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170th session of the Committee on the Human Rights of Parliamentarians

Decisions adopted by the Committee on the Human Rights of Parliamentarians

Geneva, 21 January to 2 February 2023

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Democratic Republic of the Congo

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



Frank Diongo visits Eugène Diomi Ndongala at Kinshasa Hospital, 20 March 2019 © Photo courtesy / Family of Diomi Ndongala

COD-71 – Eugène Diomi Ndongala

Alleged human rights violations

- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings
- ✓ Right of appeal
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of movement

A. Summary of the case

Mr. Ndongala has been subjected to a campaign of political and legal harassment aimed at removing him from the political process since June 2012. In April 2013, he was arrested and, on 26 March 2014, he was sentenced to 10 years' imprisonment for rape (for engaging in sexual relations with consenting children in return for payment) following a trial marred by serious irregularities. The Committee concluded that the case was highly political and that Mr. Ndongala's fundamental rights had been violated. On 3 November 2016, the United Nations Human Rights Committee reached similar conclusions and called for his release.

Mr. Ndongala was excluded from the presidential pardon granted to political prisoners in March 2019 following elections held in December 2018. The Minister of Justice granted him parole on 20 March 2019 on the grounds that he had served more than a quarter of his sentence and "that he had shown moderation during his incarceration". Mr. Ndongala was released. However, his parole could be cancelled at any time if he violated the strict conditions attached to it. These conditions prohibited him from making political statements and engaging in political activities "likely to threaten public order and the smooth functioning of state institutions", "causing scandal through his conduct", travelling outside of the country and moving around freely until April 2023. Mr. Ndongala had to appear before the Prosecutor General at the Court of Cassation every Monday. In January 2021, the complainant had reported that Mr. Ndongala's situation had not changed and that he remained on parole. However,

Case COD-71

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim: Male opposition member of parliament

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

Submission of complaints: July and December 2012

Recent IPU decision: April 2019

IPU mission: June 2013

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

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (January 2020)
- Communication from the complainant: January 2023
- Communication to the authorities: Minister for Human Rights (October 2020); Letter to the Speaker of the National Assembly (January 2023)
- Communication to the complainant: January 2023

the parliamentary authorities indicated in a letter dated 22 January 2020 that Mr. Ndongala was freely carrying out his political activities.

On 12 August 2022, following a retrial brought by Mr. Ndongala, the Court of Cassation overturned his 2013 conviction and restored his civil and political rights. In its ruling, the Court of Cassation concluded that “in view of the new facts [...], there are grounds for noting judicial errors leading to his [Mr Ndongala's] innocence and for ordering the annulment of all the convictions handed down against him”. The Court of Cassation thus acquitted Mr. Ndongala, ruling that “all the offences charged against him have not been established”.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes with satisfaction* the Court of Cassation’s ruling of 12 August 2022 acquitting Mr. Ndongala of the offences for which he had been prosecuted and convicted, and *welcomes* the judicial outcome of the case;
2. *Decides* to close the case under section IX, paragraph 25, of its Procedure for the examination and treatment of complaints, given that a satisfactory solution has been reached in view of the positive outcome of the case, in particular Mr. Ndongala’s final acquittal and the restoration of his civil and political rights;
3. *Recalls*, nevertheless, the highly political nature of this case and that Mr. Ndongala's conviction in 2013 was part of punitive measures taken against several opposition members of parliament who had expressed their opinions while exercising their parliamentary mandate; *regrets* that Mr. Ndongala was convicted following a trial marred by serious irregularities and which violated his right to a fair trial as guaranteed under the relevant national and international standards;
4. *Hopes* that the diligence shown by the judicial authorities and the Court of Cassation’s ruling will serve as a precedent in the context of the other cases concerning the Democratic Republic of the Congo still pending before the Committee on the Human Rights of Parliamentarians; and therefore *encourages* the authorities to take all appropriate steps to guarantee respect for the fundamental rights of all former and current members of the National Assembly, irrespective of their political affiliation, so as to ensure that similar violations do not recur in the future; also *calls on* the authorities to ensure that Mr. Ndongala obtains redress for the abuses to which he has been subjected;
5. *Requests* the Secretary General to convey this decision to the parliamentary authorities and the complainant.

Democratic Republic of the Congo

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



© Adrien Phoba

COD-82 – Adrien Phoba

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Excessive delays
- ✓ Impunity

A. Summary of the case

According to the complainant, Mr. Adrien Phoba Mbambi, a member of the opposition, was attacked on 22 February 2014 when travelling with his supporters to a meeting in Boma organized in his constituency to present the local population with an account of his parliamentary activities. He suffered a serious eye injury and was afforded medical care in Belgium covered by the National Assembly.

Despite the judicial complaint lodged by the member of parliament, the attackers have never been arrested and no steps have been taken by the authorities to punish the culprits. The alleged attackers – arrested at the time of the incident – were reportedly released by order of the local authorities shortly afterwards.

In January 2016, the Minister of Justice confirmed to the Speaker of the National Assembly that two cases had, indeed, been opened by the Public Prosecutor's Office in Boma into Mr. Phoba's complaint. He stated that the Public Prosecutor's Office was waiting for Mr. Phoba to provide his input in the two cases by substantiating his complaint and providing the addresses of the suspects. In August 2017, the Speaker of the National Assembly stated that he had requested the Minister of Justice to instruct the Public Prosecutor's Office to track down the perpetrators of the attack and bring them to justice. However, although the parliamentary authorities provided information in 2022 about other cases under consideration in the Democratic Republic of the Congo, no updated information was provided about Mr. Phoba's case.

Case COD-82

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim: Opposition member of parliament

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

Submission of complaint: June 2014

Recent IPU decision: March 2016

IPU mission(s): - - -

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

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (October 2017)
- Communication from the complainant: March 2019
- Communication to the authorities: Minister for Human Rights (October 2020); Letter to the Speaker of the National Assembly (January 2023)
- Communication to the complainant: January 2023

In the legislative elections held in December 2018, Mr. Phoba was re-elected as a member of the National Assembly.

Despite repeated requests by the Committee's Secretariat and sustained efforts by the Committee to obtain updated information on this case, no updated information has been provided by the complainant since 2019.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Recalls* that Mr. Phoba was the victim of an attack, the perpetrators of which remain unpunished, despite the fact that a complaint against them was referred immediately to the judicial authorities; *remains concerned* that, eight years after the attack against Mr. Phoba, no one has yet been held accountable; *concludes* that the Congolese authorities have failed in their obligation to ensure justice in this case and that Mr. Phoba obtains appropriate redress;
2. *Firmly believes* that impunity, which is in itself a serious violation of human rights, undermines the rule of law and can only encourage the repetition of similar violations; *calls on* the Congolese authorities to take the necessary steps to ensure that such violations do not recur in the future and that the rights of former and current members of parliament are respected;
3. *Decides* to close the case under section IX, paragraph 25(b), of its Procedure for the examination and treatment of complaints, given that the complainant has not provided any updated information for a prolonged period despite numerous requests and that it is therefore impossible to continue examining the case effectively;
4. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.

Democratic Republic of the Congo

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



Franck Diongo, President of the MLP, Congolese opposition party © AFP Photo / Papy Mulongo

COD86 – Franck Diongo

Alleged human rights violations:

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Impunity
- ✓ Lack of due process at the investigation stage and lack of fair trial proceedings
- ✓ Right of appeal

A. Summary of the case

Mr. Diongo, an opposition member of parliament, was arrested together with several activists from his political party at his home on 19 December 2016 by presidential guard soldiers. He was reportedly tortured and then summarily tried under an accelerated procedure, despite a worrying medical condition as a result of ill-treatment in detention. On 28 December 2016, he was sentenced, in both the first and the last instance, to five years in prison for the attempted murder and arbitrary arrest and aggravated unlawful detention of the soldiers who had gone to his home to arrest him. The authorities have also failed to take any steps to punish the perpetrators of the acts of torture committed against the member of parliament.

Mr. Diongo's arrest and conviction took place against the background of protests to postpone the elections in the Democratic Republic of the Congo, the extension of President Kabila's mandate (which should have ended on 19 December 2016) and the increased repression against the opposition and civil society.

His arrest occurred amid a wave of arrests and acts of violence on 19 and 20 December 2016 unleashed by the Congolese security forces to prevent any demonstrations by the opposition taking place. Mr. Diongo was the only politician who dared to continue calling on people to protest on that symbolic date.

Case COD86

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim: Opposition member of parliament

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

Submission of complaint: December 2016

Recent IPU decision: October 2018

IPU mission(s): - - -

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

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (January 2020)
- Communication from the complainant: November 2019
- Communication to the authorities: Minister for Human Rights (October 2020); Letter to the Speaker of the National Assembly (January 2023)
- Communication to the complainant: January 2023

Following Mr. Felix Tshisekedi's victory in the December 2018 presidential elections, he granted presidential pardons to more than 700 political prisoners on 13 March and Mr. Diongo was therefore released.

In a letter dated 22 January 2020, the parliamentary authorities reported that Mr. Diongo was freely carrying out his political activities.

