions of detention, including with respect to visiting rights;
7. *Requests* the Secretary General to convey this decision to the Speaker of the House of Assembly, the complainant and any third party likely to be in a position to supply relevant information;
8. *Decides* to continue examining this case.

Uganda

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



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UGA-24 - Allan Aloizious Ssewanyana
UGA-25 - Muhammad Ssegirinya

Alleged human rights violations

- ✓ Abduction
- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings
- ✓ Failure to respect parliamentary immunity

A. Summary of the case

The case concerns credible and serious allegations of human rights violations, including, *inter alia*, arbitrary detention, torture, inhumane conditions of detention and lack of fair trial proceedings, affecting two opposition members of parliament in Uganda. According to the complainant, the two members of parliament have been targeted because of their political opinions and their work as opposition parliamentarians.

On 7 September 2021, the Hon. Muhammad Ssegirinya was arrested together with the Hon. Allan Aloizious Ssewanyana, brought before the Chief Magistrate's Court of Masaka and charged with three counts of murder and one count of attempted murder. All these crimes were purportedly committed on 23 August 2021 in Masaka District. The two members of parliament were subsequently remanded to Kigo Government Prison. On 20 September 2021, both members of parliament were granted bail, which they had to pay in cash.

The complainant states that, on 24 September 2021, after having paid bail, Mr. Ssewanyana was released from Kigo Government Prison but was immediately attacked at the prison gate, man-handled and abducted by gun-wielding men in plain clothes, who whisked him away to an unknown destination. On 27 September 2021, Mr. Ssegirinya was also released from Kigo Government Prison, but he too was immediately abducted at the prison gate by similarly dressed men wielding heavy weapons and whisked away to an unknown destination. Later that day, a police spokesperson

Case UGA-Coll-02

Uganda: Parliament affiliated to the IPU

Victims: Two male opposition members of parliament

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

Submission of complaint: January 2022

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communications from the authority(ies): - -
- Communication from the complainant: January 2022
- Communications addressed to the authority(ies): - - -
- Communication addressed to the complainant: January 2022

informed the public that the two members of parliament had been re-arrested on several charges, including treason, which is punishable by death in Uganda.

On 30 September 2021, after days of detention at unknown detention facilities, the two members of parliament were summoned to the Chief Magistrate's Court in Masaka and read additional charges, this time purportedly committed in Lwengo District. They appeared frail and informed the court that they had been brutally tortured through physical beatings while in detention. On the occasions the members of parliament re-appeared in court to hear their cases, they showed physical, festering wounds and complained of torture and humiliation while in detention. According to the complainant, the members of parliament informed the presiding magistrate that they had been prevented from receiving medical attention by a doctor of their choice and that they had been banned from receiving any visitors, including family members, while in prison.

According to the complainant, the two members of parliament have remained in detention since 7 September 2021 and all efforts to secure their release on bail have been unsuccessful to date.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint was submitted in due form by a qualified complainant under section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the complaint concerns two members of the Ugandan Parliament at the time of the alleged facts;
3. *Notes* that the complaint concerns allegations of abduction, torture, ill-treatment and other acts of violence, arbitrary arrest and detention, inhumane conditions of detention, lack of due process at the investigation stage, lack of fair trial proceedings, and failure to respect parliamentary immunity, which are allegations that fall within the Committee's mandate;
4. *Considers*, therefore, that the complaint is admissible under the provisions of section IV of the Procedure for the examination and treatment of complaints; and *declares itself* competent to examine the case;
5. *Is deeply concerned* about the continued detention of the members of parliament, in view of the worrying allegations concerning their conditions of detention and mistreatment while in custody; *urges* the national authorities to take all necessary steps to ensure Mr. Ssewanyana's and Mr. Ssegirinya's full enjoyment of their rights, in particular their right to life, to physical integrity and to access to judicial guarantees; *requests* the authorities to provide official and detailed information on the facts justifying each of the charges brought against the two members of parliament, on the steps taken to investigate the alleged acts of torture reported by the complainant and on progress made in the identification and punishment, if any, of those responsible;
6. *Expresses grave concern* that, despite its repeated calls and its dialogue with the authorities, including during a field mission conducted in January 2020, similar situations with similar outcomes seem to continue to occur in Uganda whereby opposition parliamentarians are detained and tortured by state officials with impunity, as reportedly happened in the present case; *reiterates* that impunity encourages the perpetration of further serious human rights violations and that offences against the life and personal integrity of members of parliament, 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; *calls on* parliament to use its oversight powers effectively to ensure that the allegations of torture against Mr. Ssewanyana and Mr. Ssegirinya are fully and immediately investigated, followed by whatever steps are warranted as a result to ensure accountability; and *requests* the parliamentary authorities to provide information on any action taken by parliament to this end and also on steps taken to prevent and address torture in Uganda as recommended in the Committee's report on its mission to Uganda, which was endorsed by the IPU Governing Council at its 206th session (November 2020);

7. *Requests* the Secretary General to convey this decision to the Speaker of the National Assembly, the complainant and any third party likely to be in a position to supply relevant information;
8. *Decides* to continue examining this case.

Ecuador

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



© Protesters march against President Lenin Moreno's decision to slash fuel subsidies, in Quito on 9 October 2019.

ECU-73 - Christian Pabel Muñoz López
 ECU-74 - Gabriela A. Rivadeneira Burbano (Ms.)
 ECU-84 - Carlos Eloy Viteri Gualinga
 ECU-85 - Yofre Martín Poma Herrera
 ECU-86 - Doris Josefina Soliz Carrión (Ms.)
 ECU-88 - María Soledad Buendía Herdoiza (Ms.)
 ECU-90 - Luis Fernando Molina

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Violation of freedom of opinion and expression
- ✓ Abusive revocation or suspension of the parliamentary mandate

A. Summary of the case

Mr. Poma, Ms. Soliz, Ms. Rivadeneira, Ms. Buendía, Mr. Viteri, Mr. Molina and Mr. Muñoz (all titular members of the National Assembly of Ecuador between 2017 and 2021, with the exception of Mr. Molina who was an alternate member of parliament) belonged at that time to the Citizen Revolution Movement (*Movimiento Revolución Ciudadana*, hereinafter MRC), a political movement in Ecuador formed by supporters of former President Correa. In early January 2018, these parliamentarians decided to distance themselves from the then ruling PAIS Alliance (*Alianza PAIS*) party, led by former President of the Republic Mr. Lenin Moreno, over their continuous disagreement with the new direction of the party after Mr. Moreno took office in 2017.

According to the complainants, in response to their criticism of former President Moreno, the seven above-mentioned parliamentarians were subject to intimidation, slurs on their honour and integrity and legal harassment. The situation reportedly worsened with the outburst of public protest in Ecuador in early October 2019, which came in response to the announcement and

Case ECU-COLL-02

Ecuador: Parliament affiliated to the IPU

Victims: Seven opposition members of parliament (four men and three women)

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

Submission of complaints: September 2018 and October 2019

Recent IPU decision: February 2021

IPU Mission(s): - - -

Recent Committee hearings: Hearing with the Legal Adviser of the National Assembly (January 2020); working meeting between the IPU Secretariat and the Secretariat for International Relations of the National Assembly (January 2021)

Recent follow up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (April 2021)
- Communication from the complainant: January 2022
- Communication to the authorities: Letter to the Speaker of the National Assembly (April 2021)
- Communication addressed to the complainant: January 2022

implementation of austerity measures by the Government. During the protests, the MRC asked for President Moreno's resignation, who in turn accused his predecessor and his supporters of being responsible for the chaos and violence that engulfed the country during the protests.

During one of the demonstrations, Mr. Poma was arrested. On 8 November 2019, the National Court of Justice convicted and sentenced him and four other individuals to a prison term of one year and four months for being accomplices in the commission of the offence of paralysing public service. On 2 April 2020, Mr. Poma was released after benefiting from a conditional suspension of sentence, which was granted by the Supreme Court of Ecuador. He regained his seat in parliament on 23 March 2020. According to official information provided by the National Assembly, Mr. Poma carried out his official duties and powers as a parliamentarian until the end of his term in May 2021. Ms. Soliz and Mr. Muñoz also carried out their official duties until that date. Mr. Muñoz was re-elected to parliament during the last legislative elections.

According to the complainants, in the face of continued and increased harassment during the protests, Ms. Rivadeneira, Ms. Buendía, Mr. Viteri and Mr. Molina went to the Mexican Embassy in Quito on 12 and 14 October 2019 seeking protection. On 9 January 2020, the Mexican authorities granted them asylum. With the cooperation of the Ecuadorian authorities, they were allowed to take a plane to Mexico that same day, where they are currently living.

In a decision adopted pursuant to the "Regulations of Fines for Absences and Arrears" of the National Assembly, amended on 24 October 2019, the *Consejo de Administración Legislativa* (Administrative Legislative Council – CAL) of the National Assembly suspended payment of the salaries of the exiled parliamentarians until "the reason for non-attendance has been overcome" and authorized the respective alternates to assume full legislative functions. In a letter sent in January 2020, the parliamentary authorities underscored that the parliamentarians had left the country on their own volition without there being any legal action pending against them.

