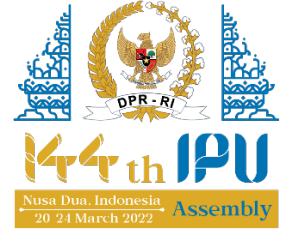




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# 144th IPU Assembly

Nusa Dua (Indonesia)  
20–24 March 2022



Governing Council  
Item 12

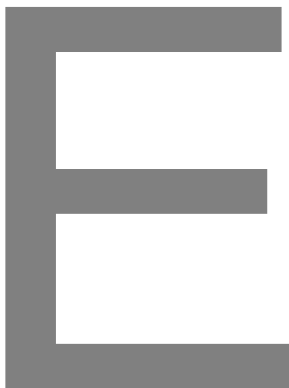
CL/209/12-R.1  
Nusa Dua, 24 March 2022

## Committee on the Human Rights of Parliamentarians

*Decisions adopted by the IPU Governing Council at its  
209<sup>th</sup> session (Nusa Dua, 24 March 2022)*

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#IPU144

# Belarus

*Decision adopted unanimously by the IPU Governing Council at its 209<sup>th</sup> session  
(Nusa Dua, 24 March 2022)*



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

## BLR-07 – Anatoly Lebedko

### Alleged human rights violations

- ✓ 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
- ✓ Arbitrary invalidation of the election of a parliamentarian
- ✓ Failure to respect parliamentary immunity
- ✓ Other acts obstructing the exercise of the parliamentary mandate
- ✓ Impunity
- ✓ Other violations: right to take part in the conduct of public affairs
- ✓ Other violations: right to work

### Case BLR-07

**Belarus:** Parliament affiliated to the IPU

**Victim:** Male opposition member of parliament

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

**Submission of complaints:** August 1998; resubmission March 2021

**Recent IPU decision:** March 2021

**Recent IPU mission:** November 1999

**Recent Committee hearing:** Hearing with a member of the Belarusian delegation to the 144<sup>th</sup> IPU Assembly (March 2022)

#### Recent follow-up:

- Communication from the authorities: Letter from the Deputy Chair of the Committee on National Security, House of Representatives (July 2021)
- Communication from the complainant: March 2022
- Communication to the authorities: Letter to the Chair of the House of Representatives (March 2022)
- Communication to the complainant: March 2022

## A. Summary of the case

Mr. Anatoly Lebedko was elected to the 12th Supreme Soviet of Belarus in 1990, and later re-elected to the 13th Supreme Soviet in 1995 for a period of five years. He is a senior member and former leader of the United Civil Party, which has been in opposition to the President, Mr. Aleksandr Lukashenko, since 1996. Together with other parliamentarians who opposed the President, he was the target of multiple alleged human rights violations that were the subject of a collective complaint to the IPU Committee on the Human Rights of Parliamentarians in 1998. However, although the IPU Committee had stated that the arbitrary actions against Mr. Lebedko and others had come in response to their parliamentary work, and had expressed its concern in that regard, the examination of the case was subsequently closed in the absence of the information required to proceed any further. On 20 March 2021, the Committee decided to reopen the case in the light of new information directly related to his parliamentary activity as member of the 13th Supreme Soviet that was submitted in a new complaint.

Mr. Anatoly Lebedko became a vocal critic of President Lukashenko following two historical votes that took place in 1995 and 1996. Both referendums weakened the powers of parliament, consolidated the sweeping powers of the President and, by amending the Constitution, rolled back the democratic reforms that had taken place in the first five years since the independence of Belarus. The complainant alleges that, in the power struggle that ensued, a new House of Representatives was appointed by the President, consisting exclusively of people loyal to him.

According to the complainant, all the members of parliament who did not agree to submit to the President were blacklisted and subjected to continuous harassment. The complainant asserts that, as a direct result of being blacklisted, Mr. Lebedko has suffered repeated human rights violations since 1996. These include multiple threats received in 1996 after his articles were published in the independent press, severe beatings by masked assailants in his home and several other beatings in the following years. The criminal investigations that were opened as a result remained fruitless. The complainant reports that, between 1997 and 2000, Mr. Lebedko faced multiple court proceedings that violated his right to a fair trial, and that he was arbitrarily arrested several times and held in prison conditions that, according to the complainant, met the threshold of the definition of torture under international law. In addition, Mr. Lebedko allegedly faced a tacit ban on employment in both the public and private sectors, allegedly enforced by the Committee for State Security (KGB), as well as a ban on registering as a candidate for public office. The complainant asserts that these alleged violations should be seen as reprisals for Mr. Lebedko's vocal international parliamentary activity, including speeches he gave on the floor of the United States Congress and at the OSCE Parliamentary Assembly in 1999.

According to the complainant, after the end of his mandate in 2000, Mr. Lebedko continued to play an active role in the country's public life, including by organizing protests against the disappearance of his colleague, Mr. Victor Gonchar, and against reported voter fraud in the 2004 and 2010 elections, which allegedly led to multiple instances of arbitrary arrest and detention, torture, unfair trials and other violations. The complainant reports that, during the eruption of mass demonstrations for free and fair elections following the contested results of the presidential elections in August 2020, Mr. Lebedko was abducted, placed in a KGB pretrial detention facility, and later released without ever being charged. According to the complainant, Mr. Lebedko left Belarus in late 2021, as he had reason to believe that he would face imprisonment if he remained there any longer. Since then, he has been appointed as coordinator of the Commission for Constitutional Reform by Ms. Svetlana Tikhanovskaya, who declared herself as the President-elect of Belarus in the disputed 2020 presidential elections.

The United Nations Human Rights Council has repeatedly expressed deep concern at the continuing violations of human rights in Belarus, which it found to be of a systemic and systematic nature, as well as at the use of torture and ill-treatment in custody, the lack of response by the Government of Belarus to cases of torture and the lack of participation of opposition political parties in parliament.<sup>1</sup> In September 2020, the Human Rights Council held an urgent debate on the situation in Belarus following the 2020 elections and adopted a resolution condemning the reported use of violence,

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<sup>1</sup> See United Nations Human Rights Council Resolution A/HRC/45/L.1 of 17 September 2020; Resolution A/HRC/RES/38/14 of 16 July 2018; Resolution A/HRC/32/L.10/Rev.1 of 28 June 2016; Resolution A/HRC/RES/29/17 of 22 July 2015; Resolution A/HRC/29/L.12 of 26 June 2015; and Resolution 26/25 of 27 June 2014.

arbitrary arrests and torture against thousands of protestors. At the third Universal Periodic Review of Belarus, several countries recommended that Belarus amend its legislation to prevent new violations with an emphasis on articles of the Code on Administrative Offenses and the Criminal Code.<sup>2</sup>

## B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the member of the Belarusian delegation for the views provided during a hearing with the IPU Committee on the Human Rights of Parliamentarians during the 144<sup>th</sup> IPU Assembly; *hopes* that the authorities will engage in continuous and constructive dialogue with the Committee in the pursuit of a satisfactory settlement of the present case; *recalls* in this regard that the Committee's procedure is based on ongoing and constructive dialogue with the authorities, first and foremost the parliament of the country concerned;
2. *Notes with great concern* the complainant's allegation that, from 1996 until his exile from Belarus decades later, Mr. Lebedko has been subjected to continuous harassment for his activity as an opposition parliamentarian and has faced systematic human rights violations, which remain unpunished to this day; *recalls* that impunity, by shielding those responsible from judicial action and accountability, decisively encourages the perpetration of further serious human rights violations, and that attacks against 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; *stresses* the legitimate right of Mr. Lebedko to receive redress for the violations he has faced; *urges*, in this regard, the Belarusian parliament to use its powers effectively to ensure that the very serious allegations described above are fully and immediately investigated, followed by whatever steps to establish accountability that are warranted as a result; and *requests* the parliamentary authorities to provide information on any relevant developments in this regard and on any action taken by parliament to this end;
3. *Notes with regret* that no serious efforts seem to have been made by the authorities to reform the legislation that led to repeated arbitrary detentions, violations of the right to a fair trial and violations of the right to freedom of assembly of Mr. Lebedko, as was recommended by the Committee Mission Report after its visit to Belarus in November 1999 and several United Nations human rights bodies; *deplores* that the same legal and administrative provisions that gave rise to these alleged violations are reportedly leading to violations of the rights of thousands of Belarusian citizens 20 years after the IPU Mission, as established by several resolutions of the United Nations Human Rights Council; and *wishes* to receive the views of the parliamentary authorities in this regard;
4. *Affirms* that it is imperative that Belarusian legislation, including the Code on Administrative Offenses and the Criminal Code, be reviewed in order to avoid the recurrence of such situations; *underscores* that the Belarusian Parliament has a particular responsibility to promote steps to this end, including so as to ensure that all of its members can speak out freely without fear; *calls on* the authorities to ensure that existing legislation is amended so as to comply with relevant international human rights standards;
5. *Urges* all IPU Member Parliaments, IPU permanent observers, parliamentary assemblies and human rights organizations active in the region to take concrete actions in support of the resolution of this case in a manner consistent with respect for democratic values, peace and human rights; and *hopes* to be able to rely on the assistance of all relevant regional and international organizations;

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<sup>2</sup> Report of the Working Group of the United Nations Human Rights Council on the Universal Periodic Review: Belarus (A/HRC/46/5) of 4 January 2021.