In a ruling handed down on 8 June 2022, the Court of Cassation, in light of new evidence and facts made available, acquitted Mr. Diongo of the offences for which he had been prosecuted and convicted in 2016 following an application for review lodged by his lawyers. However, the Court of Cassation reportedly did not grant Mr. Diongo's request for compensation. Mr. Diongo intends to bring an action before the relevant court to seek compensation from the Congolese State for the damages suffered. Mr. Diongo has also announced that he will run for the presidential elections scheduled for December 2023.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes with satisfaction* the Court of Cassation's ruling of 8 June 2022 acquitting Mr. Diongo of the offences for which he had been prosecuted and convicted, and *welcomes* the judicial outcome of the case;
2. *Decides* to close the case under section IX, paragraph 25, of its Procedure for the examination and treatment of complaints, given that a satisfactory solution has been reached in view of the positive outcome of the case, in particular Mr. Diongo's final acquittal and the restoration of his civil and political rights;
3. *Recalls*, nevertheless, the highly political nature of this case and that Mr. Diongo's conviction in 2016 was part of punitive measures taken against several opposition members of parliament who had expressed their opinions while exercising their parliamentary mandate; *regrets* that Mr. Diongo was convicted following a trial marred by serious irregularities and the failure by the executive, judicial and legislative authorities to respect or protect his fundamental rights;
4. *Recalls* that impunity, which is in itself a serious violation of human rights, undermines the principle of the rule of law and can only encourage the repetition of similar violations, and therefore *urges* the Congolese authorities to take the necessary steps to ensure that the perpetrators of the acts of torture to which Mr. Diongo was subjected are brought to justice without delay and relieved of their duties; and *encourages* them to implement a zero-tolerance policy with regard to torture and ill-treatment in detention; also *calls on* the authorities to ensure that Mr. Diongo obtains redress for the abuses to which he has been subjected;
5. *Hopes* that the diligence shown by the judicial authorities and the Court of Cassation's ruling will serve as a precedent in the context of the other cases concerning the Democratic Republic of the Congo still pending before the Committee on the Human Rights of Parliamentarians; and therefore *encourages* the authorities to take all appropriate steps to guarantee respect for the fundamental rights of all former and current members of the National Assembly, irrespective of their political affiliation, so as to ensure that similar violations do not recur in the future;
6. *Requests* the Secretary General to convey this decision to the parliamentary authorities and the complainant.

Kenya

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



KEN55 – Melitus Mugabe Were

Alleged human rights violations

- ✓ Murder
- ✓ Impunity

A. Summary of the case

Mr. Mugabe Were, a member of parliament for the Orange Democratic Movement (ODM) representing Embakasi district, was shot dead on 29 January 2008 as he drove up to the gate of his house in Nairobi just after midnight.

Although the alleged culprits were apprehended soon after the crime, the criminal proceedings against them were mishandled to the point that the judge in the case declared a mistrial and ordered the case to start anew. A retrial started in 2011.

According to the information provided by the Clerk of the National Assembly of Kenya in a letter dated 28 March 2015 and during the hearing held with the Kenyan delegation during the 132nd IPU Assembly (Hanoi, March 2015), the High Court of Kenya concluded the first instance proceedings against the suspected murderers of Mr. Were on 10 February 2015, convicting three of the suspects and acquitting a fourth person.

An appeal was lodged against the conviction and its completion remains pending before the Court of Appeal.

Case KEN55

Kenya: Parliament affiliated to the IPU

Victim: Male opposition member of parliament

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

Submission of complaint: April 2010

Recent IPU decision: April 2015

IPU mission(s): - - -

Recent Committee hearing: Hearing with the delegation of Kenya to the 132nd IPU Assembly (March 2015)

Recent follow-up:

- Communication from the authorities:
Letter from the Speaker of the National Assembly of Kenya (January 2020)
- Communication to the authorities:
December 2022
- Communication to the complainant: - - -

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Reiterates its satisfaction* that important steps have been taken over the years to promote justice and accountability in this case; *remains deeply concerned* nevertheless that, 15 years after the assassination of the member of parliament, the proceedings which should guarantee legal accountability of all perpetrators and masterminds of the crime have not yet concluded; *reaffirms* that justice delayed is justice denied; and *hopes* that further progress will promptly be made towards ensuring full accountability for this serious crime, in conformity with national and international standards of fair trial; *requests* the parliamentary authorities to keep it informed of progress in this regard;
2. *Reaffirms* its conviction that the Kenyan Parliament's continued interest in the case – while being respectful of the boundaries of the separation of powers – is critical to helping ensure that justice is done and to sending a strong signal that the assassination of a parliamentarian will not be left unpunished; and *wishes* to be kept informed of any steps taken by parliament in this regard;
3. *Requests* the Secretary General to convey this decision to the parliamentary authorities and any third party likely to be in a position to supply relevant information;
4. *Decides* to continue examining this case.

Madagascar

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



Alphonse Maka President of the Malagasy Fampihavanana Council (National Reconciliation Council – CFM) speaks to the press at the opening of the session on 31 May 2018 in Antananarivo to try to find a political solution to the current crisis in the country. RIJASOLO/AFP

MDG05 - Lantoniaina Rabenatoandro
MDG06 - Henri Randrianjatovo
MDG07 - Mamisoa Rakotomandimbendraibe
MDG08 - Raymond Rakotozandry
MDG09 - Randrianatoandro Raharinaivo
MDG10 - Eliane Naïka (Ms.)
MDG11 - Mamy Rakotoarivelo
MDG12 - Jacques Arinosy Razafimbelo
MDG13 - Yves Aimé Rakotoarison
MDG14 - Fidison Mananjara
MDG15 - Stanislas Zafilahy
MDG16 - Rakotonirina H. Lovanantenaina

Alleged human rights violations

- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings
- ✓ Excessive delays

A. Summary of the case

The 12 former parliamentarians concerned were all proponents of former deposed President, Mr. Ravalomana, and who were detained and prosecuted after speaking out against the unconstitutional dissolution of parliament in March 2009 by Mr. Rajoelina (who subsequently became President of the High Transitional Authority until the 2013 elections). They have been freed and have resumed their political activities.

Except for Ms. Naïka, who was granted amnesty in February 2013, the proceedings initiated against the former parliamentarians have not been formally closed by the authorities. Most of them were charged with public order offences in 2009. Five of them were given suspended prison terms. According to the complainant, all proceedings against the former parliamentarians were politically motivated. While most of the proceedings appear to have been suspended since 2010, none of the former parliamentarians has received written confirmation that the charges against them have been dropped or that the proceedings have been closed.

Despite the promises made by the authorities in 2011 through the establishment of a road map to end the crisis, which provided for State amnesty, reparation and/or compensation for any person who had been a victim of the 2002–2011 political events, they have still not taken any conclusive measures to

Case MDG-COLL-01

Madagascar: Parliament affiliated to the IPU

Victims: 12 former members of the parliament unconstitutionally dissolved in March 2009 belonging to the opposition (11 men and one female)

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

Submission of complaint: April 2009

Recent IPU decision: February 2021

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (December 2022)
- Communication from the complainant: January 2023
- Communication to the authorities: Letter to the Speaker of the National Assembly (November 2022)
- Communication to the complainant: January 2023

officially close the case once and for all against the 12 former parliamentarians. In 2018, the Minister of Justice had indicated that the Malagasy Reconciliation Council (CFM) was the only body empowered to decide whether or not to grant amnesty to former parliamentarians.

According to information published in press articles and corroborated by the complainant, in September 2020 the President of the Malagasy Reconciliation Council had reportedly indicated that in August 2019 the CFM had submitted to the attention of the Prime Minister and Justice Minister two preliminary draft decrees – one establishing a National Solidarity Fund (FNS) and a National Compensation Fund (CNRI), and the other on the terms of compensation. According to the CFM President, it is now up to the executive and legislative authorities to follow up on the matter.

On 15 October 2022, during the 145th IPU Assembly in Kigali (Rwanda), a delegation from Madagascar provided updated information on the situation of former members of parliament, in particular the death of Mr. Henri Randrianjatovo and Mr. Mamy Rakotoarivelo and the participation in the 2019 and 2020 legislative and Senate elections of Mr. Mamisoa Rakotomandimbandraibe, Mr. Fidison Mananjara, Mr. Stanislas Zafilahy, Mr. Rakotonirina H. Lovanantenaina and Ms. Eliane Naïka. In January 2023, the complainants confirmed this information. However, they pointed out that during the entire mandate of the CFM, no compensation or amnesty was granted to former parliamentarians.

During the same meeting in October 2022, the delegation also indicated that the National Assembly had reportedly made requests to the Ministry of Justice for confirmation that the charges against the 11 former members of parliament had indeed been dropped. However, the Ministry of Justice has reportedly still not responded to its requests. As regards the CFM, the delegation stated that it was potentially the only body empowered to decide whether or not to grant amnesty to the former members of parliament. Furthermore, the delegation stated that the mandate of the CFM had ended in August 2022 and that it was no longer in operation.