According to the complainants, Ms. Rivadeneira has received several notifications from the Ecuadorian Attorney General's Office regarding criminal proceedings against her in Ecuador. These proceedings consist of preliminary investigations into the alleged offence of instigation in relation to the events of October 2019. The complainants also submit that the suspension of payments, along with the assumption of parliamentary functions by their alternates, constitute a *de facto* revocation of the parliamentary mandate of the exiled parliamentarians and that the above-mentioned regulations had been implemented retroactively, as the decision to suspend the salaries had been formally adopted by the CAL on 22 October 2019, with effect from 13 October 2019.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the parliamentary authorities for their letters and continued cooperation;
2. *Is concerned* about the allegations that Ms. Rivadeneira was subject to criminal proceedings in Ecuador that would appear to be part of a pattern of reprisals against her because of her political positions; and *wishes* to receive detailed official information on the facts underlying each of the charges brought against her and on the steps taken by the relevant authorities to guarantee her right to a fair trial from exile;
3. *Fails to understand* how the suspension of the salaries of the three parliamentarians now in exile could have taken effect on 13 October 2019, prior to the adoption by the CAL of the relevant decision on 22 October 2019, and how that body could have based its decision on regulations that it had subsequently amended; and *wishes* to receive copies of the relevant CAL decisions and detailed official information on the timing, legal basis and procedure followed in terminating the rights directly related to the exercise of the parliamentary mandates of Ms. Rivadeneira, Ms. Buendía and Mr. Viteri;
4. *Is also concerned* about the allegations that the parliamentarians in this case have been subjected to various kinds of acts of harassment for having exercised their right to freedom of expression and their parliamentary functions; *recalls* that freedom of expression is at the heart of democracy, that it is essential for parliamentarians and that it is not limited to words, opinions

and expressions that are favourably received or regarded as harmless; *considers* that the State has an obligation to create the necessary conditions to ensure that parliamentarians have a genuine opportunity to exercise the function for which they were democratically elected, in particular by promoting the ideological vision they represent through their free participation in public debate; and *affirms* in this respect that the National Assembly, pursuant to its legislative, budgetary and oversight powers, has an obligation to act with due diligence to help prevent and punish all forms of harassment against all its members, without distinction;

5. *Notes*, however, with respect to Mr. Poma's situation, that he was able to return to his seat in parliament after his release and to continue to exercise his parliamentary mandate without hindrance; *notes* also, with respect to the situation of Ms. Soliz and Mr. Muñoz, that they have never ceased to exercise their parliamentary mandate or to express their views freely both inside and outside parliament; *decides*, therefore, to close these three cases in accordance with section IX, paragraph 25(a), of its Procedure, given that any further action by the Committee would henceforth be pointless; *recalls*, nevertheless, that the Committee reserves the right to re-examine these cases in the light of new information subsequently provided by the complainant that could show that these parliamentarians were subjected to arbitrary measures directly related to the exercise of their parliamentary mandate between 2017 and 2021;
6. *Recalls*, with respect to Mr. Molina, that in order to determine the admissibility of his initial complaint, additional information was needed to establish with certainty the nature and content of the duties he allegedly performed as an alternate member of parliament at the time of the alleged facts, as well as the manner in which those duties were performed; *notes* that the complainant has failed to provide any further information despite repeated requests to that effect; *considers* that it is not possible in the circumstances to examine Mr. Molina's individual situation; and *considers*, therefore, that the complaint concerning Mr. Molina is not admissible under section IV, paragraph 12, of the Committee's Procedure;
7. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainants and any third party likely to be in a position to supply relevant information;
8. *Decides* to continue examining the cases of Ms. Rivadeneira, Ms. Buendía and Mr. Viteri.

El Salvador

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



Nidia Díaz, member of the Farabundo Martí National Liberation Front, makes a statement to the press – AFP PHOTO/Orlando SIERRA

SLV-86 - Nidia Díaz

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Lack of due process at the investigation stage
- ✓ Failure to respect parliamentary immunity
- ✓ Other acts obstructing the exercise of the parliamentary mandate

A. Summary of the case

Ms. Maria Marta Valladares, better known as Nidia Díaz, was a member of the Legislative Assembly of El Salvador (2018–2021). She is a prominent leader of her political party, the Farabundo Martí National Liberation Front (*Frente Farabundo Martí para la Liberación Nacional* – FMLN). According to the complainant, Ms. Díaz’s image was misused by the ruling party with the intention of affecting her public image and spreading false information about her in the lead-up to parliamentary elections in February 2021.

The complainant denounces a discreditation campaign organized by the ruling party to taint the public image of and discredit the FMLN, and in particular the image of Ms. Díaz because of her high political visibility.

On 17 March 2021, a group of prosecutors and members of the police forensics department went to her office to carry out a search, which ended with the confiscation of her computer and those of her assistants.

Case SLV-86

El Salvador: 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: April 2021

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication(s) from to the authorities: - - -
- Communication from the complainant: April 2021
- Communication(s) to the authorities: - - -
- Communication to the complainant: January 2022

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint was submitted in due form by a qualified complainant under Section I.1.(a) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the complaint concerns an incumbent member of parliament at the time of the alleged facts;
3. *Notes* further that the complaint concerns allegations of threats, acts of intimidation, lack of due process at the investigation stage, failure to respect parliamentary immunity, and other acts obstructing the exercise of the parliamentary mandate, allegations which fall within the Committee's mandate;
4. *Notes*, nevertheless, that Ms. Díaz is no longer a member of parliament and that, despite repeated requests to that effect, the complainant has not provided any further information on the current status of the allegedly ongoing judicial proceedings against Ms. Díaz or sent links to the videos and other social network content discrediting her referred to in the complaint; and *considers* that it is not in a position to examine the case or to contribute to the pursuit of a satisfactory resolution under these circumstances;
5. *Considers*, therefore, that the complaint is inadmissible under section IV of the Procedure; *recalls*, however, that the Committee reserves the right to re-examine the case in the light of new information subsequently provided by the complainant indicating that Ms. Díaz is the subject of arbitrary measures directly related to events that occurred when she was a member of the Legislative Assembly of El Salvador;
6. *Requests* the Secretary General to convey this decision to the complainant.

Mongolia

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



© Zorig Foundation

MNG-01 - Zorig Sanjasuuren

Alleged human rights violations

- ✓ Murder
- ✓ Impunity

A. Summary of the case

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

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

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

Since the submission of the complaint 20 years ago, the Committee has undertaken three fact-finding missions to Mongolia at crucial phases in the case. In June 2019, the Committee returned to Mongolia following the invitation of the parliamentary authorities and was updated on the important developments in the case, in particular the release of a video in March 2019 showing the torture and ill-treatment of two of the convicts, Ms. Chimgee and Mr. Sodnomdarjaa, as well as the establishment of a parliamentary *ad hoc* committee on the case of Mr. Zorig. The two convicts in question were transferred to the prison hospital as a result of the video

Case MNG-01

Mongolia: Parliament affiliated to the IPU

Victim: Member of the majority

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

Submission of complaints: October 2000, March 2001, September 2015

Recent IPU decision: March 2021

Recent IPU Missions: August 2001, September 2015, September 2017, June 2019

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

Recent follow up:

- Communication from the authorities: Letter from the Vice-Chairman of the State Great Hural (February 2021)
- Communication from the complainants: May 2021
- Communication to the authorities: Letter to the Vice-Chairman of the State Great Hural (June and December 2021)
- Communication to the complainants: May 2021

and a criminal case was opened against intelligence and law enforcement officials allegedly responsible for torturing them. Nevertheless, they remained in detention at that time.

On 22 July 2020, the Ulaanbaatar Court of First Instance concluded that Ms. Chimgee and Mr. Sodnomdarjaa, two of the three persons who had been convicted of Mr. Zorig's murder, had been tortured during the investigation into this crime. It convicted the former Chief of the General Intelligence Agency, Mr. Bat Khurts, as well as other intelligence officers, to prison terms ranging from one to three years for their involvement in the torture. However, on 30 October 2020, the appeals court dismissed the verdict of the Ulaanbaatar Court of First Instance and ordered a retrial of the case, arguing that the first-instance court had made a wrongful interpretation of the Criminal Code and violated two articles of the Code on Criminal Procedure. In their letter of 23 February 2021, the parliamentary authorities stated that Mr. Khurts and the other defendants in the torture case had been released on bail on 23 November 2020 due to the annulment of the case by the appeals court. However, on 31 March 2021, the Supreme Court of Mongolia convicted Mr. Khurts of torture in relation to the Zorig case and sentenced him to one and a half years in prison. Similarly, the former deputy prosecutor, Mr. Erdenebat, was reportedly sentenced to one year in prison by the Supreme Court for his responsibility for the acts of torture.

According to the complainants, on 10 March 2021, the Mongolian Government allegedly issued a decree to declassify the video showing that in 2015 Ms. Chimgee was allegedly drugged, undressed by investigators and had her fingerprints taken. The Minister of Justice reportedly tweeted that the "Government Cabinet meeting of 31 March 2021 decreed that all recordings (without specifying which ones) related to the Zorig case will be declassified".

On 14 May 2021, the Supreme Court of Mongolia ordered the release on bail of Ms. Chimgee and Mr. Sodnomdarjaa and returned the case of Mr. Zorig for further investigation.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes with satisfaction* that Ms. Chimgee and Mr. Sodnomdarjaa have been released on bail and that accountability for their torture has finally been established in court;
2. *Recalls*, in this regard, its previous conclusions that Ms. Chimgee and Mr. Sodnomdarjaa had been arrested, detained and sentenced based on fabricated evidence and forced confessions; that their trial had been marred by serious flaws and held behind closed doors; that their right to a fair trial had neither been observed nor protected by the executive, judicial and legislative authorities of Mongolia; *wishes* to receive official confirmation from the relevant authorities that legal proceedings against Ms. Chimgee and Mr. Sodnomdarjaa will soon be abandoned and that their release will become final; and also *calls on* the Mongolian authorities to ensure that they are compensated for the wrongdoings they suffered;
3. *Underlines*, in light of the Supreme Court's decision returning the case of Mr. Zorig for further investigation, that parliamentary oversight remains crucial towards helping to ensure that justice finally prevails in this case; *renews its call* on the State Great Hural to re-establish an *ad hoc* committee on the Zorig case, with a strong and clear mandate to continue monitoring the ongoing investigation into the mastermind(s); and *sincerely hopes* that the parliamentary authorities will likewise renew its engagement with the IPU Committee on the Human Rights of Parliamentarians on this case;
4. *Firmly reiterates* the importance of transparency as an important step in the pursuit of justice in this case, which can only be achieved when the identity of those responsible for murdering Mr. Zorig, including the mastermind(s), is established; *renews its call*, therefore, for the authorities to ensure a robust and effective investigation into establishing the identity of those accountable for this crime and secure unhindered access to all relevant documents, given that the torture case has come to an end; and *reiterates its wish* to be kept regularly apprised of all significant developments, including with regard to the implementation of the decision reportedly taken by the Government in March 2021 to make public relevant material in the case;

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

Mongolia

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



© Erdenebat Jargaltulga

MNG-08 – Erdenebat Jargaltulga

Alleged human rights violations

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

A. Summary of the case

Mr. Erdenebat Jargaltulga (“Mr. Erdenebat”), a member of the State Great Hural since 2012, was arrested at his home on 13 June 2020 and detained ahead of the parliamentary elections in Mongolia, which took place on 24 June 2020. Mr. Erdenebat was allegedly detained on the grounds that he had failed to pay an unprecedented bail sum, which amounted to 10 billion Mongolian Tugriks.