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6. *Requests* the Secretary General to convey this decision to the Belarusian parliamentary authorities, the Prosecutor General, the complainant and any third party likely to be in a position to provide relevant information;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Ecuador

*Decision adopted unanimously by the IPU Governing Council at its 209<sup>th</sup> session  
(Nusa Dua, 24 March 2022)*



Pandora Papers logo © LOIC VENANCE/AFP

- ECU-93 – Mónica Estefanía Palacios Zambrano (Ms.)
- ECU-94 – Fausto Jarrin
- ECU-95 – Paola Cabezas (Ms.)
- ECU-96 – Maria Fernanda Astudillo (Ms.)
- ECU-97 – Victoria Desintonio (Ms.)
- ECU-98 – Pabel Christian Muñoz López
- ECU-99 – Rebeca Viviana Veloz Ramírez (Ms.)

## Allegations of human rights violations

- ✓ Threats, acts of intimidation
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Other acts obstructing the exercise of the parliamentary mandate

### A. Summary of the case

This case concerns allegations of political persecution and harassment against seven Ecuadorian members of parliament from the Union for Hope Movement (*Movimiento Unión por la Esperanza* – UNES), the main opposition force<sup>3</sup> in parliament.

According to the complainant, these parliamentarians have suffered political violence as a result of the investigation carried out by some of them, as members of the Permanent Special Commission on Constitutional Guarantees, Human Rights, Collective Rights and Interculturality of the National Assembly of Ecuador (the parliamentary commission), into the so-called

### Case ECU-COLL-03

**Ecuador:** Parliament affiliated to the IPU

**Victims:** Seven opposition members of parliament (two men and five women)

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

**Date of complaints:** November 2021 and January 2022

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

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

**Last Committee hearing:** Hearing with the Ecuadorian delegation at the 144<sup>th</sup> IPU Assembly (March 2022)

#### Recent follow-up:

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

<sup>3</sup> For the purposes of this decision, the term "opposition" refers to members of parliament belonging to political groups or parties with limited decision-making power and who are opposed to the ruling power.

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Pandora Papers,<sup>4</sup> for having expressed their opinions on the matter and as a direct consequence of their work as members of the opposition.

These acts of persecution are allegedly aimed at intimidating the seven parliamentarians and are being carried out mainly through stigmatizing public statements made by members of the national government or the ruling party Creating Opportunities Movement (CREO) on social networks, television, radio, in the print media and through a variety of legal and administrative actions.

Examples of messages provided by the complainant include several messages received by members of parliament Ms. Mónica Palacios, Ms. Rebeca Veloz, Ms. María Fernanda Astudillo and Ms. Victoria Desintonio, in which they are called “thieves”, “tax evaders” and “coup plotters”, among other disparaging adjectives. According to the complainant, several social media accounts have been used to justify sexist, political and racist violence against member of parliament Ms. Paola Cabezas, the main argument being that she is a woman of African descent.

With regard to the situation of member of parliament Mr. Fausto Jarrin, the complainant submits that on 10 January 2022 he was notified of Resolution No. CAL-2021-2023-287, which set forth the administrative sanction of a 10-day suspension from the exercise his parliamentary mandate. The complainant considers that this sanction was applied arbitrarily, without respecting the rights of the defence, and that it was adopted in retaliation for him being one of the main spokespersons in the so-called Pandora Papers affair before parliament and domestic public opinion.

With regard to the situation of member of parliament Mr. Pabel Muñoz, the complainant states that the member of parliament has been subjected to persecution and harassment since the previous legislature because of his political opinions and his work as a member of the opposition. One of the most recent examples of legal harassment is that Mr Muñoz has been the subject of proceedings initiated by the Comptroller General's Office relating to accusations of corruption, which the complainant claims are unfounded.

The complainant also points out that, on 16 November 2021, the Attorney General's Office sent an official letter to the National Assembly, addressed to the parliamentary commission, indicating that preliminary investigation No. 137-2021 had been opened into the alleged offence of "ideological falsehood" through the submission of the report on the Pandora Papers case. According to the complainant, the Attorney General's Office opened this investigation against the members of the special commission in retaliation for the actions of these parliamentarians in the exercise of their mandate.

At the hearing held during the 144th IPU Assembly, the Ecuadorian delegation stated that the National Assembly did not have the legal capacity to monitor the communications of state officials or messages published on social networks, and that the administrative proceedings against Mr. Jarrin and those initiated by the Comptroller General's Office concerning Mr. Muñoz were in accordance with the applicable domestic rules. The delegation also stated that the preliminary investigation opened into the alleged offence of "ideological falsehood" was being conducted before the relevant courts and came about because some members of the parliamentary commission had allegedly amended the commission's final report without informing all members.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning this case is admissible, considering that the communication: (i) was submitted in due form by a qualified complainant under section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules

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<sup>4</sup> Investigation into tax haven documents revealing the names of more than 300 politicians, public officials and billionaires from more than 90 countries, 35 of whom are heads of State. Among the Latin American political leaders involved was the President of the Republic of Ecuador, Mr. Guillermo Lasso.

and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns seven incumbent members of parliament at the time of the initial allegations; and (iii) concerns allegations of threats and acts of intimidation, violation of freedom of opinion and expression, violation of freedom of assembly and association, and other acts obstructing the exercise of the parliamentary mandate, which are allegations that fall under the Committee's mandate;

2. *Thanks* the Ecuadorian delegation for the information received and for meeting with the members of the Committee on the Human Rights of Parliamentarians at the 144th IPU Assembly to discuss the cases examined and the concerns raised;
3. *Notes with concern* that court proceedings are under way against Ms. Desintonio, Ms. Cabezas and Ms. Astudillo, members of the opposition, in connection with their work in a parliamentary commission dealing with a highly sensitive issue that could be detrimental to the President of the Republic; and *wishes to* receive official and detailed information on the facts underlying the charges against these three parliamentarians and to be kept regularly informed of progress in the proceedings;
4. *Is concerned* at the discriminatory and sexist nature of the disparaging messages and comments received by Ms. Palacios, Ms. Veloz, Ms. Desintonio, Ms. Cabezas and Ms. Astudillo; *considers* that they are particularly susceptible to multiple forms of discrimination and violence because they are women and members of the opposition; and *affirms* that the National Assembly, by virtue of its legislative, budgetary and oversight powers, has the opportunity to make a decisive contribution to the prevention of all forms of violence against women and to create conditions conducive to the effective and timely investigation into such acts and to the punishment of the perpetrators under the applicable rules;
5. *Recalls* that sexism and gender-based violence against women parliamentarians, including online, violate their dignity, create an intimidating, hostile, degrading, humiliating or offensive environment and perpetuate gender inequalities and stereotypes; and further *recalls* that these detrimental effects may be all the more damaging for women parliamentarians from underrepresented or marginalized groups, such as women of African descent;
6. *Wishes to* receive official and detailed information and copies of the relevant documents concerning the administrative proceedings against Mr. Jarrin, and which led to a temporary suspension of his parliamentary mandate; and *wishes to* receive official and detailed information concerning the proceedings initiated by the Comptroller General's Office against Mr. Muñoz and the facts justifying the charges laid against him;
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. *Requests* the Committee to continue examining this case and to report back to it in due course.

## Egypt

*Decision adopted consensus by the IPU Governing Council at its 209<sup>th</sup> session (Nusa Dua, 24 March 2022)* <sup>5</sup>



Mostafa al-Nagar © Photo courtesy Belady – An Island for Humanity, United States.

### EGY-07 – Mostafa al-Nagar

#### Alleged human rights violations

- ✓ Enforced disappearance
- ✓ Threats, acts of intimidation
- ✓ Violation of freedom of opinion and expression
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

#### A. Summary of the case

Mr. Mostafa al-Nagar allegedly disappeared in the southern governorate of Aswan on 27 September 2018. His family and lawyers have been unable to contact him or obtain information on his whereabouts. They fear that he might have been arbitrarily arrested and held incommunicado.

The complainants allege that Mr. al-Nagar was a symbol of the 2011 revolution and a vocal critic of the Egyptian Government during his parliamentary term, which lasted from 23 January to 14 June 2012, when the Egyptian Parliament was dissolved in accordance with a ruling by the Supreme Constitutional Court. In December 2017, he was fined and sentenced to three years in prison for "insulting the judiciary" in a speech he reportedly

#### Case EGY-07

**Egypt:** Parliament affiliated to the IPU

**Victim:** male, independent member of the House of Representatives

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

**Submission of complaint:** February 2020

**Recent IPU decision:** May 2021

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

**Recent Committee hearing:** Hearing with the Egyptian delegation to the 144<sup>th</sup> IPU Assembly (March 2022)

#### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the House of Representatives (March 2022)
- Communication from the complainants: June 2021
- Communication to the authorities: Letter to the Speaker of the House of Representatives (February 2022)
- Communication to the complainants: January and February 2022

<sup>5</sup> The delegation of Egypt expressed its reservations regarding the decision.

delivered during a parliamentary sitting in 2012. In its ruling of 30 December 2017, the Cairo Criminal Court found that Mr. al-Nagar committed two crimes during 2012 and 2013, the first of which was insulting and defaming the courts and the judicial authorities with hate speech and disdainful speech, both published and through interviews on television and radio channels, as well as through social media. The complainants also alleged that the court reportedly found that Mr. al-Nagar's statements during a parliamentary sitting of 2012 were also intended to defame and harm the judiciary and judges. Mr. al-Nagar did not serve his time in prison as he chose to go into hiding, although at the time it was clear to his family members where he was. He disappeared a few days before his appeal trial, which took place on 15 October 2018.

The complainants report that, on 10 October 2018, Mr. al-Nagar's family received an anonymous telephone call informing them that he was in police custody at Aswan's Central Security Forces Al-Shallal camp. Mr. al-Nagar's lawyer made a request to the Egyptian authorities for an official response concerning his client's alleged detention in the Al-Shallal camp, but no information was provided in this regard. Egypt's State Information Service denied playing a role in Mr. al-Nagar's disappearance and said in an official statement issued on 18 October 2018 that he had wilfully disappeared to avoid serving his prison sentence, describing him as a fugitive.