This information was confirmed in the letter from the Speaker of the National Assembly dated 21 December 2022, stating that all former members of parliament were free to move around freely and enjoy their civil rights. In the same letter, the Speaker of the National Assembly also stated that no member of parliament had been subject to legal proceedings since the implementation of the Transitional Charter in August 2009.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Speaker of the National Assembly for her letter of 21 December 2022 and the Malagasy parliamentary delegation for the information provided at the meeting held on the margins of the 145th IPU Assembly in Kigali (Rwanda) and for their efforts with the judicial authorities to resolve this case;
2. *Takes note* of the deaths of Mr. Henri Randrianjatovo and Mr. Mamy Rakotoarivelo and of the participation in the 2019 and 2020 legislative and Senate elections of five other former parliamentarians; *also takes note* of the information that no former members of parliament are subject to legal proceedings and that the former members of parliament enjoy all their rights and freedoms, and *decides* to close the case under section IX, paragraph 25, of its Procedure for the examination and treatment of complaints;
3. *Regrets*, nevertheless, that the Malagasy Reconciliation Council has failed to adopt a decision granting amnesty to all former members of parliament during its mandate; *also regrets* that the resolution of this case has taken so many years and that the question of reparation and/or compensation remains unresolved; *encourages* the relevant authorities to take all necessary steps to compensate the former members of parliament and to adopt all appropriate measures to ensure respect for the fundamental rights of all members of the National Assembly in order to prevent such violations from recurring in the future;
4. *Requests* the Secretary General to convey this decision to the parliamentary authorities and the complainant.

Niger

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



Amadou Hama © IPU 2018

NER-115 – Amadou Hama

Alleged human rights violations

- ✓ Failure to respect parliamentary immunity
- ✓ Lack of due process at the investigation stage and lack of fair trial proceedings
- ✓ Excessive delays
- ✓ Violation of freedom of opinion and expression
- ✓ Abusive revocation of the parliamentary mandate

A. Summary of the case

Mr. Amadou Hama, former Speaker of the National Assembly (2011–2015), was convicted (*in absentia* as he was in exile) by the Court of Appeal of Niamey and sentenced to a one-year prison term in March 2017 for the offences of the concealment of newborns, aiding and abetting the forgery of public documents, aiding and abetting false declarations by having false statements inserted into public or official documents, and the use of false documents. On 11 April 2018, the Court of Cassation upheld the conviction, making Mr. Hama ineligible for the next elections. The Constitutional Court terminated his parliamentary mandate on 25 June 2018.

The complainant alleges that Mr. Hama's parliamentary immunity and right to a defence have been violated, that the accusations made against him are unfounded and that legal proceedings were conducted in a manner that was neither impartial nor independent. At the time the initial complaint was submitted, the complainant had believed that Mr. Hama had been subjected to acts of political and legal harassment since his party had sided with the opposition in August 2013. The complainant also pointed out that these acts had intensified after Mr. Hama's refusal to resign from his post of Speaker of the National Assembly and in the run-up to the presidential elections in February 2016. Mr. Hama came in second in the presidential election, despite having been in detention throughout the electoral campaign. His lawyers have filed a complaint with the ECOWAS Court of Justice. On 30 October 2019, Mr. Hama's application was dismissed by the ECOWAS Court of Justice in so far as it considered that it had already ruled on the facts in question in its judgment of 1 July 2016. According to the parliamentary authorities, who refused in May 2018 to authorize a mission by the Committee, the case is not political and procedures have been followed.

Case NER-115

Niger: Parliament affiliated to the IPU

Victim: A former opposition member of the National Assembly

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

Submission of complaint: October 2014

Recent IPU decision: March 2018

IPU Mission(s): - - -

Recent Committee hearing: Hearing with the delegation of Niger at the 140th IPU Assembly in Doha (April 2019)

Recent follow-up:

- Communication from the authorities: Letter from the Deputy Speaker of the National Assembly (April 2019)
- Communication from the complainant: May 2019
- Communication to the authorities: Letter to the Speaker of the National Assembly (December 2022)
- Communication to the complainant: January 2023

On 14 November 2019, Mr. Hama ended his exile and returned to Niger. He was arrested and detained on 18 November 2019, but was then released on 30 March 2020, along with another 1,540 detainees, receiving a presidential pardon on humanitarian grounds because of the COVID-19 pandemic. On 13 November 2020, the Constitutional Court declared Mr. Hama ineligible to stand in the December 2020 presidential elections.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Regrets* the lack of cooperation from the parliamentary authorities of Niger in recent years and the fact that, in 2018, parliament chose to refuse to allow the Committee to visit Niger in order to carry out additional checks by holding direct talks with all the stakeholders concerned, in particular within the judiciary and the executive branch, and in order to encourage the parties to resume dialogue and find a satisfactory solution to this very sensitive case; *recalls*, in this regard, that the Committee's Procedure is based on an ongoing and constructive dialogue with the authorities, and first and foremost with the parliament of the country concerned;
2. *Notes with satisfaction* Mr. Hama's release from prison after being granted a presidential pardon in March 2020; *deplores*, nevertheless, that his political rights, including his right to take part in the conduct of public affairs, to vote and to be elected, and to have equal access to elective office, remain restricted to date as a direct consequence of a conviction arising from a trial that raised a number of questions suggesting that the motives for the prosecution may be partly or even entirely political, as noted by the Committee in its previous decisions;
3. *Decides*, nevertheless, to close the case in accordance with section IX, paragraph 25(b), of its Procedure for the examination and treatment of complaints, given that the complainant has failed to provide updated information, despite repeated requests and although being in a position to do so; *recalls*, however, that the Committee reserves the right to reopen the case in the light of new information provided by the complainant;
4. *Requests* the Secretary General to convey this decision to the parliamentary authorities and the complainant.

Niger

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



© Seidou Bakari

NER-116 – Seidou Bakari

Alleged human rights violations

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

A. Summary of the case

On 28 July 2015, the Bureau of the National Assembly authorized the arrest of member of parliament Seidou Bakari, Chair of the parliamentary group of the MODEN/FA Lumana-Africa party, without first affording him a hearing. He was arrested at the end of his parliamentary mandate, on 16 May 2016.

Mr. Seidou Bakari is accused of supposedly embezzling public funds in 2005 while he was coordinating a food crisis unit placed under the Office of the Prime Minister.

According to the complainant, the member's parliamentary immunity was not respected, in that he was not given a hearing by the Bureau and that no criminal accusation had been made against him before his immunity was lifted. The complainant considers that his continuing pretrial detention for five years and the lack of progress in the judicial proceedings are deliberate and represent violations of Mr. Bakari's fundamental right to be tried without excessive delays and in an equitable manner.

The complainant asserts that the charges brought against Mr. Bakari are unfounded and that he is the victim of political and judicial harassment because of his political opinions.

Case NER-116

Niger: Parliament affiliated to the IPU

Victim: A former opposition member of the National Assembly

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

Submission of complaint: September 2015

Recent IPU decision: February 2021

IPU Mission(s): - - -

Recent Committee hearing: Hearing with the delegation of Niger at the 140th IPU Assembly (April 2019)

Recent follow up:

- Communication from the authorities: Letter from the Deputy Speaker of the National Assembly (April 2019)
- Communication from the complainant: January 2023
- Communication to the authorities: Letter to the Speaker of the National Assembly (December 2022)
- Communication to the complainant: January 2023

According to the parliamentary authorities, the case is not political in nature and the relevant procedures have been respected. In a letter sent in April 2019, the Deputy Speaker of the National Assembly stated that because the case was ongoing before the courts in Niger and owing to the principle of the separation of powers, the National Assembly could not intervene in any way.

On 12 March 2021, Mr. Bakari was granted a provisional release. On 25 June 2021, in a public hearing, the supervisory chamber of division specializing in economic and financial affairs of the Niamey Court of Appeal found that there were insufficient charges of embezzlement and complicity in embezzlement of public funds against Mr. Bakari and, as a result, ruled that there were no grounds for further proceedings against the accused. The complainant reports that the Public Prosecutor subsequently lodged an appeal in cassation, which is still pending to date.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Welcomes* Mr. Bakari's release; *recalls*, nevertheless, its previous conclusions regarding the prolonged length of his pretrial detention, which does not appear to be in keeping with Articles 131 to 133 of the Code of Criminal Procedure of Niger; *considers*, in this regard, that the implementation of the measure of pretrial detention must first take account of the fundamental rights of the persons detained in order to ensure that criminal investigations adhere to the principle of proportionality, and that a repressive practice of pretrial detention runs counter to the presumption of innocence, which is a core principle of the rule of law;
2. *Notes* that the Niamey Court of Appeal found that there were insufficient charges of embezzlement and complicity in embezzlement of public funds against Mr. Bakari and, as a result, no grounds for continuing the proceedings against him; *regrets*, however, the delay in the proceedings at the preliminary investigation stage and the fact that they have still not come to an end;
3. *Reiterates* its call on the authorities of Niger to do their utmost to guarantee that the case is processed quickly, fairly and independently, in strict compliance with national, regional and international fair trial standards and the fight against corruption; *requests* the authorities to keep it informed of the decisions taken by the courts in Niger, including on reparations if any, as well as of any new developments in the proceedings, in particular regarding the outcome of the appeal in cassation currently under way;
4. *Reiterates* its invitation to the parliamentary authorities to resume dialogue with the Committee and to relay any remaining concerns in this case to the relevant authorities, while respecting the principle of the separation of powers; *recalls* in this regard that the Committee, in keeping with its Rules and Practices, does its utmost to foster dialogue with the authorities of the country concerned, and first and foremost with parliament, with a view to finding a satisfactory solution to the cases before it;
5. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be able to provide relevant information or to help reach a satisfactory solution to the case;
6. *Decides* to continue examining this case.