The complainants allege that Mr. Erdenebat’s arrest and detention violated his parliamentary immunity, as the Prosecutor General had not requested parliament to lift his immunity or suspend his mandate. The complainants also allege that Mr. Erdenebat’s arrest and detention should have been authorized by the General Electoral Commission, given that he was a candidate in the parliamentary elections. Mr. Erdenebat was nevertheless able to run in the elections from his prison cell and won a seat in the State Great Hural.

After a six-month investigation, Mr. Erdenebat’s trial was held on 3 July 2020 and he was convicted three days later to a six-year prison term for misappropriation of funds and abuse of power. In its ruling of 6 July 2020, the court argued that the authorities did not require the authorization of the General Election Commission to detain Mr. Erdenebat, considering that the Law on Parliamentary Elections,

Case MNG-08

Mongolia: Parliament affiliated to the IPU

Victim: Male majority member of parliament

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

Submission of complaint: June 2020

Recent IPU decision: October 2020

Recent IPU Mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: Letter from the Vice-Chairman of the State Great Hural (no information on the case) (February 2021)
- Communication from the complainants: June 2021
- Communication to the authorities: Letter to the Vice-Chairman of the State Great Hural (June and December 2021)
- Communication to the complainants: July 2021

which prohibits the investigation, arrest and detention of a candidate without the permission of the General Election Commission, had entered into force on 23 December 2019, therefore after the Prosecutor had started a criminal investigation against Mr. Erdenebat on 19 September 2019.

In a letter dated 18 September 2020, the parliamentary authorities stated that any criminal investigation, arrest and detention of a parliamentary candidate was prohibited in the absence of the General Election Commission's consent, adding that this provision of the law had not been observed during the procedure that had led to Mr. Erdenebat's arrest and subsequent detention. The parliamentary authorities also added that, according to the Law on the State Great Hural, parliament must discuss at its relevant standing committee all requests received from the Prosecutor's Office about the lifting of the parliamentary immunity of one of its members. The authorities also indicated that, at the time of his arrest, Mr. Erdenebat's parliamentary term had not yet expired and confirmed that he had been elected from his prison cell during the parliamentary elections of June 2020.

The complainants allege that the charges against Mr. Erdenebat are politically motivated and that his conviction had been orchestrated to remove him from the political arena.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Recalls* that the complaint concerning the situation of Mr. Erdenebat, a member of the State Great Hural, was declared admissible by the Committee on the Human Rights of Parliamentarians under its Procedure on 31 October 2020;
2. *Thanks* the Mongolian parliamentary authorities for the information provided about this case in their letter of 18 September 2020; *regrets* the lack of response from the parliamentary authorities to its letters and requests for information sent since late 2020, all the more so as they had initially expressed concern in this case about lack of respect for the electoral law and Mr. Erdenebat's parliamentary immunity; and *reiterates* in this regard its request to the State Great Hural for information on whether or not it had discussed the lifting of Mr. Erdenebat's immunity;
3. *Is deeply concerned* at the continued detention of Mr. Erdenebat after the conclusion of an expeditious trial in which his right to fair trial proceedings appear to have been violated and where impartiality and due process guarantees seem to have been disregarded; and *points out* that the circumstances in which Mr. Erdenebat was detained and the lack of response from the Mongolian authorities could give weight to the complainants' allegations that Mr. Erdenebat's prosecution and conviction are motivated by reasons other than legal;
4. *Wishes*, therefore, also to receive a response from the State Great Hural on the steps taken to protect Mr. Erdenebat's parliamentary mandate and its views on the allegations of the complainants relating to the political dimension of this case;
5. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainants and any third party likely to be in a position to supply relevant information;
6. *Decides* to continue examining this case.

Myanmar

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



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-299 - Zaw Min Thein |
| MMR-268 - Aung San Suu Kyi (Ms.) | MMR-300 - Myo Naing |
| MMR-269 - Henry Van Thio | MMR-301 - Zay Latt |
| MMR-270 - Mann Win Khaing Than | MMR-302 - Myat Thida Htun (Ms.) |
| MMR-271 - T Khun Myat | MMR-303 - Saw Shar Phaung Awar |
| MMR-272 - Tun Tun Hein | MMR-304 - Robert Nyal Yal |
| MMR-274 - Thant Zin Maung | MMR-305 - Lamin Tun (aka Aphyo) |
| MMR-275 - Dr. Win Myat Aye | MMR-306 - Aung Kyi Nyunt |
| MMR-276 - Aung Myint | MMR-307 - Lama Naw Aung |
| MMR-277 - Ye Khaung Nyunt | MMR-308 - Sithu Maung |
| MMR-278 - Dr. Myo Aung | MMR-309 - Aung Kyaw Oo |
| MMR-279 - Kyaw Myint | MMR-310 - Naung Na Jatan |
| MMR-280 - Win Mya Mya (Ms.) | MMR-311 - Myint Oo |
| MMR-281 - Kyaw Min Hlaing | MMR-312 - Nan Mol Kham (Ms.) |
| MMR-283 - Okka Min | MMR-313 - Thant Zin Tun |
| MMR-284 - Zarni Min | MMR-314 - Maung Maung Swe |
| MMR-285 - Mya Thein | MMR-315 - Thein Tun |
| MMR-286 - Tint Soe | MMR-316 - Than Htut |
| MMR-287 - Kyaw Thaung | MMR-317 - Aung Aung Oo |
| MMR-289 - Phyu Phyu Thin (Ms.) | MMR-318 - Ba Myo Thein |
| MMR-290 - Ye Mon (aka Tin Thit) | MMR-319 - Soe Win (a) Soe Lay |
| MMR-291 - Htun Myint | MMR-320 - U Mann Nyunt Thein |
| MMR-292 - Naing Htoo Aung | MMR-321 - Khin Myat Thu |
| MMR-293 - Dr. Wai Phyo Aung | MMR-322 - Nay Lin Aung |
| MMR-294 - Zin Mar Aung (Ms.) | MMR-323 - Hung Naing |
| MMR-295 - Lwin Ko Latt | MMR-324 - Shwe Pon (Ms.) |
| MMR-297 - Win Naing | MMR-325 - Wai Lin Aung |
| MMR-298 - Nay Myo | MMR-326 - Dr. Pyae Phyo |

Alleged human rights violations

- ✓ Abduction
- ✓ 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
- ✓ Violation of freedom of movement
- ✓ 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, State Counsellor Aung San Suu Kyi, and five other parliamentarians of the majority National League for Democracy (NLD) were placed under house arrest. 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. The arrest of Mr. Wai Lin Aung and Dr. Pyae Phyo on 14 December 2021 brought the total number of parliamentarians in detention to 30. Of those detained, many are reportedly being held incommunicado in overcrowded prisons, where they are facing mistreatment and possibly torture, with little or no access to medical care or legal counsel. Some of them are reportedly being tried in secret. Meanwhile, State Counsellor Aung San Suu Kyi has been faced with multiple charges. 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. On 5 December 2021, Ms. Aung San Suu Kyi and Mr. Win Myint were found guilty of inciting public unrest and convicted to four years in prison, which was followed by another conviction for Ms. Aung San Suu Kyi on 10 January 2022 on three separate charges. Altogether she has been sentenced to six years in prison, with more charges pending against her.

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. The family members of the CRPH members have apparently been repeatedly subject to harassment and abuse by the military, with the father of Mr. Sithu Maung being 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

Victims: 56 parliamentarians from the opposition (49 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: November 2021

Recent IPU Mission(s): - - -

Recent Committee hearing: Hearing with a member of the Committee Representing *Pyidaungsu Hluttaw* (CRPH) (November 2021)

Recent follow-up:

- Letter from the Permanent Mission of Myanmar to the United Nations Office at Geneva: January 2022
- Communication from the complainant: February 2022
- Note verbale to the Permanent Mission of Myanmar in Geneva: January 2022
- Communication to the complainant: February 2022

¹ For the purposes of this report, 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. The United Nations (UN) Special Rapporteur has recognized the widespread and systematic nature of the violations carried out by the military (known as the “*Tatmadaw*”) since the beginning of the coup 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.

The complainant asserts that on 14 December 2021, Myanmar military troops carried out a raid on the town of Lay Kay Kaw and arrested between 30 and 60 civilians, including protesters, democracy activists and supporters of the civil disobedience movement. In this context, two parliamentarians were reportedly arrested, namely Mr. Wai Lin Aung and Dr. Pyae Phyo. The complainant stressed that the military personnel arrested the two parliamentarians without a warrant and subjected them to brutal acts of violence using their guns. The complainant added that the two parliamentarians-elect have since been held incommunicado and expressed deep concern for their fate.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the current case also includes a new complaint regarding the situation of Mr. Wai Lin Aung and Dr. Pyae Phyo, 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 abduction, torture, ill-treatment and other acts of violence, 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, violation of freedom of movement and failure to respect parliamentary immunity, which are allegations that fall under the Committee’s mandate;
2. *Acknowledges* the information provided by the Permanent Mission of the Republic of the Union of Myanmar to the United Nations Office and other International Organizations in Geneva in reply to questions submitted to it by the Committee; *takes note* that, according to information provided by the complainant, the authorities have released several parliamentarians, including Mr. Ye Khaung Nyunt, Mr. Myint Oo and Mr. Kyaw Thaug;
3. *Is deeply concerned* about the arrest of Mr. Wai Lin Aung and Dr. Pyae Phyo without charge, that they continue being held incommunicado and, as indicated in the official information received, that they were arrested before a First Information Report was filed against them on the suspicion of having breached the law; *calls on* the military authorities to strictly abide by the

principles of the presumption of innocence and the right to a fair trial, as enshrined in the Universal Declaration on Human Rights and defined in applicable norms of customary international human rights law; *is profoundly concerned* by allegations that Mr. Wai Lin Aung and Dr. Pyae Phyo were violently arrested and may have been subjected to mistreatment and torture; and *strongly urges* the military authorities to fulfil their responsibility to prevent all acts of violence, mistreatment and torture against parliamentarians, and to investigate such violations and hold perpetrators to account;

4. *Continues to be appalled* by allegations that numerous parliamentarians are being held incommunicado in prisons where they reportedly face secret trials, mistreatment and possibly torture and gender-based violence, that they are detained in inhumane detention conditions with limited or no access to medical care or legal counsel, and are exposed to high risks of being infected by COVID-19; and *recalls* that in its decision of 30 November 2021, the Governing Council of the IPU urged the military authorities to release all members of parliament-elect held in detention and to put an end to the use of secret trials in prison;
5. *Strongly urges*, also, the military authorities to immediately stop the practice of incommunicado detention and ensure that all parliamentarians who are deprived of liberty have access to their basic rights, including the right to health, the right to a fair and public trial, the right to receive family visits and to confidential meetings with their counsel, the right to safe and humane prison conditions and the right to an effective remedy for all violations of their rights; and *wishes* to receive from the military authorities as a matter of urgency detailed information on all detained parliamentarians in this regard, including specific information on their state of health and access to humane and safe detention conditions, family visits, confidential meetings with their lawyers, as well as on the fair and public trial of each detained parliamentarian;
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; and 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. *Decides* to continue examining this case.