In their letter of 24 May 2021, the Egyptian parliamentary authorities indicated that the Egyptian Court of Cassation's decision of 15 October 2018 concerned the rejection of Mr. al-Nagar's appeal to have his original sentence set aside. The letter explains that the decision of the Court of Cassation to refuse the accused's opposition to the ruling against him is not the result of his absence before the Court during the hearing session of the case. It added that the Court of Cassation did not accept the opposition in light of the correct application of Egyptian law allowing the accused's defence to appear before the Criminal Court in the absence of the accused. As the Court agreed to the accused's defence lawyer attending without the presence of the accused himself, the ruling against the accused becomes a ruling *in absentia* and is subject to opposition from the accused, to prevent the latter from missing out on the right to the different litigation levels to which citizens are entitled.

On 29 July 2019, the complainants filed a complaint at the Administrative Court of the State Council against the Egyptian Ministry of the Interior for allegedly failing to disclose Mr. al-Nagar's whereabouts and allegedly failing to make serious efforts to locate him. In its decision handed down on 18 January 2020, the Administrative Court of the State Council recalled the State's responsibility and indicated that the statement issued by the State Information Service was insufficient. The Court noted that the State and the police force, which, in accordance with Article 1 of the Law on the Regulation of Police authority (Law No. 109 of 1971), "is a regular body of the Ministry of the Interior that performs its functions and exercises its jurisdiction under the leadership of the Ministry of the Interior", had the duty to locate disappeared individuals, especially when a complaint had been filed about their disappearance.

In their letter of 24 May 2021, the Egyptian parliamentary authorities expressed their views about the case. The authorities also added that the crime committed by Mr. al-Nagar was not related to his parliamentary mandate and that he was not prosecuted for the remarks he made in parliament. The parliamentary authorities argued that, between 2012 and 2013, Mr. al-Nagar and other individuals were accused of undermining the judiciary and judges through written articles and comments, remarks made during interviews and messages posted on social media containing false and hateful statements against the Egyptian courts and the judiciary. The authorities also indicated that parliamentary immunity should not protect members of parliament from prosecution when the crimes committed are punishable by law. The authorities stated that parliament was dissolved in accordance with the ruling by the Supreme Constitutional Court issued in the session of 14 June 2012 and that the effect of this decision is retroactive. Accordingly, the aforementioned never had, nor enjoyed at any point in time, representational functions.

During a hearing with the Committee on the Human Rights of Parliamentarians at the 144th IPU Assembly in March 2022, the Chair of the Foreign Relations Committee of the Egyptian House of Representatives, Mr. Karim Darwish, emphasized the importance of the Committee's work and elaborated on the views and arguments expressed by the authorities in their letter of 24 May 2021. Mr. Darwish highlighted that the Egyptian parliamentary authorities are convinced that the case of Mr. al-Nagar should not be under consideration by the IPU as the aforementioned does not enjoy, and never had enjoyed, any representational functions, according to the June 2012 Supreme

Constitutional Court ruling. However, he was willing to engage with the Committee in good faith to clarify some issues.

Mr. Darwish also stated that, in response to the ruling of the Administrative Court of the State Council of 18 January 2020, the Egyptian authorities had exerted efforts to locate the absent person by taking several measures, including through distributing circulars with Mr. al-Nagar's details to all police stations in all Egyptian governorates seeking information on his whereabouts. Mr. Darwish also indicated that, despite the complainants' claim that Mr. al-Nagar has been subjected to enforced disappearance, there is no evidence that Mr. al-Nagar is a victim of enforced disappearance and that such a crime is subject to a set of criteria that have not been met in the present case. The authorities consider Mr. al-Nagar "absent", given that he has been in hiding in order to avoid serving his prison sentence, as indicated by his family members. Mr. Darwish, stated that the representational function of members of parliament would not allow its incumbents to commit crimes, would not justify the commission of such crimes and would not present a barrier to bringing them before a criminal court. The principle of separation of powers would therefore not allow former and current members of the legislative authority to interfere in the work of the judicial authority; to insult or influence its members; or to launch media campaigns against them to influence their rulings and decisions. He clarified that the criminal charges against Mr. al-Nagar were because of remarks he made outside of parliament and not in a parliamentary context whatsoever. Mr. Darwish reiterated that the complaint under consideration does not have any factual or legal foundation; rather, it is based on rhetoric that is doubtful and void of any legal evidence.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Egyptian authorities for the information provided in their letter of 24 May 2021 and for meeting with the Committee on the Human Rights of Parliamentarians during the 144<sup>th</sup> IPU Assembly to discuss the case of Mr. al-Nagar;
2. *Takes note* of the measures taken by the authorities to locate Mr. al-Nagar, including the distribution of circulars with Mr. al-Nagar's details to several police stations in different provinces calling for information on his whereabouts; *wishes* to receive written confirmation from the authorities concerned that such measures have indeed been taken, and to be informed of the results so far yielded; *underlines*, nevertheless, that such measures fall short of what is required to truly address the disappearance of Mr. al-Nagar, namely a fully fledged investigation into his whereabouts that establishes the truth in his case;
3. *Is convinced* that the State of Egypt could exert further efforts to locate Mr. al-Nagar and *urges* once more the authorities to take the appropriate measures to find Mr. al-Nagar, regardless of his conviction and the fact that he did not serve his prison sentence; and *wishes* to be kept informed as a matter of urgency about steps taken in this regard;
4. *Reiterates* its concern that Mr. al-Nagar was convicted for having criticized the judiciary, which is part of the legitimate exercise of his parliamentary mandate and should be protected by his parliamentary immunity; *affirms* also in this respect that freedom of expression is one of the pillars of democracy, that it is essential for members of parliament, and that it encompasses all kinds of speech, the restrictions on which are defined by the core human rights conventions and related jurisprudence; and *reiterates* its wish to receive copies of the decisions of the Cairo Criminal Court and Court of Cassation of 2017 and 2018 respectively;
5. *Stresses once again* that, while the State of Egypt considers Mr. al-Nagar to be a fugitive and "absent", it remains duty-bound to do everything possible to find him and that, by not taking any measures to locate him, the authorities are wilfully denying justice to his relatives, who have the legitimate right to know about his fate; and *wishes* in this regard to receive further information on the status of missing persons in Egypt and what criteria are required to be met for the authorities to initiate an investigation into the disappearance of individuals whose families have filed a complaint about their disappearance;

6. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainants and any third party likely to be in a position to supply relevant information on the whereabouts of Mr. al-Nagar;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.

## Eswatini

*Decision adopted unanimously by the IPU Governing Council at its 209<sup>th</sup> session  
(Nusa Dua, 24 March 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 Spataro – 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 opinion and expression
- ✓ 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 an arrest warrant could be implemented. Mr. Mabuza and Mr. Dube face 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 delayed, with the bail appeal now scheduled for hearing on 25 March 2022. With regard to Mr. Simelane, it appears that he has not been officially charged for any offence, as his case has not yet been officially referred to court.

The legal action against the parliamentarians was taken in the following context. In May 2021, calls for political reform started circulating on various platforms across Eswatini, with the aforesaid three

### 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:** February 2022

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

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

#### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the House of Assembly (March 2022)
- Communication from the complainant: January 2022
- Communication to the authorities: Letter to the Speaker of the House of Assembly (February 2022)
- Communication to the complainant: March 2022

parliamentarians also advocating for these changes. To prove that these members of parliament had the mandate from their constituencies to make this call resulted in a series of petitions being delivered to parliament in support of the call for change. Protesters were calling for constitutional and political reforms, were lamenting the Government's reported failure to deliver basic services to its citizens, demanded responses to socio-economic challenges, and invoked alleged ill-treatment by police. Petitions were delivered to various tinkhundla centres, predominantly by young people, to their members of parliament as an endorsement of the call for constitutional and political reforms. These calls were heightened during protests against alleged "police brutality" following the death of a University of Eswatini law student, Mr. Thabani Nkomonye. The aforesaid three parliamentarians joined the #justiceforThabani movement, which supported the call for constitutional and political reforms. On 24 June 2021, the then Acting Prime Minister, Deputy Prime Minister, Mr. Themba N Masuku issued a ban on the delivery of these petitions. In his address, the Acting Prime Minister said that this was "a conscious decision to maintain the rule of law and de-escalate tensions that had turned the exercise into violence and disorder". Protesters continued to deliver petitions against the ban and were blocked by the police.

In its report released at the very end of June 2021 regarding the events that had occurred earlier that month, the Eswatini Commission on Human Rights and Public Administration (the Commission) – which is Eswatini's National Human Rights Institution – found that human rights violations and abuses were perpetrated during the unrest. Further, the assessment indicates that lethal force was used indiscriminately on protesters and members of the public who were not even part of the protests. The protestors themselves appear to have been violent in that some areas were rendered inaccessible by road blockages and the burning of tyres. There was widespread damage, burning of properties and businesses and looting of shops. The majority of people arrested were detained for unreasonably prolonged periods without trial. Even though they were eventually afforded their right to bail, the courts often imposed excessive bails and steep fines.

According to the complainant, the charges against Mr. Mabuza, Mr. Dube and, potentially, Mr. Simelane serve as reprisals and aim to silence them, given that they have been at the forefront of the aforesaid 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.