Senegal

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



The opponent Ousmane Sonko (right), mayor of Ziguinchor, speaks with Senegalese politician Dethié Fall (left) during a rally of the Senegalese opposition at the Place de l'Obélisque in Dakar, on 8 June 2022. SEYLOU/AFP

SEN-09 – Dethié Fall

SEN-10 – Mame Diarra Fam

SEN-11 – Abdou Bara Dolly Mbacké

Alleged human rights violations

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

A. Summary of the case

On 10 June 2022, Mr. Abdou Bara Dolly Mbacké was arrested and subsequently prosecuted for defamation, publishing false information and causing offence to the Head of State, following a speech he made during a rally organized by the opposition. On 17 June 2022, Mr. Fall and Ms. Mame Diarra Fam were arrested on charges linked to their participation in an unauthorized demonstration. All three were sitting members of parliament at the time of the events.

According to the complainant, the aim of the demonstration that took place on 17 June 2022 was to protest against the decision of the Constitutional Council to reject the appeal lodged by the main opposition coalition, *Yewwi Askan Wi*, against the decision taken by the Ministry of the Interior to invalidate the national list of the coalition's candidates for the July 2022 legislative elections.

The three members of parliament are currently free and two of them were re-elected in the legislative elections held on 31 July 2022 (Ms. Diarra Fam and Mr. Dolly Mbacké). According to the latest information provided by the complainant, Mr. Fall was sentenced to a six-month suspended prison sentence and a fine of 100,000 CFA francs. He was not permitted to run in the legislative elections because his name was on the invalidated list of candidates of the *Yewwi Askan Wi* coalition. Ms. Diarra Fam was subsequently released, and Mr. Dolly Mbacké was provisionally released and is currently awaiting trial.

CONFIDENTIAL

Case SEN-COLL-01

Senegal: Parliament affiliated to the IPU

Victim: Three opposition members of parliament (including one woman)

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

Submission of complaint: June 2022

Recent IPU decision(s): - - -

Recent IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: September 2022
- Communication to the authorities: Letter to the Speaker of the National Assembly (December 2022)
- Communication to the complainant: January 2023

According to the complainant, the detention of and proceedings brought against the three members of parliament were politically motivated and stemmed from their status as members of the opposition. Their detention also constituted a violation of their parliamentary immunity. In regard to detention conditions, the complainants also stated that Mr. Dolly Mbacké was reportedly being held in detention with about 100 other people in a small room, in deplorable sanitary conditions.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint was submitted in due form by a qualified complainant under section I.1(c) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the complaint concerns members of parliament in the exercise of their duties at the time of the alleged events.
3. *Notes also* that the complaint concerns allegations of arbitrary arrest and detention, lack of due process at the investigation stage, violation of freedom of opinion and expression, and failure to respect parliamentary immunity, all of which fall within the Committee's mandate.
4. *Notes*, nevertheless, that the information submitted by the complainant is not sufficient at this stage to establish the facts of the case and that the Committee's repeated requests for additional and updated information have to date remained unanswered, even though the complainant was in a position to provide it;
5. *Considers*, therefore, that the complaint is not admissible under the provisions of section IV of the Procedure; and *declares itself* competent to examine the case.
6. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.

Senegal

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



The opponent Ousmane Sonko (right), mayor of Ziguinchor, speaks with Senegalese politician Dethié Fall (left) during a rally of the Senegalese opposition at the Place de l'Obélisque in Dakar, on 8 June 2022. SEYLOU/AFP

SEN-09 – Dethié Fall

SEN-10 – Mame Diarra Fam

SEN-11 – Abdou Bara Dolly Mbacké

Alleged human rights violations

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

A. Summary of the case

On 10 June 2022, Mr. Abdou Bara Dolly Mbacké was arrested and subsequently prosecuted for defamation, publishing false information and causing offence to the Head of State, following a speech he made during a rally organized by the opposition. On 17 June 2022, Mr. Fall and Ms. Mame Diarra Fam were arrested on charges linked to their participation in an unauthorized demonstration. All three were sitting members of parliament at the time of the events.

According to the complainant, the aim of the demonstration that took place on 17 June 2022 was to protest against the decision of the Constitutional Council to reject the appeal lodged by the main opposition coalition, *Yewwi Askan Wi*, against the decision taken by the Ministry of the Interior to invalidate the national list of the coalition's candidates for the July 2022 legislative elections.

The three members of parliament are currently free and two of them were re-elected in the legislative elections held on 31 July 2022 (Ms. Diarra Fam and Mr. Dolly Mbacké). According to the latest information provided by the complainant, Mr. Fall was sentenced to a six-month suspended prison sentence and a fine of 100,000 CFA francs. He was not permitted to run in the legislative elections because his name was on the invalidated list of candidates of the *Yewwi Askan Wi* coalition.

Case SEN-COLL-01

Senegal: Parliament affiliated to the IPU

Victim: Three opposition members of parliament (including one woman)

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

Submission of complaint: June 2022

Recent IPU decision(s): - - -

Recent IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: September 2022
- Communication to the authorities: Letter to the Speaker of the National Assembly (December 2022)
- Communication to the complainant: January 2023

Ms. Diarra Fam was subsequently released, and Mr. Dolly Mbacké was provisionally released and is currently awaiting trial.

According to the complainant, the detention of and proceedings brought against the three members of parliament were politically motivated and stemmed from their status as members of the opposition. Their detention also constituted a violation of their parliamentary immunity. In regard to detention conditions, the complainants also stated that Mr. Dolly Mbacké was reportedly being held in detention with about 100 other people in a small room, in deplorable sanitary conditions.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint was submitted in due form by a qualified complainant under section I.1(c) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the complaint concerns members of parliament in the exercise of their duties at the time of the alleged events.
3. *Notes also* that the complaint concerns allegations of arbitrary arrest and detention, lack of due process at the investigation stage, violation of freedom of opinion and expression, and failure to respect parliamentary immunity, all of which fall within the Committee's mandate.
4. *Notes*, nevertheless, that the information submitted by the complainant is not sufficient at this stage to establish the facts of the case and that the Committee's repeated requests for additional and updated information have to date remained unanswered, even though the complainant was in a position to provide it;
5. *Considers*, therefore, that the complaint appears to be *prima facie* admissible under the provisions of section IV of the Procedure; and *declares itself* competent to examine the case.
6. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.

Bolivia

(Plurinational State of)

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



Ms. Clotilde Padilla Solíz, 2022 © Cámara de Diputados de Bolivia

BOL-84 – Clotilde Padilla Solíz

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation

A. Summary of the case

According to the complainant, Ms. Padilla was the victim of physical attacks on 2 January 2023 while she was in the vicinity of the La Ramada market in the city of Santa Cruz, Bolivia. Ms. Padilla was walking with her husband in this area when police officers were about to arrest an individual.

The complainant asserts that Ms. Padilla, in the exercise of her functions as a member of parliament and after having clearly identified herself as such, approached the police to ask why they were detaining the individual. Confronted with her questions, the male police officers refused to give any explanations and began hitting her on various parts of her body in a clearly sexist manner. The police also tried to immobilize her with the obvious aim of getting her into a police vehicle, according to the complainant, to transport her and her husband to an unknown location. A group of people at the scene reportedly prevented the member of parliament and her husband from being detained. Ms. Padilla was then allegedly threatened.

The complainant claims that the acts of violence to which Ms. Padilla was subjected left her with physical and psychological harm requiring medical treatment and that, in Bolivia, gender-based violence against women in politics is commonplace. Furthermore, there is a disproportionate targeting of political violence against women.

Case BOL-84

Bolivia: Parliament affiliated to the IPU

Victim: Female opposition member of parliament

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

Submission of complaint: January 2023

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: January 2023
- Communication to the authorities: January 2023
- Communication to the complainant: January 2023

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint was submitted in due form by a qualified complainant under section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the complaint concerns an incumbent female member of parliament at the time of the alleged violations;
3. *Notes* that the complaint concerns allegations of torture, ill-treatment and other acts of violence, and of threats and acts of intimidation, allegations which fall under the Committee's mandate.
4. *Considers*, therefore, that the complaint is admissible with regard to the provisions of section IV of the Procedure for the examination and treatment of complaints; and *declares* itself competent to examine the case.
5. *Expresses concern* at the allegations contained in the complaint that Ms. Padilla was subjected to police violence and subsequently threatened for performing her parliamentary duties and, in particular, at the alleged discriminatory and sexist nature of such violence; *considers* that she may indeed have been particularly exposed to intersecting forms of discrimination and violence owing to her status as a woman and an opposition member of parliament; *recalls* that sexism and gender-based violence against women parliamentarians undermine their dignity, create an intimidating, hostile, degrading, humiliating or offensive environment, and perpetuate gender inequalities and stereotypes;
6. *Affirms* that the Plurinational Legislative Assembly, by virtue of its legislative, budgetary and oversight powers, has an obligation to act with due diligence to help prevent all forms of violence against women, investigate such acts and punish the perpetrators, as well as to implement the necessary measures to eliminate obstacles that may prevent women parliamentarians, irrespective of their political views, from fully exercising their rights without discrimination and free of violence; *urges* the Bolivian parliamentary authorities to do their utmost to shed light on the alleged facts in the case in hand and, where appropriate, to hold to account those responsible for the violence and threats against Ms. Padilla, including by facilitating action by other competent authorities to this end; *wishes* to receive official information on any action taken by parliament to this end;
7. *Requests* the Secretary General to convey this decision to the Speaker of the Plurinational Legislative Assembly, the complainant and any third party likely to be in a position to supply relevant information;
8. *Decides* to continue examining this case.