Pakistan

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



© IPU 2014

PAK-23 – Riaz Fatyana

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Excessive delays
- ✓ Impunity

A. Summary of the case

Mr. Riaz Fatyana was the Chair of the Parliamentary Standing Committee on Human Rights and a vocal critic of Pakistan's police system. On 19 June 2012, his residence was attacked by activists from the ruling political party in Punjab Province. The police did not come to the rescue, allowed the attackers unimpeded access to Mr. Fatyana's house and arbitrarily arrested him. Mr. Fatyana was illegally detained for two days and prevented from contacting his lawyers and family and from lodging a complaint against his attackers until his release. He was prosecuted, along with 13 of his staff members, for organizing the attack on his own residence. The charges against him were dropped after the provincial and federal authorities stepped in. The 13 staff members were also acquitted in March 2013. According to the complainants, Mr. Fatyana was framed by the Punjab police, at the instigation of his main political opponent in Punjab from the Pakistan Muslim League (Nawaz) (PML (N)) party.

Both the complainants and a member of the delegation of Pakistan who took part in the hearing at the 130th IPU Assembly (March 2014) have confirmed that the police failed to investigate the attack

Case PAK-23

Pakistan: Parliament affiliated to the IPU

Victim: Majority member of the National Assembly of Pakistan

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

Submission of complaint: August 2012

Recent IPU decision: April 2015

IPU Mission(s): - - -

Recent Committee hearing: Hearing with a member of the Pakistani delegation during the 130th IPU Assembly (Geneva, March 2014)

Recent follow up:

- Communication from the authorities: Letter from the National Assembly of Pakistan (October 2018)
- Communication from the complainant: March 2019
- Communication to the authorities: Letter to the Speaker of the National Assembly (December 2021)
- Communication to the complainant: July 2021

against Mr. Fatyana and to arrest any of the attackers, even though they threatened Mr. Fatyana with reprisals should he pursue the case against them. Both parties further confirmed that the police officers involved have not been sanctioned for arbitrarily arresting and detaining a member of parliament. In spite of Mr. Fatyana's complaint lodged before a Lahore high court, the proceedings were abruptly ended without explanation in 2013 and all the named culprits remain at large. No information has been forthcoming from the authorities, who appear to have taken no action to seek accountability in the case.

Mr. Fatyana, who had not been a member of parliament since 2013, was re-elected to the National Assembly in July 2018 following the removal from office of Prime Minister Nawaz Sharif and the fall of his PML (N) party. Mr. Fatyana belongs to the ruling Pakistan Tehreek-e-Insaf (PTI) party and is Chair of the Standing Committee on Law and Justice and Convener of the Parliamentary Taskforce on the Sustainable Development Goals.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Regrets* that no recent information has been forthcoming from the authorities of Pakistan concerning this case;
2. *Remains deeply concerned* that the judicial proceedings initiated against Mr. Fatyana's attackers were discontinued without explanation in 2013, and that almost 10 years after the attack, no serious attempt appears to have been made to identify the culprits and the alleged police officers involved and bring them to justice;
3. *Reaffirms* its view that impunity presents a serious threat both to members of parliament and to those they represent and that, accordingly, physical attacks against members of parliament, if left unpunished, not only violate the fundamental rights of individual parliamentarians, but also affect the ability of parliament to fulfil its role as an institution; and *emphasizes* that parliament has a duty to ensure that every effort is made to hold the culprits accountable;
4. *Notes*, nevertheless, that the complainant has formally stated that further action by the Committee will no longer be useful; and therefore *decides* to close the case in accordance with section IX, paragraph 25(c) of Annex I of its Procedure for the examination and treatment of complaints;
5. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.

Russian Federation

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



Galina Starovoitova © Courtesy photo / Ms. Starovoitova's family

RUS-01 – Galina Starovoitova

Alleged human rights violations

- ✓ Murder
- ✓ Impunity

A. Summary of the case

Ms. Galina Starovoitova, a member of the State Duma and Co-Chair of the Democratic Russia Party, was assassinated in November 1998. Ms. Starovoitova was “one of the brightest politicians of the new Russia”, who “is remembered as a prominent lawyer, a human rights activist and a public figure who did much to shape modern Russian society”, as stated in a joint letter of the Chairpersons of the State Duma and of the Council of the Federation dated 3 October 2017.

Following investigations and trial proceedings, Russian courts concluded that Ms. Starovoitova's murder was a contract killing aimed at halting her political activities. Many of the individuals linked to the assassination as the assailants or direct perpetrators of the crime were sentenced to prison terms of varying length. Some of them were convicted *in absentia* and have remained at large.

Until recently, none of the organizers or instigators of the murder had been held accountable. According to one of the complainants, following the suspension and reopening of the investigation into the crime, a former member of parliament, Mr. Glushchenko, was investigated and

Case: RUS-01

Russian Federation: Parliament affiliated to the IPU

Victim: Female opposition member of parliament

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

Submission of complaint: March 1999

Recent IPU decision: February 2019

Recent IPU Mission(s): - - -

Recent Committee hearing: Hearing with representatives of the State Duma, of the Prosecutor General's Office and with a source close to Ms. Galina Starovoitova and her lawyer, at the 137th IPU Assembly (October 2017)

Recent follow up:

- Communication from the authorities: Letter from the Deputy Chairperson of the State Duma and of the Council of the Federation (March 2021)
- Communication from the complainant: (October 2020)
- Communication to the authorities: Letter to the Chair of the State Duma (December 2021)
- Communication to the complainant: January 2022

subsequently convicted to 17 years in prison on 27 August 2015, as one of the accomplices/organizers of the assassination. Mr. Glushchenko appealed the sentence, which was upheld on appeal on 17 November 2015. Mr. Glushchenko pleaded guilty and designated Mr. Vladimir Barsukov (aka Kumarin) as the mastermind of the assassination.

According to official information provided by the State Duma in March 2021, on 5 April 2019, Mr. Barsukov was formally indicted for his involvement in Ms. Starovoitova's murder as one of the organizers of the crime. On 6 February 2020, a criminal case against him was transferred to a separate proceeding and the investigation was ongoing.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Russian parliamentary authorities for their cooperation and the information provided in their letters received in April 2019 and March 2021;
2. *Notes with satisfaction* that further steps have been taken to identify and bring to justice at least one of the alleged masterminds of Ms. Starovoitova's murder; *expresses deep concern*, however, about the length of proceedings and apparent lack of progress in the investigation; and *reiterates its firm hope* that the Prosecutor's Office and other competent authorities will give renewed priority and sufficient investigative means to help achieve a significant breakthrough in this long-standing case and to finally shed light on the identity, and guarantee legal accountability, of all perpetrators and masterminds of the assassination;
3. *Reaffirms*, in this regard, its conviction that the State Duma's continued interest in the case – within the boundaries of the separation of powers – is critical to helping ensure that justice is done and to sending a strong signal that the assassination of a parliamentarian for having exercised her right to freedom of speech will not be left unpunished; and *wishes* to be kept informed of any steps taken by parliament in this regard;
4. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Prosecutor General's Office, the complainant and any third party likely to be in a position to supply relevant information;
5. *Decides* to continue examining the case.

Turkey

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



A supporter of the pro-Kurdish Peoples' Democratic Party (HDP) holds up pictures of jailed former party leader Selahattin Demirtaş during a 'Peace and Justice' rally in Istanbul on 3 February 2019. Yasin AKGUL / AFP