The Speaker of the House of Assembly, in his communication of 21 March 2022, stated that the parliamentary immunity of the three parliamentarians with regard to speech in connection with debate and proceedings in parliament had always been respected. The Speaker also stated that the prison conditions of Mr. Mabuza and Mr. Dube were the same as those of other trial inmates and that they were conferred with all the general benefits extended to inmates awaiting trial. He added that, as the matter was before the court, due to the separation of powers, he could not comment on the specific charges.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning the situation of Mr. Mduduzi Bacede Mabuza, Mr. Mthandeni Dube and Mr. Mduduzi Gawuzela Simelane, all members of the Parliament of Eswatini, was declared admissible by the Committee on the Human Rights of Parliamentarians under its Procedure for the examination and treatment of complaints on 11 February 2022;
2. *Thanks* the Speaker of the House of Assembly for the extensive information provided in his letter of 21 March 2022;
3. *Is deeply concerned* that Mr. Mabuza and Mr. Dube were arrested and detained in connection with their public appeal to strengthen democracy, which falls squarely within the legitimate exercise of their right to freedom of expression; *considers* in this regard that the amended indictment against both men, as forwarded by the parliamentary authorities, fails to dispel this concern at this point; and, consequently, *decides* to send a trial observer to the criminal proceedings with a view to collecting information and reporting on how the fundamental human

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rights of the accused, in particular their right to a fair trial and freedom of expression, assembly and association, are being respected in the case at hand;

4. *Is also concerned* that, eight months after their arrest, their bail application has still not been examined; *recalls* in this regard that the right to a fair trial also entails the right to be brought promptly before a judge; *sincerely hopes* that the court hearing on 25 March 2022 will prove to be conclusive in this regard and take into account the arguments put forward by the defence; and *wishes* to be kept informed on the issues raised in the preceding paragraph;
5. *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;
6. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Libya

**Decision adopted unanimously by the IPU Governing Council at its 209<sup>th</sup> session  
(Nusa Dua, 24 March 2022)**



© Courtesy of the Sergiwa Family

## LBY-01 – Seham Sergiwa

### Alleged human rights violations

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

### A. Summary of the case

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

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

Ms. Sergiwa's abduction was allegedly in response to her political stance against the military operations in Tripoli, as she was taken from her home shortly after she gave an interview criticizing the military offensive and calling for an end to the bloodshed. The complainants believe that Ms. Sergiwa's abduction was not a random act of violence, given her vocal criticism of Mr. Khalifa Haftar and the

### Case LBY-01

**Libya:** Parliament affiliated to the IPU

**Victim:** Female independent member of the House of Representatives

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

**Submission of complaint:** July 2019

**Recent IPU decision:** November 2021

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

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

#### Recent follow-up:

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

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circumstances in which the attack took place. They added that several Libyan officials living nearby, including the mayor of Benghazi, could have intervened with their armed guards to prevent or at least thwart the attack, but deliberately refrained from doing so.

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

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

In its report of October 2021, the United Nations Independent Fact-Finding Mission set up to investigate human rights violations committed in Libya since 2016 concluded that there were reasonable grounds to believe that Ms. Sergiwa was a victim of enforced disappearance and found that the relevant authorities in Libya had failed to protect her life. The mission's report also stated that the evidence indicated that Ms. Sergiwa was abducted by either the LNA or affiliated armed groups. On 24 January 2022, the United Nations Secretary-General's Special Adviser on Libya, Ms. Stephanie Turco Williams, publicly expressed her concern about the case of Ms. Sergiwa and called on the "concerned authorities to provide information on her whereabouts".

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Continues to be appalled* by the brutal abduction of Ms. Seham Sergiwa in evident reprisal for expressing her political stance against the violence in Libya and in favour of an end to the bloodshed;
2. *Deplores* the Libyan House of Representatives' silence and failure to respond to requests for information on the status and outcome of the criminal investigation relating to the abduction of one of its members;
3. *Recalls* the findings of the United Nations Independent Fact-Finding Mission set up to investigate human rights violations committed in Libya since 2016 concerning the case of Ms. Seham Sergiwa; *echoes* the concerns expressed by the United Nations Secretary-General's Special Adviser on Libya; and *wishes* to learn further about the work of both United Nations mechanisms to explore avenues of cooperation aiming to help resolve the case of Ms. Sergiwa;
4. *Reaffirms*, once again, the long-lasting effects of impunity on the integrity of parliament and its ability to fulfil its role as an institution – even more so when leading figures of parliament are targeted for their political views, as in the present case; and *considers* that, by establishing the truth in Ms. Sergiwa's case, the Libyan authorities would send a strong message to those responsible for committing serious human rights violations that impunity cannot prevail in Libya;
5. *Recognizes* the exceptional situation prevailing in Libya and the formidable challenges to law and order in the country; *emphasizes*, nevertheless, that the human rights of a member of the Libyan House of Representatives should be upheld at all costs; *urges* the authorities concerned to take the appropriate measures to hold those responsible for Ms. Sergiwa's abduction to account and provide information on her fate; *calls on* the Libyan House of Representatives once

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

6. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Ministry of the Interior, the United Nations Independent Fact-Finding Mission, the United Nations Secretary-General's Special Adviser on Libya, the complainants and any third party likely to be in a position to supply relevant information;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.

## Myanmar

*Decision adopted unanimously by the IPU Governing Council at its 209<sup>th</sup> session  
(Nusa Dua, 24 March 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-302 - Myat Thida Htun (Ms.) |
| MMR-268 - Aung San Suu Kyi (Ms.) | MMR-303 - Saw Shar Phaung Awar  |
| MMR-269 - Henry Van Thio         | MMR-304 - Robert Nyal Yal       |
| MMR-270 - Mann Win Khaing Than   | MMR-305 - Lamin Tun (aka Aphyo) |
| MMR-271 - T Khun Myat            | MMR-306 - Aung Kyi Nyunt        |
| MMR-272 - Tun Tun Hein           | MMR-307 - Lama Naw Aung         |
| MMR-274 - Than Zin Maung         | MMR-308 - Sithu Maung           |
| MMR-275 - Dr. Win Myat Aye       | MMR-309 - Aung Kyaw Oo          |
| MMR-276 - Aung Myint             | MMR-310 - Naung Na Jatan        |
| MMR-277 - Ye Khaung Nyunt        | MMR-311 - Myint Oo              |
| MMR-278 - Dr. Myo Aung           | MMR-312 - Nan Mol Kham (Ms.)    |
| MMR-279 - Kyaw Myint             | MMR-313 - Thant Zin Tun         |
| MMR-280 - Win Mya Mya (Ms.)      | MMR-314 - Maung Maung Swe       |
| MMR-281 - Kyaw Min Hlaing        | MMR-315 - Thein Tun             |
| MMR-283 - Okka Min               | MMR-316 - Than Htut             |
| MMR-284 - Zarni Min              | MMR-317 - Aung Aung Oo          |
| MMR-285 - Mya Thein              | MMR-318 - Ba Myo Thein          |
| MMR-286 - Tint Soe               | MMR-319 - Soe Win (a) Soe Lay   |
| MMR-287 - Kyaw Thaung            | MMR-320 - U Mann Nyunt Thein    |
| MMR-289 - Phyu Phyu Thin (Ms.)   | MMR-321 - Khin Myat Thu         |
| MMR-290 - Ye Mon (aka Tin Thit)  | MMR-322 - Nay Lin Aung          |
| MMR-291 - Htun Myint             | MMR-323 - Hung Naing            |
| MMR-292 - Naing Htoo Aung        | MMR-324 - Shwe Pon (Ms.)        |
| MMR-293 - Dr. Wai Phyo Aung      | MMR-325 - Wai Lin Aung          |
| MMR-294 - Zin Mar Aung (Ms.)     | MMR-326 - Pyae Phyo             |
| MMR-295 - Lwin Ko Latt           | MMR-327 - Mr. Lin Lin Oo        |
| MMR-297 - Win Naing              | MMR-328 - Mr. Kyaw Lin          |
| MMR-298 - Nay Myo                | MMR-329 - Mr. Tin Htwe          |
| MMR-299 - Zaw Min Thein          | MMR-330 - Mr. Aung Myint Shain  |
| MMR-301 - Zay Latt               | MMR-331 - Mr. Pital Aung        |

MMR-301 - Zay Latt

MMR-332 - Mr. Ohn Win

## 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
- ✓ Other violations: unlawful revocation of citizenship

### A. Summary of the case<sup>6</sup>

After refusing to recognize the results of the November 2020 parliamentary elections, the military declared a state of emergency that would last for a year and proceeded to seize power by force on 1 February 2021, the day that the new parliament was due to take office. This state of emergency was extended on 31 January 2022, with a promise to hold elections by the end of 2023.

The complainant reports that the Speaker of the Parliament of Myanmar (*Pyidaungsu Hluttaw*), State Counsellor Aung San Suu Kyi and six other parliamentarians of the majority National League for Democracy (NLD) were placed under house arrest while 20 other members of parliament were arbitrarily arrested shortly after the coup. 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 torture, with little or no access to medical care or legal counsel, a fate that is shared by close to 1,000 arbitrarily detained citizens according to a report by the United Nations (UN) Special Rapporteur on the human rights situation in Myanmar.<sup>7</sup> On 16 November 2021, State Counsellor Aung San Suu Kyi 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 subjected to harassment and abuse by the military, with the father of Mr. Sithu Maung allegedly being

### Case MMR-COLL-03

**Myanmar:** Parliament affiliated to the IPU

**Victims:** 62 parliamentarians from the opposition (55 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:** February 2022

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

**Recent Committee hearing:** Hearing with the United Nations Special Rapporteur on the human rights situation in Myanmar (March 2022)

#### Recent follow-up:

- *Note Verbale* from the Permanent Mission of the Republic of the Union of Myanmar to the United Nations Office and other international organizations in Geneva: February 2022
- Communication from the complainant: February 2022
- *Note verbale* to the Permanent Mission of the Republic of the Union of Myanmar to the United Nations Office and other international organizations in Geneva: February 2022
- Communication to the complainant: March 2022

<sup>6</sup> For the purposes of this report, the term "opposition" relates to members of parliament from political groups or parties that have limited decision-making power and are opposed to the ruling power.