Afghanistan

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



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AFG-09 – Mursal Nabizada

Alleged human rights violations

- ✓ Murder
- ✓ Threats, acts of intimidation
- ✓ Other violations: discrimination
- ✓ Other violations: crime against humanity

A. Summary of the case

Ms. Mursal Nabizada was elected to the House of the People (*Wolesi Jirga*) of Afghanistan in 2018. She was one of the few parliamentarians who remained in Kabul after the precipitated capture of the city by the Taliban armed group on 15 August 2021, which led to the effective dissolution of parliament.^[1]

The complainant reports that in the early hours of the morning of 15 January 2023, unidentified armed men arrived in vehicles belonging to the Taliban General Directorate of Intelligence (GDI) and stormed Ms. Nabizada's home in the Ahmad Shah Baba Mina neighbourhood of Kabul. According to the complainant, several shots were heard by neighbours before the armed men departed. Ms. Nabizada was found dead with gunshot wounds to the chest and head. The attack also claimed the life of her bodyguard and her brother and driver also suffered gunshot wounds but survived the attack.

According to the complainant, Ms. Nabizada had previously expressed concerns to fellow members of parliament living in exile that she had been repeatedly threatened and harassed by an unidentified senior intelligence official from the Taliban Ministry of the Interior. The official reportedly told her that he intended to force her to marry him. According to the complainant, Ms. Nabizada claimed she refused to give in to those threats of forced marriage and was killed as a result.

Case AFG-09

Afghanistan: Parliament affiliated to the IPU

Victim: A female member of parliament

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

Submission of complaint: January 2023

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: January 2023
- Communication(s) to the authorities: - - -
- Communication to the complainant: January 2023

[1] <https://www.ipu.org/news/statements/2023-01/tribute-afghan-mp-mursal-nabizada>

The complainant reports that the practice of forcibly marrying women and girls is widespread in Taliban-controlled Afghanistan. It has been well documented in the press and by human rights groups. The practice results in gender-based violence, mental harm, rape, murder and even suicide as a way out of a dangerous and hopeless situation. This is corroborated by Afghan parliamentarians in exile with whom the IPU is in contact. Ms. Shaharзад Akbar, former chair of the Afghanistan Independent Human Rights Commission, reports that the human rights situation of women and girls has become catastrophic and that the Taliban, who have reneged on early promises to respect basic women's rights, are implementing a "gender apartheid". Afghan parliamentarians in exile report that, as a result, women and girls in Afghanistan are facing systemic and institutionalized discrimination, which manifests itself through pervasive gender-based violence and the exclusion of women and girls from higher education, work in the public sector and public life in general. This exclusion is further compounded by the collapse of existing networks of support for survivors of gender-based violence and the prevalence of impunity for acts of violence against elected female leaders such as Ms. Nabizada.

Even though the murder of Ms. Nabizada was the first case of a murdered parliamentarian since the Taliban takeover, attacks on women parliamentarians were frequent in the past. In a separate case, Ms. Fawzia Koofi and her sister Ms. Maryam Koofi suffered numerous murder attempts. The latest one, which occurred on 14 August 2020, left Ms. Fawzia Koofi wounded in the arm. These attacks remain unpunished despite the IPU's repeated calls on the authorities to ensure that the culprits are held accountable in order to protect the lives and the rights of female parliamentarians, as well as of the people they represent. The prevalence of impunity for widespread and systemic acts of murder and other crimes against humanity committed by the Taliban and others led to the opening of an investigation by the International Criminal Court (ICC) on 20 November 2017.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint was submitted in due form by a qualified complainant under section I.1(d) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the complaint concerns an incumbent member of parliament at the time of the alleged violations;
3. *Notes further* that the complaint concerns murder, threats, acts of intimidation, discrimination and crimes against humanity, allegations which fall under the Committee's mandate;
4. *Considers*, therefore, that the complaint is admissible under the provisions of section IV of the Procedure for the examination and treatment of complaints; and *declares itself* competent to examine the case;
5. *Condemns in the strongest terms* the appalling murder of Ms. Mursal Nabizada; *is resolutely convinced* that this crime of wanton brutality against a woman parliamentarian is an affront to all human rights and all the values and principles promoted by the IPU; *is dismayed* by reports that Ms. Nabizada was murdered for her refusal to give in to the threats of forced marriage by a high-ranking member of the Taliban armed group, an abhorrent manifestation of violence and discrimination against women; *recalls* that, as defined in Article 7 of the Rome Statute of the International Criminal Court (ICC), the widespread and systematic practice of murder constitutes a crime against humanity; *concludes*, in light of the information at its disposal, that the murder of Ms. Nabizada may amount to a crime against humanity;
6. *Firmly believes* that this vicious crime must not be left unpunished; *requests* the Secretary General to submit a communication to the Office of the Prosecutor of the ICC with a request to consider including the murder of Ms. Nabizada as part of the ongoing investigation into crimes against humanity committed by armed groups in Afghanistan; *urges* all IPU Members and Observers to lend their support to the ICC so that the perpetrators of this crime are held to account and to take any action they can to prevent any repetition of such atrocities in line with principles of international law;

7. *Requests* the Secretary General to convey this decision to the Speaker of the *Wolesi Jirga*, the Prosecutor of the ICC, the Special Representative of the United Nations Secretary-General for Afghanistan and any other party likely to be in a position to supply relevant information;
8. *Decides* to continue examining this case.

Indonesia

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



People carry the coffin of Indonesian member of parliament, Nashiruddin Daud at Darussalam, Aceh Besar, 1 February 2000. AFP photo/Matnoor AL-FARISI /AFP

IDN-13 - Tengku Nashiruddin Daud

Alleged human rights violations

- ✓ Murder
- ✓ Torture, ill-treatment and other acts of violence
- ✓ Impunity

A. Summary of the case

Mr. Daud was found murdered, bearing signs of torture, on 25 January 2000. The police concluded early on that three members of the former Free Aceh Movement (*Gerakan Aceh Merdeka* – GAM) – one of whom is now deceased – were responsible for the murder. To date, the two remaining suspects identified by the authorities appear not to have been apprehended. The Indonesian National Human Rights Commission, the then Governor of Aceh, the complainant and others have contested the GAM's involvement, claiming that Mr. Daud's murder is far more likely to be linked to his outspoken criticism of government policies in Aceh and his condemnation of human rights abuses committed by the military during the Aceh insurgency at the time. During the Committee's on-site visit in September 2008, parliament and other authorities stated their commitment to lending impetus to the investigation.

Case IDN-13

Indonesia: Parliament affiliated to the IPU

Victim: A male opposition member of parliament

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

Submission of complaint: October 2000

Recent IPU decision: February 2021

IPU mission: September 2008

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities:
Letter from the Secretary General of the House of Representatives (March 2021)
- Communication from the complainant:
February 2022
- Communication to the authorities:
Letter to the Speaker of the House of Representatives (December 2022)
- Communication to the complainant:
March 2022

A 2016 report from the Indonesian Parliament stated that the investigation was ongoing, with members of the GAM still the prime suspects in the murder. According to police reports, the investigation had been hindered by several factors, including the destruction caused by the 2004 tsunami. At the request of the IPU, parliament wrote several letters asking the police to expedite their investigation, given that the statute of limitations on murder in Indonesia is 18 years. Nevertheless, despite repeated requests to expedite the process and consider other leads, the murder of Mr. Daud remains unresolved more than 20 years after the facts.

In February 2022, the new complainant in the case reported that the Indonesian Human Rights Commission's *pro justitia* inquiry into human rights abuses during the Aceh conflict that it opened in 2013 was focused exclusively on five mass killings involving large numbers of ordinary citizens, rather than high-profile figures such as Mr. Daud. The complainant contends that of all the inquiries that were finalized and submitted to the Attorney General's office by the Commission, none have resulted in a trial or an investigative process by the authorities.

The new complainant also reported that the Aceh Truth and Reconciliation Commission (TRC), which was established in 2016 as part of the peace accords, has not yet included the case of Mr. Daud in its case work. The complainant added that the TRC needed additional support from the State to enable it to work effectively and highlighted that, out of the numerous cases of extrajudicial killings and enforced disappearances from that period that were submitted to the authorities, none have been resolved, resulting in a total lack of accountability.