- | | |
|---------------------------------------|-----------------------------------|
| TUR-69 - Gülser Yıldırım (Ms.) | TUR-106 - Ertuğrul Kürkcü |
| TUR-70 - Selma Irmak (Ms.) | TUR-107 - Ferhat Encü |
| TUR-71 - Faysal Sariyildiz | TUR-108 - Hişyar Özsoy |
| TUR-73 - Kemal Aktas | TUR-109 - Idris Baluken |
| TUR-75 - Bedia Özgökçe Ertan (Ms.) | TUR-110 - Imam Taşçier |
| TUR-76 - Besime Konca (Ms.) | TUR-111 - Kadri Yıldırım |
| TUR-77 - Burcu Çelik Özkan (Ms.) | TUR-112 - Lezgin Botan |
| TUR-78 - Çağlar Demirel (Ms.) | TUR-113 - Mehmet Ali Aslan |
| TUR-79 - Dilek Öcalan (Ms.) | TUR-114 - Mehmet Emin Adiyaman |
| TUR-80 - Dilan Dirayet Taşdemir (Ms.) | TUR-115 - Nadir Yıldırım |
| TUR-81 - Feleknas Uca (Ms.) | TUR-116 - Nihat Akdoğan |
| TUR-82 - Figen Yüksekdağ (Ms.) | TUR-118 - Osman Baydemir |
| TUR-83 - Filiz Kerestecioğlu (Ms.) | TUR-119 - Selahattin Demirtaş |
| TUR-84 - Hüda Kaya (Ms.) | TUR-120 - Sirri Süreyya Önder |
| TUR-85 - Leyla Birlik (Ms.) | TUR-121 - Ziya Pir |
| TUR-86 - Leyla Zana (Ms.) | TUR-122 - Mithat Sancar |
| TUR-87 - Meral Daniş Beştaş (Ms.) | TUR-123 - Mahmut Toğrul |
| TUR-88 - Mizgin Irgat (Ms.) | TUR-124 - Aycan Irmez (Ms.) |
| TUR-89 - Nursel Aydoğan (Ms.) | TUR-125 - Ayşe Acar Başaran (Ms.) |
| TUR-90 - Pervin Buldan (Ms.) | TUR-126 - Garo Paylan |
| TUR-91 - Saadet Becerikli (Ms.) | TUR-128 - Aysel Tugluk (Ms.) |
| TUR-92 - Sibel Yiğitalp (Ms.) | TUR-129 - Sebahat Tuncel (Ms.) |
| TUR-93 - Tuğba Hezer Öztürk (Ms.) | TUR-130 - Leyla Guven (Ms.) |
| TUR-94 - Abdullah Zeydan | TUR-131 - Ayşe Sürücü (Ms.) |
| TUR-95 - Adem Geveri | TUR-132 - Musa Farisogullari |
| TUR-96 - Ahmet Yıldırım | TUR-133 - Emine Ayna (Ms.) |
| TUR-97 - Ali Atalan | TUR-134 - Nazmi Gür |
| TUR-98 - Alican Önlü | TUR-135 - Ayla Akat Ata (Ms.) |
| TUR-99 - Altan Tan | TUR-136 - Beyza Ustün (Ms.) |
| TUR-100 - Ayhan Bilgen | TUR-137 - Remziye Tosun (Ms.) |
| TUR-101 - Behçet Yıldırım | TUR-138 - Kemal Bulbul |
| TUR-102 - Berdan Öztürk | TUR-140 - Gültan Kışanak (Ms.) |
| TUR-105 - Erol Dora | TUR-141 - Semra Guzel (Ms.) |

Alleged human rights violations

- ✓ Failure to respect parliamentary immunity
- ✓ 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
- ✓ Arbitrary arrest and detention
- ✓ Ill-treatment
- ✓ Abusive revocation or suspension of the parliamentary mandate

A. Summary of the case

Over 600 criminal and terrorism charges have been brought against the members of parliament of the People's Democratic Party (HDP) since 20 May 2016, when the Constitution was amended to authorize the wholesale lifting of parliamentary immunity. As a result, hundreds of trial proceedings are ongoing throughout the country against HDP parliamentarians and former parliamentarians. They are being tried on terrorism-related charges and charges of defamation of the President, Government or State of Turkey. Some of them also face older charges in relation to the Kurdistan Communities Union (*Koma Civakên Kurdistan – KCK*) first-instance trial that has been ongoing since 2011, while others face more recent charges. In these cases, their parliamentary immunity was allegedly not lifted.

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

According to the complainant, the charges against HDP members of parliament are groundless and violate their rights to freedom of opinion and expression, and freedom of assembly and association. The complainant claims that the evidence adduced to support the charges against the members of parliament relates to public statements, rallies and other peaceful political activities carried out in furtherance of their parliamentary duties and political party programme. Such activities include mediating between the Kurdistan Workers' Party (*Partiya Karkerên Kurdistanê – PKK*) and the Turkish Government as part of the peace process between 2013 and 2015, publicly advocating political autonomy, and criticizing the policies of President Erdoğan in relation to the current conflict in south-eastern Turkey and at the border with Syria (including denouncing the alleged crimes committed by the Turkish security forces in that context). The complainant alleges that such statements, rallies and activities did not constitute any offence, and that they fall under the clear scope and protection of the fundamental rights of members of parliament.

Case TUR-COLL-02

Turkey: Parliament affiliated to the IPU

Victims: 66 opposition members of parliament (33 men and 33 women)

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

Submission of complaint: June 2016

Recent IPU decision: March 2021

IPU mission: June 2019

Recent Committee hearings: Hearings with the Turkish delegation and the complainant at the 141st IPU Assembly (October 2019)

Recent follow-up:

- Communications from the authorities: Responses from the President of the Turkish IPU Group and the Government of Turkey (January 2020); Letter from the President of the IPU Group (January 2022)
- Communication from the complainant: January 2022
- Communication to the authorities: Letter to the Speaker of the Turkish Parliament (December 2021)
- Communication to the complainant: January 2022

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

On 22 December 2020, the Grand Chamber of the European Court of Human Rights delivered its judgment in the case of *Demirtaş v. Turkey* (No. 2) (Application No. 14305/17), and held that there had been violations of his rights to freedom of expression, to liberty and security, to a speedy decision on the lawfulness of detention and to free elections. The Court also found that Mr. Demirtaş' detention, especially during two crucial campaigns relating to the referendum of 16 April 2017 and the presidential elections of 24 June 2018, had pursued the ulterior purpose of stifling pluralism and limiting freedom of political debate, which was at the very core of the concept of a democratic society. The Court held that the respondent state was to take all necessary measures to secure his immediate release. Since then, European parliamentary and executive institutions have called on the Turkish authorities to implement the judgment without delay. On 7 January 2021, the Ankara 22nd Assizes Court accepted a 3,500-page indictment against Mr. Demirtaş and 107 other defendants, issued by the Ankara public prosecutor on 30 December 2020, regarding the same protests that took place in October 2014, this time charging Mr. Demirtaş with 30 new offences. Since then, Mr. Demirtaş has been sentenced to prison terms in other criminal cases, reportedly most recently on 24 January 2022 with regard to public criticism voiced in February 2016 against the then Prime Minister, Mr. Ahmet Davutoğlu, during a rally held in Mersin.

On 1 February 2022, the European Court of Human Rights ruled that the lifting of the parliamentary immunity of 40 Peoples' Democratic Party (HDP) lawmakers, who had brought their case to the European Court following the constitutional amendment in May 2016, had violated their right to freedom of expression. In so doing, the Court responded to their assertion that the lifting of their immunity came in response to their political opinions and drew for its conclusions on this point on its rulings in the cases of *Demirtaş v. Turkey and Demir v. Turkey*.

The Turkish authorities have provided extensive information on the legal status of the criminal proceedings against the HDP parliamentarians, without, however, providing information on the precise facts to support the charges or convictions. According to the official information note dated 7 January 2022, provided by the President of the Turkish IPU Group, with regard to the 542 criminal files against 52 HDP parliamentarians (out of the 64 that are the subject of the present case), 33 rulings were issued concluding that there was no room for prosecution and 126 merger/postponement/administrative sanction decisions were made. Moreover, legal proceedings were launched in 352 files, 51 of which are still pending, while convictions have been handed down in 76 files against 37 HDP parliamentarians. Moreover, 242 files, closed through resolutions, indicate that there is no room for acquittal/punishment/postponement of the prosecution. The note specifies in this regard that 31 files were sent to parliament with a decision to stop after the relevant person was elected as a member of parliament while the trial was still ongoing, and after these files were returned to their place; that a conviction decision was given for three members of parliament in three files; that, with regard to 20 files, there is no room for acquittal/punishment/postponement of prosecution and that they were closed through resolutions; and that nine files are still pending/ongoing.

The Turkish authorities have repeatedly justified the legality of the measures taken against the HDP parliamentarians, and invoked the independence of the judiciary, the need to respond to security and terrorism threats and legislation adopted under the state of emergency. The authorities have provided detailed information on parliament's May 2016 "provisional constitutional amendment" on parliamentary immunity, which has been used to prosecute parliamentarians from all parties. They have asserted that there is no "HDP witch-hunt" in Turkey; that women parliamentarians are not being specifically targeted; that there is no Kurdish issue in Turkey and no current conflict in south-eastern Turkey; that Turkey is facing a terrorism issue at multiple levels involving the PKK and its "extensions"; that the HDP has never publicly denounced the violent activities of the PKK; that HDP members, including members of parliament, have made many statements in support of the PKK and their "extensions"; that HDP members have attended funerals of PKK suicide bombers and called for people to take to the streets, which has resulted in violent incidents with civilian casualties; that this does not fall within the acceptable limits of freedom of expression; that the Constitutional Court has

reached such conclusions in several cases and, in other cases, domestic remedies have not yet been exhausted; and that the independence of the judiciary and the rule of law in Turkey must be respected.

On 17 March 2021, the chief prosecutor of the Turkish Court of Cassation referred a request for the dissolution of the HDP to the Constitutional Court, accusing the HDP of terrorist activities. On 21 June 2022, the Constitutional Court accepted the indictment presented by the chief prosecutor. In early September 2021, the Constitutional Court granted the HDP's request for more time to prepare its defence. On 5 November 2021, the HDP presented its preliminary defence.