<sup>7</sup> <https://www.ohchr.org/en/press-releases/2022/03/myanmar-un-report-urges-immediate-concerted-effort-international-community?LangID=E&NewsID=28283>

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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.

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 March 2021, with reports of live automatic ammunition and explosive weapons used against civilians. The 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 the definition 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.

According to the latest information provided by the complainant, Mr. Yee Mon (aka Tin Thit), the Hon. Mr. Lwin Ko Latt, the Hon. Ms. Zin Mar Aung and Ms. Phyu Phyu Thin were stripped of their citizenship for allegedly “harming the interests of Myanmar” in violation of article 16 of the Myanmar Citizenship Law. At a hearing with the IPU Committee on the Human Rights of Parliamentarians in March 2022, the UN Special Rapporteur reported that over 1,600 civilians have been killed by the *Tatmadaw* in what he describes as a series of war crimes and crimes against humanity. The Special Rapporteur called for greater and more concerted pressure on the military authorities by the entire international community. He also renewed his call to halt the flow of arms towards the military, which had reportedly received weapons that were used against the civilian population from a limited number of countries well after the *coup d’état*, as described in his latest report.<sup>8</sup> Meanwhile, the IPU Secretariat has received correspondence from the military authorities accusing the NUG of fostering terrorism and disorder, which has allegedly claimed over 1,000 lives, while indicating a commitment to implementing the five-point consensus and the possibility of resuming dialogue provided trust and confidence-building measures are taken first.

## B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the current case also includes a new complaint regarding the situation of Mr. Lin Lin Oo, Mr. Kyaw Lin, Mr. Tin Htwe, Mr. Aung Myint Shain, Mr. Pital Aung and Mr. Ohn Win, and that: (i) the complaint was submitted in due form by a qualified complainant under section I.1.(a) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns incumbent members of parliament at the time of the initial allegations; and (iii) concerns allegations of torture, ill-treatment and other acts of violence, threats and acts of intimidation, arbitrary arrest and detention, inhumane conditions of detention, lack of fair trial proceedings, violation of freedom of opinion and expression, violation of freedom of assembly and association and failure to respect parliamentary immunity, which are allegations that fall under the Committee’s mandate; *considers* that the complaint is therefore admissible under the provisions of section IV of the Procedure; and *declares itself* competent to examine it;

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<sup>8</sup> Report by the United Nations Special Rapporteur on the human rights situation in Myanmar – *Enabling Atrocities: UN Member States’ Arms Transfers to the Myanmar Military*. Available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/Myanmar.pdf>

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; and *takes note* that two more parliamentarians elected in 2020 have been released in the past few months;
3. *Is concerned* by allegations that at least four parliamentarians have been arbitrarily deprived of their citizenship by the military-appointed State Administration Council; *emphasizes* that, under international law, the revocation of nationality is an extremely serious measure, all the more so if it leads to statelessness, and should only be taken with full respect for due process, which should include hearing the individual concerned, and only on very serious grounds; and *wishes* to receive information on these points from the military authorities;
4. *Continues* to be appalled by allegations that 62 parliamentarians are being held incommunicado in prisons where they reportedly face ill-treatment, torture and gender-based violence, and that they are being held in inhumane detention conditions with limited or no access to medical care or legal counsel; *requests*, once again, that the military authorities provide specific information on each parliamentarian who is deprived of their liberty, including on their state of health and access to humane and safe detention conditions, family visits and confidential meetings with their lawyers, as well as on the fair and public trial of each detained parliamentarian; and *urges* the military authorities to allow access to the International Committee of the Red Cross to visit parliamentarians in detention;
5. *Is dismayed* by the human toll resulting from the violence that followed the forceful takeover of power, including reports of war crimes and crimes against humanity; *urges* the military authorities to honour their commitment to implementing the five-point consensus brokered by ASEAN and putting an immediate end to the violence; *is perplexed* by the notion put forward by the military authorities that actions taken against protesters are to be seen as steps taken to implement their commitment to ending violence; *urges* the military authorities to implement their commitment to abiding by the five-point consensus by immediately ceasing the use of lethal force and exercising genuine restraint against those exercising their human rights, as well as by abiding by international principles of human rights and the rule of law; and *believes* that the release of all detained parliamentarians is an essential step towards ending violence and building the trust that would allow a de-escalation of violence and a return to dialogue, as prescribed by the five-point consensus;
6. *Calls on* the military authorities to respect the human rights of all members of parliament elected in November 2020 and hence to allow them to associate, assemble, express their views, receive and impart information and move about without fear of reprisals; *urges* the military authorities to refrain from taking physical or legal action against the 20 members of the Committee Representing the *Pyidaungsu Hluttaw* (CRPH), and any other person elected in November 2020, in connection with their parliamentary activities; and *wishes* to receive as a matter of urgency specific information on these points from the military authorities;
7. *Calls on* its Member Parliaments, IPU permanent observers and parliamentary assemblies, including the ASEAN Inter-Parliamentary Assembly, to press for respect for human rights and democratic principles in Myanmar to show solidarity with the members of parliament who were elected in 2020, including members of the CRPH; *welcomes* the actions taken thus far to contribute to a resolution of the crisis and *calls on* Member Parliaments to do more in that regard, including by helping to stop the flow of arms used against civilians; *calls on* its Member Parliaments and the IPU Secretariat to further strengthen the international network of solidarity with the Myanmar parliamentarians together with the International Parliamentarians Alliance for Myanmar (IPAM), and to take concrete actions in support of this endeavour in partnership with other international organizations active in the region; and *invites* Member Parliaments to inform it of any steps they may take to that end;
8. *Requests* the Secretary General to convey this decision to the military authorities, the complainant and any third party likely to be in a position to supply relevant information; also

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*requests* the Secretary General to explore all other possibilities for the concerns and requests for information raised in this decision to be effectively addressed;

9. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Palestine/Israel

*Decision adopted by consensus by the IPU Governing Council at its 209<sup>th</sup> session (Nusa Dua, 24 March 2022)<sup>9</sup>*



Ramallah, 15 April 2015 – Palestinian protesters wave flags bearing portraits of Fatah leader, Marwan Barghouti, during a march to mark the anniversary of his arrest. AFP Photo/Abbas Momani

## PSE-02 – Marwan Barghouti

### Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Lack of fair trial proceedings

### A. Summary of the case

Mr. Marwan Barghouti, a democratically elected member of the Palestinian Legislative Council (PLC), in the constituency of Ramallah on the West Bank, since January 1996 and widely known, according to several sources, for advocating a just and lasting peace in the Middle East, was arrested on 15 April 2002 in Ramallah by the Israeli Defence Forces and transferred to a detention facility in Israel. He was charged with murder, attempted murder and involvement in terrorist organizations. His trial before the Tel Aviv District Court started on 14 August 2002 and ended on 6 June 2004, when the court sentenced him to five life sentences and two 20-year prison terms. Despite being in prison, Mr. Barghouti was re-elected as a member of parliament for his constituency in the 2006 Palestinian legislative elections.

The complainants have raised a series of legal objections to Mr. Barghouti's arrest and prosecution, alleging that he was ill-treated, especially at the start of his detention, and was denied access to legal counsel. The Committee appointed a legal expert and lawyer, Mr. Simon Foreman, to report on the trial. His 2003 report, on which the Israeli authorities have not provided their

### Case PSE-02

**Palestine/Israel:** The Palestinian Legislative Council and the Parliament of Israel are affiliated to the IPU

**Victim:** Member of the Palestinian Legislative Council, member of the majority

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

**Submission of complaint:** April 2002

**Recent IPU decision:** November 2020

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

**Recent Committee hearing:** Hearing with the Palestinian complainants at the 162nd session of the CHRP (October 2020); hearing with head of the parliamentary group of Fatah at the 139th IPU Assembly (October 2018)

### Recent follow-up:

- Communication from the authorities: Letters from the head of the Knesset delegation to the Inter-Parliamentary Union (March 2022); letter from the Speaker of the Palestinian National Council (October 2020)
- Communication from the complainants: November 2020
- Communications to the authorities: Letters to the Knesset Speaker and the head of the Knesset delegation to the Inter-Parliamentary Union (March 2022); letter to the Speaker of the Palestinian National Council (December 2021)
- Communication to the complainants: February 2021

<sup>9</sup> The delegation of Israel expressed its reservations regarding the decision.

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observations, stated that, “the numerous breaches of international law ... make it impossible to conclude that Mr. Barghouti was given a fair trial” and that guilt had therefore not been established.

Mr. Foreman stated in his report that those breaches started with the illegal arrest and transfer of Mr. Barghouti to Israel according to the Oslo Agreements and the Fourth Geneva Convention. According to the report, Mr. Barghouti’s claims that he was subjected to cruel, inhuman and degrading treatment during the interrogations have never been investigated. Regarding the conduct of the trial proceedings, the trial observer indicated that none of the prosecution witnesses, all Palestinians, had testified against Mr. Barghouti and provided any evidence of his involvement in the acts of which he is accused. On the contrary, some of them contested their “confessions” as having been obtained under duress, while others stated that they were forced to sign documents in Hebrew that they did not understand, and others took the opportunity to denounce Israeli politics in the occupied territories. Moreover, according to one of the sources, on 6 April 2003 the court reportedly accepted as Mr. Barghouti’s testimony a report written by the Israeli intelligence services that Mr. Barghouti had refused to sign. Mr. Foreman also noted that, at the first hearings, the public present in the court room displayed a hostile attitude, calling Mr. Barghouti a “murderer, terrorist”.