Attempts have regularly been made to re-establish contact with Mr. Daud's family in light of the lack of new information from the original complainant. In February 2022, the Secretariat received word from a member of the family who reported that further action by the IPU would not be useful.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Expresses grave concern* over the total impunity in this case, 23 years after Mr. Tengku Nashiruddin Daud was tortured and murdered;
2. *Further expresses grave concern* that over the course of more than two decades, despite numerous calls for justice to be done and in spite of repeated action taken by parliament to convey IPU decisions to the relevant authorities, the authorities responsible for investigating the crime have systematically avoided heeding its calls to consider the leads pointing to the involvement of State agents in the murder of Mr. Daud in retaliation for his condemnation of human rights abuses committed by the military in Aceh; *points out* that its concerns in this respect have remained unanswered to this day;
3. *Deeply regrets* that the letters sent by the parliamentary authorities in March 2021 remained silent on these allegations and that parliament did not respond to the latest request for information; *concludes*, in light of all the information at its disposal, that justice has been denied in this murder of a sitting parliamentarian, and that the authorities have failed to respect their obligation to investigate the murder and hold the perpetrators to account;
4. *Is deeply concerned* at reports that of all the numerous cases of murder, torture and enforced disappearances established by the Aceh Truth and Reconciliation Commission since its establishment in 2016, none have been resolved, and that of all the inquiries that were finalized and submitted to the Attorney General's office by the National Human Rights Commission, none have resulted in a trial or an investigative process by the authorities;
5. *Reaffirms its view* that impunity presents a serious threat both to members of parliament and to those they represent; *emphasizes* that parliament has a duty to ensure that every effort is made to uphold the rights of its citizens and that no violation of their rights is left unpunished;
6. *Urges*, therefore, the parliamentary authorities to lend their full support to the Truth and Reconciliation Commission, including by providing it with the resources that are necessary to make its work effective, and to work closely with the National Human Rights Commission to

ensure that justice is done and that society can heal the wounds and divisions that may remain after the devastating events of the Aceh conflict;

7. *Notes*, however, that the complainant in this case has formally stated that the family of Mr. Daud no longer wishes the Committee to take action in this case; and therefore *decides* to close the case in accordance with section IX, paragraph 25(c) of its Procedure for the examination and treatment of complaints;
8. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant.

Mongolia

*Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session
(Geneva, 21 January to 2 February 2023)*



© Erdenebat Jargaltulga

MNG-08 – Erdenebat Jargaltulga

Alleged human rights violations

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

A. Summary of the case

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

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

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

Case MNG-08

Mongolia: Parliament affiliated to the IPU

Victim: Male majority member of parliament

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

Submission of complaint: June 2020

Recent IPU decision: February 2022

Recent IPU Mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: Letter from the Vice-Chairman of the State Great Hural (no information on the case) (February 2021)
- Communication from the complainants: January 2023
- Communication to the authorities: Letter to the Vice-Chairperson of the State Great Hural (December 2022)
- Communication to the complainants: January 2023

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

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

During a visit in November 2022 to the IPU headquarters in Geneva, a delegation from the secretariat of the State Great Hural reported that Mr. Erdenebat had been released in March 2021, and that he had resumed his parliamentary functions immediately after his release. In December 2022, the complainants confirmed that Mr. Erdenebat had been exercising his parliamentary mandate since March 2021 without hindrance after the Supreme Court of Mongolia concluded that a number of laws had been infringed in his case and that there was no evidence confirming that he had committed a crime.

The complainants reiterated, however, that the charges against Mr. Erdenebat were politically motivated and that his conviction had been orchestrated to prevent him from taking part in the 2020 parliamentary elections. They added that the Prosecutor's Office of Mongolia and the Anti-Corruption Agency have yet to dismiss the case through the adoption of a formal decision or report. The complainants also stated that, following the complaint regarding the case of Mr. Erdenebat, the Judicial Disciplinary Committee of Mongolia decided to dismiss some of the judges who had participated in the decision-making process that had led to his dismissal and other political candidates during the elections.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Mongolian delegation for the recent information provided in November 2022 about the case of Mr. Erdenebat Jargaltulga and *welcomes* the support the parliamentary authorities have expressed since the start of the case by making it clear that his parliamentary immunity had not been respected;
2. *Takes note* of the ruling of the Supreme Court of Mongolia dismissing the case of Mr. Erdenebat and *welcomes* his subsequent release and resumption of parliamentary work; *decides*, therefore, to close this case pursuant to section IX, paragraph 25, of its Procedure for the examination and treatment of complaints, considering that a satisfactory settlement has been reached;
3. *Regrets*, however, that Mr. Erdenebat's parliamentary immunity was not upheld; *recalls* that he spent nearly one year in detention after being convicted and prosecuted for reasons that appear to be other than legal following the conclusion of an expeditious trial in which his right to fair trial proceedings appear to have been violated; *invites* the Prosecutor's Office of Mongolia and the Anti-Corruption Agency to officially dismiss the case; *encourages* the authorities to take the necessary measures to promote respect and the protection of parliamentary immunity to ensure that members of the State Great Hural are not arbitrarily prosecuted and convicted;
4. *Requests* the Secretary General to convey this decision to the parliamentary authorities and the complainants.

Pakistan

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



© Muhammad Azam Khan Swati

PAK-26 – Muhammad Azam Khan Swati

Alleged human rights violations

- ✓ Enforced disappearance
- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Lack of due process at the investigation stage
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of movement
- ✓ Other violations: right to privacy

A. Summary of the case

Mr. Muhammad Azam Khan Swati is a member of the Senate of Pakistan and a former minister and vice-president of the Pakistan *Tehreek-e-Insaf* (PTI) party led by former Prime Minister Imran Khan. According to the complainant, since the removal of Mr. Imran Khan as prime minister in April 2022, Mr. Swati and a number of other high-ranking PTI officials have been persecuted by the newly established government and the security sector leadership in Pakistan.

The complainant reports that, during the night of 13 October 2022, a few hours after publishing a tweet criticizing the military for meddling in politics, Mr. Swati was abducted by a group of armed men in plain clothes claiming to belong to the Federal Investigation Agency (FIA), who stormed his residence and submitted him to severe beatings in front of his family before covering his head in a black cloth and taking him to an unknown location in their vehicle, where he was tortured until he lost

Case PAK-26

Pakistan: Parliament affiliated to the IPU

Victim: Opposition member of the National Assembly of Pakistan

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

Submission of complaint: December 2022

Recent IPU decision(s): - - -

IPU Mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: January 2023
- Communication from the complainant: December 2022
- Communication to the authorities: Letter to the Speaker of the National Assembly (December 2022)
- Communication to the complainant: December 2022

consciousness. When he regained consciousness, Mr. Swati found himself in a detention centre, where he was allegedly submitted to torture and degrading treatment and later presented with a defamation charge. He was eventually freed on bail by a special FIA court on 21 October 2022.

According to the complainant, once Mr. Swati was released on bail, he started to receive intimidating messages from people claiming to work for intelligence agencies who pressured him to stay silent and desist from exposing the alleged human rights violations that he had endured. The complainant reports that, as Mr. Swati refused to back down, his wife and daughter received an objectionable video recording of Mr. Swati and his wife. The complainant alleges that the State had violated Mr. Swati's rights to privacy by secretly recording the video and leaking it to his wife and daughter, causing him and his entire family much distress.

According to the complainant, during the night of 26 November 2022, Mr. Swati was re-arrested at his house by agents of the FIA Cybercrime Wing and taken to prison, while his family received numerous first information reports (FIRs) filed against him by the police on account of a speech he had made hours before his arrest. In his speech, Mr. Swati questioned the source of income of the outgoing chief of staff, General Qamar Javed Bajwa, and identified the General as well as Director General of Counter Intelligence Faisal Naseer and Sector Commander Faheem Raza as the instigators of the violations against him. According to the complainant, on 2 December 2022, Mr. Swati was hospitalized with acute chest pains due to a worsening of his underlying heart condition while he was imprisoned on remand in Islamabad, but as Mr. Swati and his family were in hospital waiting to receive the results of medical examinations, state officials forcibly removed Mr. Swati from hospital and took him to an undisclosed location. The complainant reports that there was no official communication of Mr. Swati's location for some time, which raised fears that he might be a victim of enforced disappearance. However, according to the complainant, Mr. Swati's family received informal communications that he had been flown from Islamabad to the remote province of Balochistan, where he was to be detained on remand, and no explanation or reason was given for the sudden transfer of Mr. Swati far from the capital. The complainant reported that Mr. Swati's family members were in a state of turmoil and extremely concerned for the health of Mr. Swati, given his heart condition and his recent incarceration. Mr. Swati was finally released on bail on 3 January 2023 by the Islamabad High Court, although the bail order contained a warning that should Mr. Swati "repeat the offence" the order would be revoked.