In January 2022, the complainant stated that photos that had been leaked with regard to current HDP parliamentarian Ms. Semra Guzel, showing her together with PKK fighter Mr. Volkan Bora, whom she had known from their time at Harran University, were being used to criminalize her and to strengthen the push for the closure of the HDP. The complainant asserts that the photos were taken in 2014 during the peace process when the HDP was interacting directly with the PKK on behalf of the Turkish Government. Ms. Guzel was not involved with the HDP at that time. According to the complainant, at the time the Government also actively encouraged Kurdish families to meet their children in the mountains as part of an effort to convince them to contribute to a peaceful settlement and to return home. According to the complainant, even though the photos showing Ms. Guzel were reportedly taken by the authorities in 2017, she was never investigated or questioned until these photos were leaked to the press a few weeks ago. According to the complainant, parliament is apparently in the process of lifting the immunity of Ms. Guzel and 14 other HDP parliamentarians.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the President of the Turkish IPU Group for her latest communication and for her continuous cooperation and spirit of dialogue;
2. *Notes* that the current case also includes a new complaint regarding the situation of Ms. Gültan Kışanak and Ms. Semra Guzel, and that: (i) the complaint was submitted in due form by a qualified complainant under section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) the complaint concerns two individuals who are, or were, members of parliament at the time of the alleged violations of their human rights and/or of the alleged events that form the basis for the legal proceedings brought against them; and (iii) the complaint concerns allegations of arbitrary arrest and detention, violations of the right to freedom of expression and the right to a fair trial, and failure to respect parliamentary immunity, which are allegations that fall within the Committee's mandate; *considers* that the complaint is therefore admissible under the provisions of section IV of the Procedure; and *declares itself* competent to examine the case;
3. *Remains deeply alarmed* at the prospect of the dissolution of the HDP party, also bearing in mind that its predecessors were dissolved by court order; *considers* that this step shows once again that the authorities continue to view, wrongly, the PKK and the HDP as one and the same entity; *recalls* in this regard that, while recognizing that the two organizations rely largely on the same support base and pursue similar objectives, the HDP is a legal political party that does not in any way advocate violence to achieve its goals; *is concerned* that its dissolution will deprive not only HDP parliamentarians of their right to participate in public life, but also their electorate of their right to representation in the Turkish parliament; *underlines* that the European Court of Human Rights has ruled that the dissolution or ban of a party is an extreme measure only justified as a last resort, in very exceptional circumstances, and that it has already handed down several rulings, notably against Turkey, in which the ban on a political party had been considered a human rights violation; and *urges* the Turkish authorities, therefore, to do their utmost to comply with its obligations under the European Convention on Human Rights in this area;
4. *Notes with concern* in this regard, also, that the European Court of Human Rights' latest rulings in cases affecting several of the HDP parliamentarians underscore that the legal steps to which they have been subjected come in direct response to the exercise of their freedom of

expression and, as determined in the case of Mr. Demirtaş, were aimed at stifling the opposition;

5. *Reaffirms its long-standing view* that, in their legitimate fight against terrorism, the Turkish authorities need to take more decisive action to ensure that current national legislation and its application are in line with international and regional standards on freedom of opinion and expression, assembly and association;
6. *Is deeply concerned* in this regard that 11 parliamentarians continue to languish in prison; *considers* that the latest extensive information provided by the Turkish Parliament does nothing to dispel the doubts that the HDP parliamentarians have been targeted in connection with the legitimate exercise of their political rights; *urges*, therefore, the Turkish authorities to review their situation and, where possible, release them and terminate the criminal proceedings; and *calls on* the authorities to release Ms. Aysel Tuğluk forthwith in light of her poor health;
7. *Expresses grave concern over* a new wave of legal proceedings that are reportedly being prepared or brought against current HDP parliamentarians; *calls on* the Turkish Parliament to ensure that their parliamentary immunity is scrupulously protected, that any requests made for the lifting of immunity is carefully analysed with regard to each parliamentarian concerned and only lifted if the legal proceedings are founded in law and do not run counter to basic human rights; and *wishes* to receive detailed information from the authorities on these points;
8. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
9. *Decides* to continue examining these cases.

Turkey

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



Mr. Gergerlioglu (centre) reacts as he is surrounded by fellow members of parliament applauding and brandishing placards after he was dismissed following a vote in the Turkish Parliament on 17 March 2021. | Adem ALTAN / AFP

TUR-139 - Ömer Faruk Gergerlioğlu

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Lack of fair trial proceedings
- ✓ Violation of freedom of opinion and expression
- ✓ Arbitrary arrest and detention
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity

A. Summary of the case

According to the complainant, Mr. Ömer Faruk Gergerlioğlu, a member of the Turkish Parliament belonging to the Peoples' Democratic Party (HDP), has been a staunch critic of the Turkish Government and its policies and has faced reprisals due to his criticism.

Mr. Gergerlioğlu was subjected to a criminal investigation based on his Facebook and Twitter posts in 2016. One of his social media posts was reportedly regarded as terrorist propaganda. It related to a news report from a national media organization containing a statement by the Kurdistan Workers' Party (*Partiya Karkerên Kurdistanê* – PKK), declared by the Turkish Government and others as a terrorist organization, indicating that if the Government was in favour of taking steps, a resolution to the conflict could be found within a month. Mr. Gergerlioğlu shared the news report with a message stating that “this call should be evaluated properly, there is no end to this!”

On 21 February 2018, the Kocaeli 2nd Assizes Court, acting as the court of first instance, sentenced Mr. Gergerlioğlu to two years and six months' imprisonment on the grounds of spreading PKK/KCK (*Koma Civakên Kurdistan* – KCK) terrorist organization propaganda by including photographs of armed members of the terrorist organization in a way that praised and encouraged methods involving violence and force, and thus committing the crime of spreading propaganda about the illegal, armed PKK terrorist organization.

Case TUR-139

Turkey: Parliament affiliated to the IPU

Victim: An opposition member of parliament

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

Submission of complaint: March 2021

Recent IPU decision: May 2021

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: Letter from the President of the Turkish IPU Group (January 2022)
- Communication from the complainant: August 2021
- Communication to the authorities: Letter to the President of the Turkish IPU Group (December 2021)
- Communication to the complainant: August 2021

The complainant claims that the appeal proceedings against Mr. Gergerlioğlu, who was elected a member of parliament in June 2018, continued despite him having parliamentary immunity. On 7 December 2018, Mr. Gergerlioğlu's conviction and sentence were upheld on appeal by the 3rd Criminal Chamber of the Istanbul Regional Court of Justice. On 28 January 2021, the 16th Criminal Chamber of the Court of Cassation rejected Mr. Gergerlioğlu's final appeal for the conviction to be set aside. According to the complainant, Mr. Gergerlioğlu's prosecution and conviction were politically motivated and violated his right to freedom of expression.

On 2 April 2021, Mr. Gergerlioğlu was detained to serve his sentence. On 1 July 2021, the constitutional court set aside Mr. Gergerlioğlu's conviction, finding violations of the right to stand for elections and engage in political activities, as well as freedom of expression, respectively safeguarded by Articles 67 and 26 of the Constitution. On 6 July 2021, Mr. Gergerlioğlu was released and on 16 July 2021 he regained his status as a member of parliament.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the parliamentary authorities for the information they have provided and for their spirit of cooperation;
2. *Welcomes* Mr. Gergerlioğlu's release and his reinstatement to parliament following the ruling of the constitutional court, which echoes its own conclusion that he was convicted and sentenced as a result of the legitimate use of his right to freedom of expression;
3. *Reaffirms* its long-standing view that it is crucial for the Turkish authorities to strike the right balance between their legitimate fight against terrorism and respect for the human rights of opposition members of parliament, in particular their freedom of expression; *sincerely hopes*, therefore, that the constitutional court's decision in Mr. Gergerlioğlu's case will encourage the Turkish authorities to take more decisive action, in line with the recommendations made in the 2019 IPU mission report, to ensure that current national legislation and its application are in line with international and regional standards on freedom of opinion and expression, assembly and association, and on the independence of the judiciary;
4. *Decides* to close the case of Mr. Gergerlioğlu in accordance with section IX, paragraph 25, of its Procedure for the examination and treatment of complaints;
5. *Requests* the Secretary General to convey this decision to the relevant authorities and to the complainant.

Tunisia

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



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-20 - Belgacem Hassan
TUN-08 - Maher Zid	TUN-21 - Kenza Ajela (Ms.)
TUN-09 - Maher Medhioub	TUN-22 - Emna Ben Hmayed (Ms.)
TUN-10 - Yosri Dali	TUN-23 - Bechr Chebbi
TUN-11 - Fethi Ayadi	TUN-24 - Monjia Boughanmi (Ms.)
TUN-12 - Awatef Ftirch (Ms.)	TUN-25 - Wafa Attia (Ms.)
TUN-13 - Omar Ghribi	TUN-26 - Jamila Jouini (Ms.)
TUN-14 - Faiza Bouhlel (Ms.)	TUN-27 - Mohamed Lazher Rama
TUN-15 - Samira Smii (Ms.)	TUN-28 - Nidhal Saoudi
TUN-16 - Mahbouba Ben Dhifallah (Ms.)	TUN-29 - Neji Jmal
TUN-17 - Mohamed Zrig	TUN-30 - Zeinab Brahmi (Ms.)
TUN-18 - Issam Bargougui	TUN-31 - Mohamed Al Azhar
TUN-19 - Samira Chaouachi (Ms.)	TUN-32 - Nouredine Bhiri

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 expression and opinion
- ✓ 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 case²

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.

² For the purposes of this report, 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.

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. Members of parliament Mr. Seifedine Makhoulf and Mr. Nidhal Saoudi were imprisoned for three months before being released in January 2022, 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 suspension of parliament is a cause for concern for all members of the Assembly elected for a five-year term who have been stripped of the right to perform their public duties.

After renewing the extraordinary measures in August 2021, President Saïed published Presidential Decree No. 2021-117 in September 2021, 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 government and on 13 December 2021 he established a road map that provided that parliament would remain suspended until the next legislative elections in December 2022.

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 said that Mr. Makhoulf and Mr. Saoudi were accused of offences that carry the death penalty under the Tunisian Criminal Code in the “airport case”, which 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. In their letter of 28 January 2022, the Tunisian authorities stated that the incompetence of the military court in the “airport case” had been raised by the complainants and that a decision rejecting the request to relinquish jurisdiction to the military court had been taken on 20 August 2021, in accordance with the provisions of domestic legislation. This decision was upheld on appeal on 15 September 2021 and in cassation on 7 December 2021.

The complainants also deplored the wholly arbitrary nature of a number of other measures, including the house arrest of some members of parliament for reasons unknown to them. The Tunisian authorities stated in their letter of 28 January 2022 that the decisions to place people under house arrest are administrative decisions that form part of administrative preventive supervision measures aimed at protecting public security and order. The authorities also pointed out that existing legislation provides for the possibility of appealing against decisions on house arrest to the administrative court, as was done by some members of parliament, including Mr Yosri Dali, who lodged an appeal with the administrative court at the end of August 2021 for a stay of execution. According to the authorities, on 30 September 2021, the first president of the administrative court rejected this appeal.