According to Mr. Barghouti’s defence counsel, the charges brought against Mr. Barghouti were entirely based on secret reports that he had not seen, and the questions put to him by his interrogators were only about documents taken from Palestinian National Authority (PNA) offices, namely requests for financial or social support addressed to Mr. Barghouti. As a parliamentarian and former Secretary General of Fatah-West Bank, Mr. Barghouti used to get such requests, which he forwarded to Mr. Arafat’s office.

In the early years of his detention, several members of the Knesset called for the release of Mr. Barghouti, such as Knesset member Mr. Amir Peretz in March 2008 when he stated that Mr. Barghouti could be a key element in attaining stability and assuming responsibility of the PNA, and Mr. Gideon Ezra, a member of Kadima. Following Mr. Barghouti’s election in August 2009 to Fatah’s Central Committee, the Israeli Minister for Minority Affairs, Mr. Avishai Braverman, also expressed his support for his release.

On 17 April 2017, Mr. Barghouti initiated a mass hunger strike, joined by more than 1,000 Palestinian inmates, to protest against the abusive and inhumane conditions in which Palestinian inmates were allegedly being held by the Israeli authorities. While the Israeli prison service had agreed to grant some of the detainees’ requests, including increasing the number of monthly visits, the complainants stated that such a request had not been met.

During the hearing held with the Palestinian complainants in October 2020, the Committee on the Human Rights of Parliamentarians gathered information on the situation of Mr. Marwan Barghouti and other Palestinian inmates in Israeli prisons, namely on visitation rights, which were severely restricted due to the COVID-19 pandemic. The Committee also learned about the difficult conditions that family members of those detained have to meet before they are granted access to visit their loved ones, which include International Committee of the Red Cross confirmation, an Israeli permission to enter the country and the lengthy trip to the prison facility. During the October 2020 hearing, the complainants also described the dire detention conditions in Israeli prisons, particularly overcrowding. In their letter of 18 October 2020, the Israeli parliamentary authorities did not provide any information on Mr. Barghouti’s conditions of detention, including his visiting rights.

The Committee on the Human Rights of Parliamentarians invited the Israeli authorities to a hearing during its session held during the 144<sup>th</sup> IPU Assembly in March 2022 to discuss Mr. Barghouti’s case and resume dialogue. In their letter of 10 March 2022, the Israeli authorities declined the Committee’s hearing invitation, considering that Mr. Barghouti was duly convicted in a fair trial conducted in an Israeli court for murder, attempted murder and membership of a terrorist organization. The Israeli authorities added that, in light of these elements, they see “no reason to alter their position *vis-à-vis* the Committee on this case or any others pertaining to terrorists convicted in Israeli courts”.

## B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Takes note* of the Israeli parliamentary authorities' letter of 10 March 2022; *regrets*, however, that the Israeli delegation to the 144<sup>th</sup> IPU Assembly (March 2022) did not meet with the Committee; *notes*, nevertheless, that it has engaged in a constructive dialogue with the IPU Secretary General on the issue at hand; *reaffirms* that dialogue and debate are at the heart of the Committee's work as they promote a better understanding of opposing views and therefore promote appropriate solutions for the cases at hand;
2. *Reaffirms* its views that members of parliament are not above the law and that when they commit crimes they should be held accountable in a court of law following due process; *recalls* that Mr. Barghouti was a serving member of the Palestinian Legislative Council when charges of terrorism were brought against him; *recalls* in this regard the stringent legal arguments put forward in Mr. Foreman's report of 2003, on which the Israeli authorities have never provided their observations, that Mr. Barghouti's trial did not correspond to the fair trial standards that Israel, as a party to the International Covenant on Civil and Political Rights, was bound to respect; and *recalls*, in light of the report, that Mr. Barghouti's transfer to Israel had breached the Oslo Agreements and the Fourth Geneva Convention and had led the IPU to urge the Israeli authorities to transfer Mr. Barghouti to the custody of the Palestinian authorities with a view to his being prosecuted and judged by them, in accordance with international law and international fair trial standards;
3. *Deeply regrets* that its long-standing requests for the Committee to be granted permission to visit Mr. Barghouti have been left unanswered by the Israeli authorities; and *sincerely hopes* that the Israeli authorities will consider such a request and finally authorize a Committee visit to Mr. Barghouti;
4. *Recalls* that the Committee's calls on the Israeli authorities to release Mr. Barghouti are based on the numerous breaches of his rights during his arrest, prosecution and trial, but also on calls from within Israel, including from Knesset members, for his release; and *refers* to the 2008 statements of Mr. Amir Perez in this regard and that in 2003 some newspapers announced that the Israeli Government was tempted to negotiate the release of Mr. Barghouti under a prisoner exchange scheme, which was ultimately not observed;
5. *Reiterates with grave concern* that Mr. Barghouti was allegedly denied his visiting rights for three years for reportedly taking part in the 2017 mass hunger strike and that he was only able to receive two visits from his spouse in 2020 due to the COVID-19 pandemic; *firmly recalls* the United Nations Standard Minimum Rules for the Treatment of Prisoners, whereby Mr. Barghouti's visitation rights should not be subject to arbitrary decisions authorizing or denying visits; *calls on* the relevant Israeli authorities to ensure that Mr. Barghouti is entitled to family visiting rights in accordance with the law and international relevant standards; and *wishes* to ascertain his current conditions of detention, with respect in particular to the frequency of visits and access to medical care;
6. *Requests* the Secretary General to convey this decision to the competent authorities, the complainants and any third party likely to be in a position to supply relevant information;
7. *Requests* the Committee to continue examining this case and to report to it in due course.

# Uganda

*Decision adopted unanimously by the IPU Governing Council at its 209<sup>th</sup> session  
(Nusa Dua, 24 March 2022)*



© Francis Zaake

UGA-19 – Robert Kyagulanyi Ssentamu (aka Bobi Wine)  
UGA-20 – Francis Zaake  
UGA-21 – Kassiano Wadri  
UGA-22 – Gerald Karuhanga  
UGA-23 – Paul Mwiru

## Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings
- ✓ Violation of freedom of opinion and expression
- ✓ Impunity

## A. Summary of the case

The complaint was initially received against the background of the by-election in Arua municipality in Uganda on 15 August 2018. Of the five members of parliament listed in the present case, only Mr. Francis Zaake was re-elected in 2021.

The five individuals were violently arrested on 14 August 2018, on the eve of the by-election, together with 29 other people, in the district of Arua, after President Yoweri Museveni's convoy was reportedly pelted with stones. According to credible reports and information gathered on the ground by the IPU Committee on the Human Rights of Parliamentarians, the parliamentarians were tortured and ill-treated while in detention. All those arrested,

## Case UGA-Coll-01

**Uganda:** Parliament affiliated to the IPU

**Victims:** Five male parliamentarians (including three young parliamentarians and a parliamentarian-elect); four independent and one opposition parliamentarian

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

**Submission of complaint:** August 2018

**Recent IPU decision:** February 2021

**IPU mission:** January 2020

**Recent Committee hearing:** Hearing with the Ugandan delegation to the 144<sup>th</sup> IPU Assembly (March 2022)

## Recent follow-up:

- Communications from the authorities:  
Letter from the Attorney General (October 2018); letter from the Speaker of Parliament to the Minister of Foreign Affairs (November 2018); letter from the Speaker of Parliament (October 2019)
- Communication from the complainants:  
February 2022
- Communication to the authorities:  
Letter to the Speaker of Parliament (March 2022)
- Communication to the complainants:  
March 2022

including the five parliamentarians, were charged with treason, which in Uganda carries the death penalty. On 6 August 2019, the following additional charges were reportedly brought against them in relation to the same events: intent to annoy, alarm or ridicule the President, incitement to violence, disobedience of lawful orders, failure to prevent obstruction of traffic, confusion or disorder during a public meeting, and failure to give right of way to the President.

The complainants claim that due process guarantees have been violated from the outset, that the parliamentarians are victims of political repression, as there is no evidence to support the charges brought against them, and that no effective action has been taken to hold to account the security forces that mistreated them while arresting them.

The complainants further state that, at the time the complaint was first lodged, Mr. Kyagulanyi was a popular young parliamentarian, strongly supported, among others, by the four other parliamentarians in this case, and a well-known singer who enjoyed wide popularity among young people. Through his songs and parliamentary work between 2017 and 2021, he had been a vocal critic of President Museveni and his government. The complainants affirm that the authorities were doing everything possible to prevent Mr. Kyagulanyi from staging concerts and thus conveying his music and political message.

From 25 to 29 January 2020, a Committee delegation conducted an on-site mission to Uganda. Despite its specific request, the delegation was not able to obtain concrete information on possible ongoing cases against police officers in connection with the allegations of torture against the five members of parliament. The delegation was told that no information could be disclosed as the matter was *sub judice*. Among other concerns, the delegation regretted that no progress seemed to have been made towards investigating these allegations and urged the relevant authorities to conduct a prompt, impartial and independent investigation, including, where appropriate, the filing of specific torture charges against the perpetrators and the application of the corresponding penalties under domestic law. It also urged parliament to use its oversight powers effectively to this end.

Mr. Francis Zaake was detained by police and the military again on the evening of Sunday 19 April 2020 and released on 29 April 2020. According to information received, Mr. Zaake was severely tortured while in detention, denied access to his lawyer and family, food and independent medical attention. According to the complainants, Mr. Zaake was initially charged with disobedience of lawful orders for distributing food to his community during the COVID-19 pandemic. These charges were finally dropped in August 2020. On 9 August 2021, the Civil Division of the High Court of Uganda in Kampala (Miscellaneous Case No. 85 of 2020) ordered the Government to compensate Mr. Zaake with 75 million Ugandan shillings for the torture inflicted on him while in state custody in April 2020. In its ruling, the High Court declared that the infliction of pain and injury on Mr. Zaake during his detention by the Police infringed his fundamental human rights to dignity and freedom from torture and cruel, inhuman or degrading treatment or punishment protected under Articles 20, 24 and 44(a) of the Constitution of Uganda and that the period during which he was detained before he was arraigned in the Magistrate's Court at Mityana constituted unlawful and illegal detention and was in violation of his personal liberty under Article 23(4) and (b) of the Constitution of Uganda.