A campaign for the release of Mr. Swati was organized by his supporters, but also by his colleagues in the Senate, who referred the matter to various authorities on his behalf. In a letter sent in January 2023, the Chair of the Senate reported that the Senate Standing Committee on Human Rights unanimously condemned the alleged torture sustained by their colleague on 20 October 2022. The Senate Chair also reported that a special parliamentary committee had been set up to investigate the allegations of breach of privacy.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint concerning Mr. Muhammad Azam Khan Swati was submitted in due form by a qualified complainant under section I.(1)(c) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the complaint concerns an incumbent member of parliament at the time of the alleged violations;
3. *Notes further* that the complaint concerns allegations of enforced disappearance, torture, ill-treatment and other acts of violence, threats, acts of intimidation, arbitrary arrest and detention, inhumane conditions of detention, lack of due process in proceedings against parliamentarians, lack of due process at the investigation stage, violation of freedom of opinion and expression, violation of freedom of movement and violation of the right to privacy, allegations which fall under the Committee's mandate;
4. *Considers*, therefore, that the complaint is admissible under the provisions of section IV of the Procedure for the examination and treatment of complaints; and *declares itself* competent to examine the case;

5. *Thanks* the Chair of the Senate of Pakistan for his cooperation, in particular for the information provided on the promising action taken by the Senate to investigate the allegations and demand that his rights are respected; *notes with appreciation* the assurance given by the Chair of the Senate that the Senate will be consistently monitoring the case and continue to raise the case with all relevant stakeholders to ensure that all the rights of Mr. Swati are fully respected; *wishes* to be informed of the outcome of the actions taken by parliament to that end, in particular that of the special parliamentary committee established by the Chair of the Senate;
6. *Is concerned* by the serious allegations conveyed by the complainant, including allegations of intimidation, torture, inhuman and degrading treatment, enforced disappearance and arbitrary arrest, which would amount to violations that are wholly unacceptable in a democratic society, particularly when they are directed against a sitting member of parliament; *decides* to mandate a trial observer to monitor the upcoming court proceedings against Mr. Swati; and *wishes* to be kept informed of the dates of the trial when available, and of any other relevant judicial developments in the case, as well as to receive a copy of the relevant legal provisions;
7. *Is also concerned* by the persistent pattern of allegations of lack of due process and impunity in previous cases of parliamentarians in Pakistan, as established in the cases of Mr. Ali Wazir, Mr. Rana Sanaullah and Mr. Riaz Fatyana; *considers* in this regard that parliament has a vested interest and an undeniable duty to ensure that the rights of all its members, irrespective of their political allegiance or opinion, are fully protected and that no affront to their rights and dignity is left unpunished;
8. *Considers* also that, in light of all the aforesaid concerns, a Committee mission to Pakistan to discuss the issues at hand directly with all the relevant authorities and other stakeholders would be of utmost importance; and *hopes* to be able to rely on the assistance of the parliamentary authorities to facilitate the organization of this mission as soon as possible;
9. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
10. *Decides* to continue examining this case.

Philippines

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



Philippine senator Leila de Lima is escorted by police after her arrest at the Senate in Manila on 24 February 2017 © Ted Aljibe/AFP

PHL-08 – Leila de Lima

Alleged human rights violations

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

A. Summary of the case

Ms. Leila de Lima served as Chairperson of the Philippines Commission on Human Rights from May 2008 to June 2010. In that capacity, she led a series of investigations into alleged extrajudicial killings linked to the so-called Davao Death Squad in Davao City, where Mr. Duterte had been long-time mayor, and concluded that Mr. Duterte, former President of the Philippines, was behind the Davao Death Squad.

In 2010, Ms. de Lima was appointed Secretary of Justice. She resigned from this position in October 2015 to focus on her campaign for a senate seat in the May 2016 elections, a bid that was successful. In August 2016, as Chair of the Senate Committee on Justice and Human Rights, she launched an inquiry into the killings of thousands of alleged drug users and drug dealers, which had reportedly taken place since President Duterte took office in June 2016. Since becoming senator, she has been the target of acts of intimidation and denigration, including by the then President Duterte himself.

On 7 November 2016, Ms. de Lima had filed a petition for writ of *habeas data* against the then President Duterte before the Supreme Court, requesting that the Court, *inter alia*, order President Duterte and any of his representatives to cease: seeking details about her private life outside the realm of legitimate public concern or making statements maligning her as a woman and injuring her dignity as a human being; discriminating against her on the basis of gender; describing or publicizing her alleged sexual conduct; engaging in psychological violence against her; and otherwise violating her rights or engaging in acts that are contrary to law, good morals, good customs, public policy and/or

Case PHL-08

Philippines: Parliament affiliated to the IPU

Victim: Female opposition member of parliament

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

Submission of complaint: September 2016

Recent IPU decision: May 2021

Recent IPU mission: May 2017

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: Letter from the Director General of the Office of International Relations and Protocol of the Senate and Secretary of the IPU Group of the Philippines (April 2021)
- Communication from the complainant: November 2020
- Communication to the authorities: Letter to the President of the Senate (December 2022)
- Communication to the complainant: January 2023

public interest. On 18 October 2019, the Supreme Court dismissed the petition for writ of *habeas data* on the grounds that the President is immune from suit during his incumbency and tenure.

Ms. de Lima was arrested and detained on 24 February 2017 over accusations of receiving drug money to finance her campaign for a senate seat. The charges, in three different cases, were brought in the wake of an inquiry by the House of Representatives into drug trading in New Bilibid Prison, and Ms. de Lima's responsibility in such trading while she was Secretary of Justice. The House-led inquiry was launched one week after she initiated her inquiry in the Senate into the extrajudicial killings.

Since July 2018, Ms. de Lima has been charged in the three cases before Branches 205 and 256 of the Regional Trial Court (RTC) – Muntinlupa City. On 17 February 2021, RTC Branch 205 granted Ms. de Lima's demurrer to evidence in case No. 17-166, technically acquitting her, in the absence of sufficient evidence.

The complainant points out that during the presentation of the Prosecution's evidence in the first of the two remaining cases (case No. 17-165), not only was there no physical evidence of the alleged illegal drugs, or the money allegedly delivered to Ms. de Lima as her share in the alleged illegal drug trade, but even the Prosecution's own witnesses, mostly criminals serving sentences in the New Bilibid Prison, denied any involvement or even any personal knowledge of the alleged illegal drug trade. Instead, the Prosecution spent most of its time attempting to prove the guilt of its own witnesses, including Mr. Peter Co, Mr. Hans Tan and Mr. Vicente Sy, all of whom repeatedly denied any involvement in the illegal drug trade, and whom the Prosecution, to this date, has failed to indict as co-conspirators. Conveniently, the only person who was consistently singled out by these witnesses as having personal knowledge of the New Bilibid Prison drug trade and the role of Ms. de Lima died on 26 September 2016. That person, Mr. Tony Co, was an inmate who was stabbed to death in a staged prison riot that targeted inmates who initially refused to testify against Ms. de Lima before the House of Representatives Justice Committee's hearing on the New Bilibid Prison drug trade. Most importantly, the complainant points out that, the Prosecution's foremost witness in the case, Mr. Rafael Ragos, former National Bureau of Investigation Deputy Director and former Bureau of Corrections Officer-in-Charge, who had been the sole witness to testify that he had delivered money to Ms. de Lima's house on two occasions, recanted all his testimonies and statements against Ms. de Lima on 30 April 2022. In his retraction, Mr. Ragos said that he had been forced to testify against her by the then Secretary of Justice Vitaliano Aguirre II, who led the witch hunt against Ms. de Lima in the Philippines' House of Representatives Justice Committee's hearings in 2016.

In the second remaining case (case No. 17-167), the complainant underscores that at least two witnesses, Mr. Joel Capones and Mr. Herbert Colanggo, claim to have engaged in illegal drug trading. Despite these admissions made under oath and in open court, to this day the Prosecution has actively refused to charge them, whether as co-conspirators in the same case or in a separate case. According to the complainant, this consistent and conspicuous refusal by the Prosecution to indict the persons that the State itself alleges have committed the crime of illegal drug trading raises doubts as to the veracity of their testimony, as they are clearly benefiting from the State's failure to prosecute them, despite not being discharged as state witnesses. The complainant states that the State may deny giving them any immunity in exchange for their testimony but, nevertheless, they have undeniably been enjoying that benefit.

On 30 November 2018, the United Nations Working Group on Arbitrary Detention concluded, echoing the conclusions of an earlier IPU mission to the Philippines, that Senator de Lima's detention was arbitrary and that her immediate release was in order.