On 31 December 2021, member of parliament Mr. Nouredine Bhiri was arrested without warrant or explanation and taken to several secret detention facilities. For several hours, his family and lawyers did not know where he was. Due to his pre-existing health condition and the hunger strike that he had begun to protest against his detention, Mr. Bhiri was hospitalized on 2 January 2022. A delegation composed of members of the Tunisian independent national body for the prevention of torture

Case TUN-COLL-01

Tunisia: Parliament affiliated to the IPU

Victim: 26 members of the opposition (15 men and 11 women)

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

Submission of complaints: August, September and October 2021

Recent IPU decision: November 2021

IPU mission(s): - - -

Recent Committee hearing: Hearing of the complainants at the 143rd IPU Assembly (November 2021)

Recent follow-up:

- Communication from the authorities: Letter from the executive authorities (28 January 2022)
- Communication from the complainants: January 2022
- Communication to the authorities: Letter to the President of the Republic (January 2022)
- Communication to the complainants: January 2022

(*l'Instance nationale pour la prévention de la torture – INPT*) and the United Nations Office of the High Commissioner for Human Rights was nevertheless able to visit him in hospital.

In their letter of 28 January 2022, the Tunisian authorities provided detailed information on the situation of several members of parliament and the reasons for the suspension of parliament. No information was provided on the case of Mr. Noureddine Bhiri.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint concerning Mr. Noureddine Bhiri's situation, a member 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(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 an incumbent member of parliament at the time that the initial allegations were made; and (iii) concerns allegations of arbitrary arrest and detention and failure to respect parliamentary immunity, which are allegations that fall within the Committee's mandate; and *decides* to merge the examination of his situation with the present case;
2. *Thanks* the Tunisian authorities for the information provided in their letter of 28 January 2022 and for their openness to dialogue with the Committee;
3. *Expresses concern* at the situation of Mr. Noureddine Bhiri, in particular his arbitrary arrest and detention, which reportedly took place in the absence of an arrest warrant or formal charges and which are said to have weakened his state of health; *calls on* the relevant authorities to establish the facts in this case with a view to releasing Mr. Bhiri or formally charging him, while guaranteeing that, should he be charged, he will receive a fair trial in accordance with relevant international standards; and *wishes* to receive detailed information from the Tunisian authorities on Mr. Bhiri's state of health and on the investigation launched against him in order to understand the grounds for, and content of, the suspicions against him;
4. *Notes with satisfaction* the release of two members of parliament, Mr. Seifedine Makhoulouf and Mr. Nidhal Saoudi, and the reclassification as offences some of the crimes for which they are being prosecuted, thereby reducing the sentence they would face if convicted; *calls on* the relevant authorities to ensure that their trial, which will resume on 28 March 2022, is conducted in accordance with the relevant national and international standards;
5. *Is deeply concerned* at the referral to the military court of a number of cases concerning members of parliament, in particular the case of Mr. Maher Zid, who is accused of having harmed the "dignity, reputation and morale of the army" by expressing his opinion on the activities of a former member of the government; *affirms* in this respect that freedom of expression is one of the pillars of democracy, which it is essential for members of parliament, and that it encompasses all kinds of opinions, the restrictions on which are defined by the core human rights conventions and related jurisprudence; *affirms* that these situations highlight the fact that military courts should not have cases involving civilians referred to it, despite the guarantees put in place for a fair trial, including recognition by military courts of the principle of the right of appeal; and *hopes* that the Tunisian authorities will review these provisions to ensure that military courts cannot take up cases governed by civil law;
6. *Notes*, in addition, the recent measures taken by the Tunisian authorities, in particular the establishment of a political road map and the organization of future legislative elections in December 2022; *considers*, nevertheless, that this does not resolve the situation of parliament, the suspension of which continues to directly affect the individual rights of members of parliament and deprive Tunisian citizens of political representation;
7. *Reiterates the wish* for a delegation of the Committee on the Human Rights of Parliamentarians to be able to visit Tunisia in the near future in order to gather information on the situation of parliamentarians and to meet with the relevant Tunisian authorities with a view to finding satisfactory solutions; also *suggests* that, during this mission, the question of the assistance that the Inter-Parliamentary Union could provide to the Tunisian authorities in their efforts to return

the work of the Tunisian Parliament to normal and promote inclusive dialogue should be discussed; and *hopes* to receive a positive response and assistance from the authorities to this end, so that the mission can go ahead without hindrance;

8. *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;
9. *Decides* to continue examining this case.

Yemen

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



Yemeni members of parliament vote in Sana'a on 24 June 2000 to approve the 12 June border agreement signed with Saudi Arabia © Khaled Fazaa/AFP

- YEM09 - Abd al-Hameed Saif al-Batra'
- YEM-10 - Insaf Ali Mohamed Mayou
- YEM-11 - Ja'abal Mohamed Salem Mohsin Ta'imani
- YEM-12 - Abd al-Rahman Ibrahim Abdah Nashtan
- YEM-13 - Abd al-Khalek Abd al-Hafed Ben Shihoun
- YEM-14 - Abd al-Khalek Abdah Ahmad al-Barkani
- YEM-15 - Mohamed Qasem Mohamed al-Naqib
- YEM-16 - Mohamed Maqbal Ali Hasan al-Hamiri
- YEM-17 - Mafdal Ismail al-Abara
- YEM-18 - Haza' Saad Mathar Yahya al-Masouri
- YEM-19 - Amine Mohamed al-Saloui
- YEM-20 - Abd al-Rahman Hasin Ali al-A'shbi
- YEM-21 - Abd al-Aziz Ahmad Ali Mohamed Ja'bari
- YEM-22 - Abd al-Wahab Mahmoud Ali Ma'wadah
- YEM-23 - Ali Hasin Naser Ahmad al-A'nsi
- YEM-24 - Ali Mohamed Ahmad al-Ma'mari
- YEM-25 - Ali Masaad al-Lahbi
- YEM-26 - Mohamed Rashad Mohamed Ali al-Alimi
- YEM-27 - Mohamed Saif Abd al-Latif Hosam al-Shamiri
- YEM-28 - Mohamed Ali Salem al-Shadadi
- YEM-29 - Sakhr Ahmad Abas Ahmad al-Wajih
- YEM-30 - Mohamed Naser Malhi al-Hazami al-Idrissi
- YEM-31 - Najib Said Ghanem Saleh al-Dab'i
- YEM-32 - Ibrahim Ahmad al-Mazlam
- YEM-33 - Ahmad Yahya Mohamed Ali al-Haj
- YEM-34 - Bakil Naji Abd Allah al-Soufi
- YEM-35 - Rabish Ali Wahban Ahsan al-Ali
- YEM-36 - Zayd Ali al-Shami
- YEM-37 - Sultan Hazam al-Atwani
- YEM-38 - Sultan Said Abd Allah Yahya al-Barkani
- YEM-39 - Samir Khayri Mohamed Ali Reda
- YEM-40 - Sadeq Qasem Mohamad Qaed al-Ba'dani
- YEM-41 - Saleh Abd Allah Ali Qasem al-Sanbani
- YEM-42 - Saleh Ali Farid al-Barhami
- YEM-43 - Saleh Farid Mohsin al-Awlaqi
- YEM-44 - Aref Ahmad al-Sabri
- YEM-45 - Abd Allah Mohsin Ahmad Abd Allah al-Ajr
- YEM-46 - Abd al-Karim Sharaf Mohsin Shiban
- YEM-47 - Abd Allah Ali al-Khalaki
- YEM-48 - Abd Allah Mohamed Saleh Mohamed al-Maqtari
- YEM-49 - Abd al-Malak Abd Allah Hasan Saleh al-Qosous
- YEM-50 - Abdah Mohamed Hasin al-Hudhaifi al-Jaradi
- YEM-67 - Mohsin Ali Omar Baserah
- YEM-68 - Isaac al'Qa'hm
- YEM-69 - Ali Hassan Ahmad Jilan
- YEM-70 - Ibrahim Chouaib Mohamed al-Facheq
- YEM-71 - Amine Ali Mohamed al-Akimi
- YEM-72 - Hamid Abd-Allah Saghir Ahmad al-Jabarati
- YEM-73 - Zakaria Said Mohamed al-Zekri
- YEM-74 - Chawqi al-Raqib Chaman al-Qadi
- YEM-75 - Saghir Hamoud Aziz al-Sifani
- YEM-76 - Mohamed Naji Abd al-Aziz al-Shayef
- YEM-77 - Hashem Abd Allah Hasin al-Ahmar
- YEM-78 - Hussein al-Sawadi
- YEM-79 - Yasser Ahmed Salem al-Awadhi
- YEM-80 - Yahya Ali al-Rae
- YEM-81 - Saleh Ismail Abu Adel
- YEM-82 - Abd Al-Aziz al-Janid
- YEM-83 - Amine Ahmed Makhareh
- YEM-84 - Faysal al-Shawafi
- YEM-85 - Muhsin al-Ansi
- YEM-86 - Qasem Hussein al-Hadha'a
- YEM-87 - Ahmad al-Aqaari
- YEM-88 - Ali Abd Allah Abu Haliqa
- YEM-89 - Mohamed Yahya al-Hawri
- YEM-90 - Mansour ali Wasel
- YEM-91 - Ahmad Mohammad al-Dhubaibi
- YEM-92 - Abdo Mohammad Beshr
- YEM-93 - Khaled Mawjoud al-Saadi
- YEM-94 - Khaled Mohammad Qasim al-Ansi
- YEM-95 - Saleh Qaid al-Sharji
- YEM-96 - Ahmed Mohsen al-Nuwaira
- YEM-97 - Mohammad ali Siwar
- YEM-98 - Abd al-Wali al-Jabri
- YEM-99 - Said Moubarak Douman
- YEM-100 - Ali Hussein Aishal
- YEM-101 - Ghaleb Abdul Kafi Al-Qurashi
- YEM-102 - Abbas Ahmed Al-Nahari
- YEM-103 - Hamid Abdallah Al Ahmar
- YEM-104 - Abdul Rahman Saleh Musleh Moezb
- YEM-105 - Mohammad Yahya Al-Sharafi
- YEM-106 - Mohamed Naguib Ahmed Seif
- YEM-107 - Mohammed Mahdi Al-Kuwaiti
- YEM-108 - Ahmed Hadi Mohammed Al-Suraimi