According to information received by the IPU, on 11 March 2022 Mr. Zaake lost his seat in the Parliamentary Commission, the governing body of the Uganda Parliament, following a vote on a motion moved to have him removed on grounds of misconduct. Mr. Zaake's removal comes after parliament also adopted a report of the Committee on Rules, Privileges and Discipline, which found him in breach of public trust and confidence because of statements he had made on social media. These statements apparently relate to statements made in parliament that seem to question the fact that he had been tortured in the past. At the hearing held during the 144<sup>th</sup> IPU Assembly, the Ugandan delegation stated that all legal and parliamentary proceedings that led to Mr. Zaake's removal from the Parliamentary Commission have been conducted in accordance with the law and other applicable regulations but that further information could not be provided at the current stage as the matter was before the courts.

## B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the delegation of Uganda for the information provided and for meeting with the Committee on the Human Rights of Parliamentarians during the 144<sup>th</sup> IPU Assembly to discuss the cases and concerns at hand;
2. *Welcomes* the decision of the Civil Division of the High Court of Uganda in Kampala on Case No. 85 of 2020, which ordered the Government to compensate Mr. Zaake for the torture inflicted on him while in state custody in April 2020; *reiterates*, however, its previous long-standing concerns relating to the impunity that seemingly reigns in the cases at hand with regard to the allegations of torture committed against the members of parliament in 2018; *sincerely hopes* that the above-mentioned court's decision in Mr. Zaake's case will encourage the Ugandan authorities to take more decisive action, in line with the recommendations made in the 2020 IPU [mission report](#), to ensure that the allegations of torture against the five members of parliament in 2018 are fully and effectively investigated, followed by whatever accountability steps are warranted as a result; and *requests* the parliamentary authorities to provide information on any relevant developments in this regard and on any action taken by parliament to this end;
3. *Expresses grave concern* about information received on steps taken to remove Mr. Zaake from the Parliamentary Commission as a result of statements made on social media; *reaffirms* that the freedom of expression of parliamentarians, including through their social media platforms, is a cornerstone of a democratic society and that it is crucial for parliamentarians to be able to express their opinions unhampered and without fear of reprisal; *considers* also that, even where speech can legitimately be sanctioned, an excessively harsh sanction, on its own, could represent a breach of the right to freedom of expression and exert a chilling effect on others, thereby deterring them from engaging even in legitimate speech; *requests*, in this regard, the parliamentary authorities to provide information concerning the reasons and parliamentary proceedings that led to Mr. Zaake's removal from the Parliamentary Commission;
4. *Requests* the Committee on the Human Rights of Parliamentarians to send a delegation to Uganda as soon as possible and as soon as the COVID-19-related public health situation permits, so as to meet with all authorities exercising legislative, executive or judicial powers, and any other institution, civil society organization or individual in a position to provide relevant information regarding the status of implementation of the recommendations made by the IPU 2020 mission report; *hopes* that the competent national authorities will cooperate fully and that the mission will help to swiftly find satisfactory solutions to this case in accordance with applicable national and international human rights standards; and *thanks* the Ugandan delegation to the 144<sup>th</sup> IPU Assembly for the assurances of support that it has given on this matter;
5. *Requests* the Secretary General to convey this decision to the Speaker of the Parliament of Uganda, the complainants and any third party likely to be in a position to supply relevant information;
6. *Requests* the Committee to continue examining this case and to report back to it in due course.

# Uganda

*Decision adopted unanimously by the IPU Governing Council at its 209<sup>th</sup> session  
(Nusa Dua, 24 March 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 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 by the Ugandan police on allegations that the two parliamentarians were involved in the murder of three individuals. They were charged with the offences of murder, terrorism, aiding and abetting terrorism and attempted murder. All these crimes were purportedly committed on 23 August 2021 in Masaka District. The two members of parliament were subsequently remanded in custody and held in Kigo Government Prison. On 21 September 2021, both members of parliament were granted bail by the High Court of Uganda sitting in Masaka.

### 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:** February 2022

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

**Recent Committee hearing:** Hearing with the Ugandan delegation to the 144<sup>th</sup> IPU Assembly (March 2022)

#### Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: March 2022
- Communication(s) to the authorities: - Letter to the Speaker of the National Assembly (March 2022)
- Communication to the complainant: March 2022

CL/209/12-R.1  
Nusa Dua, 24 March 2022

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, manhandled 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.

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. According to the complainant, 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. The complainant also states that the members of parliament informed the presiding judge 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.

At the hearing held during the 144<sup>th</sup> IPU Assembly, the Ugandan delegation stated that the two members of parliament had been re-arrested on additional charges, the investigation of which was under way, that there was no provision under Ugandan law prohibiting the arrest of a person who had been granted bail on different charges, and that the next stage was for their case to be placed on the hearing cause list. The delegation also informed the IPU Committee on the Human Rights of Parliamentarians that on several occasions the Human Rights Committee of the Parliament of Uganda visited the two members of parliament in Kigo Prison and Mulago National Referral Hospital in the presence of their legal representatives, and in the case of Mr. Ssegirinya in the presence of his private doctor. The parliamentary committee also interviewed the prison authorities, the two parliamentarians concerned and other stakeholders. Preliminary investigations have so far not led to a definitive conclusion as to whether the members of parliament have been tortured.

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. They also need specialized medical treatment, which they cannot access at the Kigo Prison facilities. Mr. Ssegirinya's condition is particularly unstable as he has an underlying condition requiring urgent medical attention, while Mr. Ssewanyana has an injured leg.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint was declared admissible by the Committee on the Human Rights of Parliamentarians under its Procedure for the examination and treatment of complaints during its 167<sup>th</sup> session (February 2022);
2. *Thanks* the delegation of Uganda for the information provided and for meeting with the Committee on the Human Rights of Parliamentarians during the 144<sup>th</sup> IPU Assembly to discuss the cases and concerns at hand;
3. *Commends* the Parliament of Uganda, in particular its Committee on Human Rights, for the efforts made to investigate the allegations of torture and visit Mr. Ssewanyana and Mr. Ssegirinya in prison; *calls on* parliament to continue using its powers effectively to ensure that the allegations of torture against the two parliamentarians are fully investigated, followed by whatever steps are warranted as a result to ensure accountability; and *wishes* to be kept informed of progress made in this regard;
4. *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 and the alleged deterioration in their state of health; *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, and that they receive the necessary medical care; and *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 further 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;

5. *Requests* the Committee on the Human Rights of Parliamentarians to send a delegation to Uganda as soon as possible and as soon as the COVID-19-related public health situation permits, so as to meet with all authorities exercising legislative, executive or judicial powers, as well as the prison authorities and any other institution, civil society organization or individual in a position to provide relevant information regarding the situation of Mr. Ssewanyana and Mr. Ssegirinya; *tasks* the delegation with visiting the detained members of parliament; *hopes* that the competent national authorities will cooperate fully and that the mission will help to swiftly find satisfactory solutions to this case in accordance with applicable national and international human rights standards; and *thanks* the Ugandan delegation to the 144<sup>th</sup> IPU Assembly for the assurances of support that it has given on this matter;
6. *Requests* the Secretary General to convey this decision to the Speaker of the National Assembly, the complainant and any third party likely to be in a position to supply relevant information;
7. *Requests* the Committee to continue examining this case and to report back to it in due course.

## Venezuela

*Decision adopted unanimously by the IPU Governing Council at its 209<sup>th</sup> session  
(Nusa Dua, 24 March 2022)*



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

VEN-10 – Biagio Pilieri  
VEN-11 – José Sánchez Montiel  
VEN-12 – Hernán Claret Alemán  
VEN-13 – Richard Blanco  
VEN-16 – Julio Borges  
VEN-19 – Nora Bracho (Ms.)  
VEN-20 – Ismael García  
VEN-22 – Williams Dávila  
VEN-24 – Nirma Guarulla (Ms.)  
VEN-25 – Julio Ygarza  
VEN-26 – Romel Guzamana  
VEN-27 – Rosmit Mantilla  
VEN-28 – Renzo Prieto  
VEN-29 – Gilberto Sojo  
VEN-30 – Gilber Caro  
VEN-31 – Luis Florido  
VEN-32 – Eudoro González  
VEN-33 – Jorge Millán  
VEN-34 – Armando Armas  
VEN-35 – Américo De Grazia  
VEN-36 – Luis Padilla  
VEN-37 – José Regnault  
VEN-38 – Dennis Fernández (Ms.)  
VEN-39 – Olivia Lozano (Ms.)  
VEN-40 – Delsa Solórzano (Ms.)  
VEN-41 – Robert Alcalá  
VEN-42 – Gaby Arellano (Ms.)  
VEN-43 – Carlos Bastardo  
VEN-44 – Marialbert Barrios (Ms.)  
VEN-45 – Amelia Belisario (Ms.)  
VEN-46 – Marco Bozo  
VEN-48 – Yanet Fermin (Ms.)  
VEN-49 – Dinorah Figuera (Ms.)