YEM-51 - Ali Ahmad Mohamed Saleh al-Amrani	YEM-109 - Mohammed Al-Haj Al-Salihi
YEM-52 - Ali Qaed Sultan al-Wafi	YEM-110 - Mohamed Ahmed Waraq
YEM-53 - Awad Mohamad Abd Allah al-Awlaqi	YEM-111 - Mohsen Ali Al-Bahr
YEM-54 - Fouad Abid Said Waked	YEM-112 - Ali Mohammed Ghaleb Al-Mikhlaifi
YEM-55 - Mohamad Thabet Mohamad Ali al-Asli	YEM-113 - Ali Mohammed Al-Saar
YEM-56 - Mohamad Mohamed Ahmad Mansour	YEM-114 - Ali Abd Rabbo Al-Qadi
YEM-57 - Mansour Ali Yahya Maflah al-Hanq	YEM-115 - Ali Ahmed Muthanna Al-Warafi
YEM-58 - Nasr Zayd Mahi al-Din	YEM-116 - Abdulwahab Muhammad Qaed Amer Al-Amiri
YEM-59 - Hiba Allah Ali Saghir Sharim	YEM-117 - Abdullah Hammoud Al-Katab
YEM-60 - Abd Allah Saad Sharaf Abas al-Namani	YEM-118 - Abdul Salam Ahmed Al-Dahabli
YEM-61 - Abd al-Razaq Maslah al-Hijri	YEM-119 - Abdul Hamid Mohammed Farhan Al-Sharabi
YEM-62 - Abd al-Karim Ahmad Yahya al-Sinissi	YEM-120 - Shuaib Hammoud Khaled Al-Suofi
YEM-63 - Abd al-Karim Mohamed Mach'ouf al-Aslami	YEM-121 - Sadiq Ali Al-Dabab
YEM-64 - Abd al-Aziz Abd al-Jabar Ghaleb Dabwan	YEM-122 - Hamid Muhammad Ali Shaabin
YEM-65 - Othman Hasin Fayed Majli	YEM-123 - Ahmed Mohamed Yahya Qaboua
YEM-66 - Fathi Tawfiq Abd al-Rahim Mathar	YEM-124 - Ahmed Abbas Ahmed Al-Barti

Alleged human rights violations

- ✓ Abduction
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity
- ✓ Abusive revocation or suspension of the parliamentary mandate

A. Summary of the case

This case concerns 116 members of the Yemeni Parliament, all elected during the 2003 parliamentary elections for a six-year term and who remain members of parliament in accordance with the Yemeni Constitution. Since 2014, they have allegedly been subjected to various human rights violations, including attempted murder, abduction, arbitrary detention and destruction of property.

Since the beginning of the political crisis in 2011 and the outbreak of war in Yemen in 2015, two different factions claim to represent the Yemeni Parliament: a Sana'a-based faction under the control of the Houthi militia and a faction based in Seiyun comprised of parliamentarians who fled Sana'a. This latter faction is aligned with the internationally recognized government of President Abdrabbuh Mansur Hadi and is recognized by the IPU as the legitimate parliamentary authority representing all parliamentarians elected in 2003.

The present case concerns 99 members of parliament³ who fled Sana'a and neighbouring governorates that are allegedly under the control of the Houthi militia, and 19 members who remained in Sana'a and allegedly suffered attacks carried out by the coalition forces led by Saudi Arabia and the United Arab Emirates.

The complainants in the case concerning the 99 members of parliament allege that the violations were committed by the Houthi militia and took place in different governorates in Yemen, including Sana'a and other parts of Yemen under the control of the internationally recognized government. These complainants state that, due to the violations and security situation, the majority of members are now in exile. On the other hand, the complainants in the case of the 19 members of parliament who remained in Sana'a allege that the violations were committed by the coalition forces as part of their support for the Government of Yemen in regaining power in Sana'a and the northern parts of Yemen.

Case YEM-COLL-02

Yemen: Parliament affiliated to the IPU

Victims: 116 male members of parliament (99 opposition members)

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

Submission of complaints: May 2019, October 2019

Recent IPU decision: May 2021

IPU mission(s): - - -

Recent Committee hearings: Hearing with the parliamentary authorities at the 142nd IPU Assembly (May 2021); and the 167th session of the Committee (February 2022)

Recent follow-up:

- Communication from the parliamentary authorities: January 2022
- Communication from the complainants: January 2022
- Communication to the parliamentary authorities: December 2021
- Communication to the complainants: January 2022

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.

In 2019 and 2020, the parliamentary faction controlled by the Houthis in Sana'a provided substantial information on alleged violations committed by the coalition forces against the 19 members of parliament who reportedly continued to exercise their mandate in Sana'a. However, the Houthi-controlled parliamentary faction failed to convey information on the cases of parliamentarians who support the internationally recognized government and the human rights violations they have allegedly suffered since 2014, or the steps taken to help identify and hold to account those responsible.

The Houthi militia allegedly increased their harassment of Yemeni pro-government lawmakers following the latter's participation in a parliamentary meeting held in Seiyun in April 2019, which was called by the internationally recognized President Abdrabbuh Mansur Hadi. On 2 March 2020, the Houthi militia arbitrarily sentenced to death 35 members of parliament for "having taken actions threatening the stability of the Republic of Yemen, its unity, and security of its territory". The complainants also stated that, on 9 February 2021, the Houthi militia sentenced to death 11 more members of parliament. The parliamentarians were allegedly sentenced *in absentia* following the conclusion of trials marred with irregularities and which failed to comply with international norms and standards, as reported by the United Nations and other international organizations. The complainants added that, following the issuance of the death sentences against the lawmakers, the Houthi militia confiscated their property and financial assets, ransacked their homes and ordered their families to leave their houses.

The complainants also stated that, on 3 April 2021, the Houthi militia unlawfully approved the stripping of the membership of 44 members of the House of Representatives, therefore rendering their constituencies vacant with the aim of electing new members in violation of the Yemeni Constitution. On 10 July 2021, the number of members who were unlawfully stripped of their membership by the Houthis rose to 83 lawmakers.

During a hearing with the Committee on the Human Rights of Parliamentarians on 1 February 2022, the Yemeni parliamentary authorities stated that the Houthi militia continued harassing, intimidating, and violating the human rights of parliamentarians who support the internationally recognized government. In a letter received from the parliamentary authorities on 24 January 2022, the human rights violations allegedly committed by the Houthis have affected 99 members of the House of Representatives.

In a report published in November 2021, the United Nations Development Programme estimated that the conflict in Yemen will have claimed 377,000 lives by the end of 2021, both directly and indirectly as a consequence of the conflict.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Concludes* that the new collective complaint concerning the situation of Mr. Mohammad Yahya Al-Sharafi, Mr. Mohamed Naguib Ahmed Seif, Mr. Mohammed Mahdi Al-Kuwaiti, Mr. Ahmed Hadi Mohammed Al-Suraimi, Mr. Mohammed Al-Haj Al-Salihi, Mr. Mohamed Ahmed Waraq, Mr. Mohsen Ali Al-Bahr, Mr. Ali Mohammed Ghaleb Al-Mikhlaifi, Mr. Ali Mohammed Al-Saar, Mr. Ali Abd Rabbo Al-Qadi, Mr. Ali Ahmed Muthanna Al-Warafi, Mr. Abdulwahab Muhammad Qaed Amer Al-Amiri, Mr. Abdullah Hammoud Al-Katab, Mr. Abdul Salam Ahmed Al-Dahabli, Mr. Abdul Hamid Mohammed Farhan Al-Sharabi, Mr. Shuaib Hammoud Khaled Al-Suofi, Mr. Sadiq Ali Al-Dabab, Mr. Hamid Muhammad Ali Shaabin, Mr. Ahmed Mohamed Yahya Qaboua and Mr. Ahmed Abbas Ahmed Al-Barti, all members of the House of Representatives in Yemen, is admissible, considering that the complaint: (i) was submitted in due form by a qualified complainant under section I.1(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 of the initial allegations; and (iii) concerns allegations of abusive revocation or suspension of the parliamentary mandate, failure to protect parliamentary immunity and other acts obstructing the exercise of the parliamentary mandate, which are allegations that fall under the Committee's mandate; and *decides* to merge the examination of their situation with the present case, which brings the total number of parliamentarians in this case to 116;

2. *Thanks* the Yemeni parliamentary authorities for the information provided in their letter of 24 January 2022;
3. *Remains deeply alarmed* that 46 members of parliament have been arbitrarily sentenced to death by the Houthi-controlled self-styled court in Sana'a in what appears to be a "*fatwa*", meaning a call for their explicit killing by anyone who is in a position to do so, including members of the public; and is *deeply concerned*, also, about the unlawful and unconstitutional stripping of the membership of 83 members of the House of Representatives;
4. *Underlines* once again that these arbitrary measures constitute a direct and imminent danger to the lives of the parliamentarians subject to them; and *urges*, once more, those responsible to refrain from threatening the physical integrity of the members of parliament and from using collective punitive measures against members of their families who remained in Sana'a, including the arbitrary eviction of women and children from their homes;
5. *Stresses* that the human rights of members of the Yemeni House of Representatives and those of the people of Yemen should be upheld at all times; and therefore *calls on* all parties to the conflict in Yemen to ensure accountability for violations and abuses suffered by all parliamentarians and protect their fundamental human rights;
6. *Is aware* of the exceptional situation in which Yemen finds itself and the formidable challenges that exist to law and order; and *suggests*, in light of the geopolitical dimensions of the protracted conflict in Yemen and its devastating ramifications for the Yemeni people, that the Inter-Parliamentary Union, through its governing bodies, particularly the IPU Executive Committee, becomes more involved in bringing together all relevant stakeholders in and outside of Yemen, using parliamentary diplomacy to identify possible solutions to the human rights cases at hand and the conflict at large; and *requests* the Secretary General to raise this matter with the Executive Committee;
7. *Requests* the Secretary General also to convey this decision to the parliamentary authorities in Yemen, the complainants and any third party likely to be in a position to supply relevant information;
8. *Decides* to continue examining this case.

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* *