VEN-85 – Franco Casella  
VEN-86 – Edgar Zambrano  
VEN-87 – Juan Pablo García  
VEN-88 – Cesar Cadenas  
VEN-89 – Ramón Flores Carrillo  
VEN-91 – María Beatriz Martínez (Ms.)  
VEN-92 – María C. Mulino de Saavedra (Ms.)  
VEN-93 – José Trujillo  
VEN-94 – Marianela Fernández (Ms.)  
VEN-95 – Juan Pablo Guanipa  
VEN-96 – Luis Silva  
VEN-97 – Eliezer Sirit  
VEN-98 – Rosa Petit (Ms.)  
VEN-99 – Alfonso Marquina  
VEN-100 – Rachid Yasbek  
VEN-101 – Oneida Guaípe (Ms.)  
VEN-102 – Jony Rahal  
VEN-103 – Ylidio Abreu  
VEN-104 – Emilio Fajardo  
VEN-106 – Angel Alvarez  
VEN-108 – Gilmar Marquez  
VEN-109 – José Simón Calzadilla  
VEN-110 – José Gregorio Graterol  
VEN-111 – José Gregorio Hernández  
VEN-112 – Mauligmer Baloa (Ms.)  
VEN-113 – Arnoldo Benítez  
VEN-114 – Alexis Paparoni  
VEN-115 – Adriana Pichardo (Ms.)  
VEN-116 – Teodoro Campos  
VEN-117 – Milagros Sánchez Eulate (Ms.)  
VEN-118 – Denncis Pazos  
VEN-119 – Karim Vera (Ms.)  
VEN-120 – Ramón López

VEN-50 – Winston Flores	VEN-121 – Freddy Superlano
VEN-51 – Omar González	VEN-122 – Sandra Flores-Garzón (Ms.)
VEN-52 – Stalin González	VEN-123 – Armando López
VEN-53 – Juan Guaidó	VEN-124 – Elimar Díaz (Ms.)
VEN-54 – Tomás Guanipa	VEN-125 – Yajaira Forero (Ms.)
VEN-55 – José Guerra	VEN-126 – Maribel Guedez (Ms.)
VEN-56 – Freddy Guevara	VEN-127 – Karin Salanova (Ms.)
VEN-57 – Rafael Guzmán	VEN-128 – Antonio Geara
VEN-58 – María G. Hernández (Ms.)	VEN-129 – Joaquín Aguilar
VEN-59 – Piero Maroun	VEN-130 – Juan Carlos Velasco
VEN-60 – Juan A. Mejía	VEN-131 – Carmen María Sivoli (Ms.)
VEN-61 – Julio Montoya	VEN-132 – Milagros Paz (Ms.)
VEN-62 – José M. Olivares	VEN-133 – Jesus Yanez
VEN-63 – Carlos Paparoni	VEN-134 – Desiree Barboza (Ms.)
VEN-64 – Miguel Pizarro	VEN-135 – Sonia A. Medina G. (Ms.)
VEN-65 – Henry Ramos Allup	VEN-136 – Héctor Vargas
VEN-66 – Juan Requesens	VEN-137 – Carlos A. Lozano Parra
VEN-67 – Luis E. Rondón	VEN-138 – Luis Stefanelli
VEN-68 – Bolivia Suárez (Ms.)	VEN-139 – William Barrientos
VEN-69 – Carlos Valero	VEN-140 – Antonio Aranguren
VEN-70 – Milagro Valero (Ms.)	VEN-141 – Ana Salas (Ms.)
VEN-71 – German Ferrer	VEN-142 – Ismael León
VEN-72 – Adriana d'Elia (Ms.)	VEN-143 – Julio César Reyes
VEN-73 – Luis Lippa	VEN-144 – Ángel Torres
VEN-74 – Carlos Berrizbeitia	VEN-145 – Tamara Adrián (Ms.)
VEN-75 – Manuela Bolívar (Ms.)	VEN-146 – Deyalitzza Aray (Ms.)
VEN-76 – Sergio Vergara	VEN-147 – Yolanda Tortolero (Ms.)
VEN-78 – Oscar Ronderos	VEN-148 – Carlos Prospero
VEN-79 – Mariela Magallanes (Ms.)	VEN-149 – Addy Valero (Ms.)
VEN-80 – Héctor Cordero	VEN-150 – Zandra Castillo (Ms.)
VEN-81 – José Mendoza	VEN-151 – Marco Aurelio Quiñones
VEN-82 – Angel Caridad	VEN-152 – Carlos Andrés González
VEN-83 – Larissa González (Ms.)	VEN-153 – Carlos Michelangeli
VEN-84 – Fernando Orozco	VEN-154 – César Alonso

### **Alleged human rights violations**

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

## A. Summary of the case<sup>10</sup>

The case concerns credible and serious allegations of human rights violations affecting 134 parliamentarians from the coalition of the *Mesa de la Unidad Democrática* (Democratic Unity Roundtable – MUD), against the backdrop of continuous efforts by Venezuela’s executive and judicial authorities to undermine the functioning of the National Assembly elected in 2015. The MUD is opposed to President Nicolas Maduro’s government and obtained a majority of seats in the National Assembly in the parliamentary elections of 6 December 2015.

According to the complainant, the parliamentarians elected in 2015 have been subject to the following:

Almost all parliamentarians listed in the present case have been attacked or otherwise intimidated with impunity by law enforcement officers and/or pro-government officials and supporters during demonstrations, inside parliament and/or at their homes. At least 11 National Assembly members were arrested and released later, reportedly due to politically motivated legal proceedings against them. All were detained without due respect for the constitutional provisions on parliamentary immunity. There are also serious concerns regarding respect for due process and their treatment in detention. People associated with opposition parliamentarians have also been detained and harassed. One parliamentarian is currently under house arrest, 36 are in exile, six have recently returned to Venezuela, 23 are engaged in court proceedings, and six have been barred from holding public office. The passports of at least 13 members of parliament have been confiscated, not been renewed, or cancelled by the authorities, reportedly as a way to exert pressure and to prevent them from travelling abroad to report what is happening in Venezuela.

On 31 August 2020, President Nicolas Maduro pardoned 110 members of the political opposition who had been accused of committing criminal acts. The decision meant the closure of ongoing criminal proceedings against 26 parliamentarians listed in the present case and the release of four of them.

Fresh parliamentary elections took place on 6 December 2020. A new legislative body was formally inaugurated on 5 January 2021. The National Assembly elected in 2015, however, decided to continue functioning through a delegated committee “until free, fair and verifiable presidential and parliamentary elections have been held in 2021, or until an exceptional political event occurs in 2021, or even for an additional annual parliamentary term after 5 January 2021”. In December 2021, the 2015 National Assembly decided to renew its parliamentary mandate and to continue its work, led by Mr. Juan Guaidó.

A joint mission, composed of members of both the IPU Committee on the Human Rights of Parliamentarians (CHRP) and the IPU Executive Committee, went to Venezuela from 23 to 27 August 2021. The delegation was able to meet with a large variety of state authorities and stakeholders as well as with more than 60 of the 134 parliamentarians elected in 2015 with cases under examination by the CHRP, thereby obtaining first-hand information on their individual situations.

In January and February 2022, the complainant stated that acts of persecution, harassment and intimidation, including the possible opening of new court proceedings, against opposition

### Case VEN-COLL-06

**Venezuela:** Parliament affiliated to the IPU

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

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

**Submission of complaint:** March 2017

**Recent IPU decision:** November 2021

**IPU mission:** August 2021

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

#### Recent follow-up:

- Communication from the National Assembly 2020 (November 2021)
- Communication from the complainant: March 2022
- Communications to the Speakers of the National Assembly of 2015 and 2020 (February 2022)
- Communication to the complainant: January 2022

<sup>10</sup> For the purposes of this decision, the term “opposition” relates to members of parliament from political groups or parties that have limited decision-making power and are opposed to the ruling power.

parliamentarians elected in 2015 have increased, and that these members of parliament all fear for their freedom and physical integrity.

## B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes with satisfaction* that President Maduro's government has announced the imminent resumption of dialogue with representatives of the opposition; *reaffirms* in this regard that the issues involved are part of the broader political crisis in Venezuela, which can be resolved through inclusive political dialogue and by the Venezuelans themselves; *firmly hopes* that the talks will be resumed soon and will allow the various national stakeholders to work together to bring about a new social pact through participatory and non-violent means, without foreign interference and in compliance with the State's international human rights commitments; *reaffirms* the IPU's readiness to provide support for any effort to strengthen democracy in Venezuela; and *calls on* the relevant authorities to provide further information on how best to provide such assistance;
2. *Reaffirms* that the harassment of opposition parliamentarians elected in 2015 is a direct consequence of the prominent role they played as outspoken opponents of President Maduro's government and as members of the opposition-led National Assembly elected in 2015; *urges* the authorities, once again, to put an immediate end to all forms of persecution against the opposition parliamentarians elected in 2015, to ensure that all relevant state authorities respect their human rights, and to thoroughly investigate and establish accountability for reported violations of their rights; and *calls on* the Venezuelan authorities to provide official information on any relevant new developments in this regard and on any steps taken to this end;
3. *Remains deeply concerned* about the findings of the successive mission reports of the United Nations Human Rights Council Independent International Fact-Finding mission on Venezuela, which give further weight to the accusations of political repression and the responsibility of the State at the highest level, such accusations being further reinforced by the opening of an investigation into the situation in Venezuela by the International Criminal Court; and *expresses the firm hope*, once again, that the State of Venezuela, with the support of the international community, will be able to address the violations and crimes documented in these reports;
4. *Reiterates* its calls on all IPU Member Parliaments, IPU permanent observers and relevant human rights organizations to take concrete actions, within their respective mandates, in support of the urgent resolution of the individual cases at hand and the political crisis in Venezuela in a manner consistent with democratic and human rights values;
5. *Requests* the Secretary General to convey this decision to the relevant Venezuelan institutions, the complainant and any third party likely to be in a position to supply relevant information;
6. *Requests* the Committee to continue examining this case and to report back to it in due course.

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