Ms. de Lima ran for re-election to the Senate from detention in the elections held in May 2022 but was not re-elected.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Expresses grave concern* that six years after she was first charged, Ms. de Lima continues to languish in detention, even after the key witness against her in one of the two remaining cases stated that he had been forced by the former executive authorities to testify against her;

2. *Is ever more convinced* that the steps taken against Ms. de Lima came in response to her vocal opposition to the way in which the then President Duterte was waging a war on drugs, including her denunciation of his alleged responsibility for extrajudicial killings; *points out* in this regard the inexplicable length of the criminal proceedings with no clear end in sight, the repeated violation of the principle of the presumption of innocence, the dubious choice of jurisdiction to present the accusations against her, the timing of the criminal proceedings, the amendment of the charges and the reliance on testimonies of convicted drug traffickers, who were either given favourable treatment in return, subjected to physical intimidation, including death, in prison, or have an axe to grind against Ms. de Lima as a result of her efforts to dismantle their drug trafficking operations when she was Secretary of Justice;
3. *Renews its call*, in light of the foregoing, for Ms. de Lima to be released immediately and for the legal proceedings against her to be dropped; *urges* the authorities to take the necessary action forthwith;
4. *Requests* that, should charges not be dropped, an IPU trial observer continue to monitor and report on respect for fair-trial standards in the cases before Branches 205 and 256 of the Regional Trial Court in Muntinlupa City, including in order to assess if and how existing concerns about the legality and fairness of the proceedings are properly reviewed;
5. *Regrets once more* that it was not possible for the Supreme Court to rule on the public campaign of vilification of Ms. de Lima by the highest state authorities, thereby missing an important opportunity to condemn and end the public degrading treatment to which she has been subjected as a woman parliamentarian;
6. *Requests* the Secretary General to convey this decision to the relevant parliamentary authorities, the complainant and any third party likely to be in a position to supply relevant information;
7. *Decides* to continue examining the case.

Sri Lanka

*Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session
(Geneva, 21 January to 2 February 2023)*



© Courtesy Mr. Rishad Bathiudeen's family

LKA-77 – Rishad Bathiudeen

Alleged human rights violations

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

A. Summary of the case

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

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

Case LKA-77

Sri Lanka: Parliament affiliated to the IPU

Victim: Male opposition member of parliament

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

Submission of complaint: May 2021

Recent IPU decision: November 2021

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: August 2021
- Communication from the complainant: November 2022
- Communication to the authorities: December 2021
- Communication to the complainant: November 2022

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

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

On 2 November 2022, Colombo Fort Magistrate's Court acquitted Mr. Bathiudeen, given that the Attorney General had informed the court that his office had no evidence to constitute charges against him.

B. Decision

The Committee on the Human Rights of parliamentarians

1. *Takes note* that on 2 November 2022, Colombo Fort Magistrate's Court acquitted Mr. Bathiudeen, given that the Attorney General had informed the court that his office had no evidence to bring charges against him;
2. *Regrets*, nevertheless, that Mr. Bathiudeen was detained for six months under the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979, in the absence of the prompt processing of his Fundamental Rights Application and without any information having been made available to show on what concrete factual basis Mr. Bathiudeen was considered a suspect in the investigation, which only gave weight to the statement by the complainant that there was in fact no case against him;
3. *Considers* that, in light of Mr. Bathiudeen's acquittal, there are no grounds for any further action in this case; and *decides* to close any further examination of the case in line with Article 25 of the Annex I to the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians;
4. Nevertheless *calls on* the Parliament of Sri Lanka to abolish or amend, as recommended on many occasions by United Nations human rights mechanisms, the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 and proposes that the IPU offer assistance to that end; *recalls* in this regard that the Act allows arrests for unspecified "unlawful activities" without warrant and permits detention for up to 18 months without the authorities bringing the suspect before a court, and that this has led to multiple abuses since the adoption of the Act;
5. *Requests* the Secretary General to convey this decision to the parliamentary authorities and to the complainant.

Sri Lanka

*Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session
(Geneva, 21 January to 2 February 2023)*



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

LKA-78 – Ranjan Ramanayake

Alleged human rights violations

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

A. Summary of the case

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

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

The complainant states that Mr. Ramanayake’s prison sentence comes in response to his strong opposition to the Government and his efforts to denounce and root out corruption. The complainant considers that Mr. Ramanayake’s sentencing and conviction run counter to his right to freedom of expression, all the more so considering that ample information is available to show the level of corruption in the judiciary, and to his right to participate in the conduct of public affairs, given that his

Case LKA-78

Sri Lanka: Parliament affiliated to the IPU

Victim: Male opposition member of parliament

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

Submission of complaint: August 2021

Recent IPU decision: November 2021

IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: Letter from the Attorney General (November 2021)
- Communication from the complainant: August 2022
- Communication to the authorities: October 2021
- Communication to the complainant: August 2022

parliamentary mandate was terminated as a result on 7 April 2021. Moreover, the complainant, as well as the United Nations Special Rapporteur on the independence of judges and lawyers, state that in the Sri Lankan legal system "contempt of court " has not been defined clearly, and that the verdict cannot be appealed.

On 26 August 2022, President Ranil Wickremesinghe signed a conditional presidential pardon for Mr. Ramanayake, which subsequently led to his release on the understanding that he would no longer make any statement constituting contempt of court and that he would refrain from acting in a manner that would constitute contempt of court.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Is very pleased* that Mr. Ramanayake was finally released and pardoned;
2. *Considers*, therefore, that there are no grounds for any further action in this case; and *decides* to close any further examination of the case in line with Article 25 of the Annex I to the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians;
3. Nevertheless *recalls* its previous concerns that Mr. Ramanayake was tried and sentenced on the basis of unclear legal standards and without the possibility of appeal against a hefty prison term for exercising his right to freedom of speech and his parliamentary mandate, which includes oversight of the overall state of administration of justice; *recalls its views* that both common law jurisprudence and human rights doctrine amply demonstrate that freedom of speech must be the overriding value where contempt of court is concerned; *sincerely hopes* therefore that the relevant Sri Lankan authorities, including parliament, will take the necessary steps to address the underlying concerns that arose in this case; and *proposes* that the IPU offer its assistance for this purpose should the Sri Lankan authorities so wish;
4. *Requests* the Secretary General to convey this decision to the parliamentary authorities and the complainant.

Türkiye

*Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session
(Geneva, 21 January to 2 February 2023)*



Aysel Tuğluk during an interview with AFP in Diyarbakir, 17 July 2007. AFP PHOTO/STR STR/AFP

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|---------------------------------------|-----------------------------------|
| TUR-69 - Gülser Yildirim (Ms.) | TUR-107 - Ferhat Encü |
| TUR-70 - Selma Irmak (Ms.) | TUR-108 - Hişyar Özsoy |
| TUR-71 - Faysal Sariyildiz | TUR-109 - Idris Baluken |
| TUR-73 - Kemal Aktas | TUR-110 - Imam Taşçier |
| TUR-75 - Bedia Özgökçe Ertan (Ms.) | TUR-111 - Kadri Yildirim |
| TUR-76 - Besime Konca (Ms.) | TUR-112 - Lezgin Botan |
| TUR-77 - Burcu Çelik Özkan (Ms.) | TUR-113 - Mehmet Ali Aslan |
| TUR-78 - Çağlar Demirel (Ms.) | TUR-114 - Mehmet Emin Adiyaman |
| TUR-79 - Dilek Öcalan (Ms.) | TUR-115 - Nadir Yildirim |
| TUR-80 - Dilan Dirayet Taşdemir (Ms.) | TUR-116 - Nihat Akdoğan |
| TUR-81 - Feleknaş Uca (Ms.) | TUR-118 - Osman Baydemir |
| TUR-82 - Figen Yüksekdağ (Ms.) | TUR-119 - Selahattin Demirtaş |
| TUR-83 - Filiz Kerestecioğlu (Ms.) | TUR-120 - Sirri Süreyya Önder |
| TUR-84 - Hüda Kaya (Ms.) | TUR-121 - Ziya Pir |
| TUR-85 - Leyla Birlik (Ms.) | TUR-122 - Mithat Sancar |
| TUR-86 - Leyla Zana (Ms.) | TUR-123 - Mahmut Toğrul |
| TUR-87 - Meral Daniş Beştaş (Ms.) | TUR-124 - Aycan Irmez (Ms.) |
| TUR-88 - Mizgin Irgat (Ms.) | TUR-125 - Ayşe Acar Başaran (Ms.) |
| TUR-89 - Nursel Aydoğan (Ms.) | TUR-126 - Garo Paylan |
| TUR-90 - Pervin Buldan (Ms.) | TUR-128 - Aysel Tuğluk (Ms.) |
| TUR-91 - Saadet Becerikli (Ms.) | TUR-129 - Sebahat Tuncel (Ms.) |
| TUR-92 - Sibel Yiğitalp (Ms.) | TUR-130 - Leyla Guven (Ms.) |
| TUR-93 - Tuğba Hezer Öztürk (Ms.) | TUR-131 - Ayşe Sürücü (Ms.) |
| TUR-94 - Abdullah Zeydan | TUR-132 - Musa Farisogullari |
| TUR-95 - Adem Geveri | TUR-133 - Emine Ayna (Ms.) |
| TUR-96 - Ahmet Yildirim | TUR-134 - Nazmi Gür |
| TUR-97 - Ali Atalan | TUR-135 - Ayla Akat Ata (Ms.) |
| TUR-98 - Alican Önlü | TUR-136 - Beyza Ustün (Ms.) |
| TUR-99 - Altan Tan | TUR-137 - Remziye Tosun (Ms.) |
| TUR-100 - Ayhan Bilgen | TUR-138 - Kemal Bulbul |
| TUR-101 - Behçet Yildirim | TUR-140 - Gültan Kışanak (Ms.) |
| TUR-102 - Berdan Öztürk | TUR-141 - Serma Güzel (Ms.) |
| TUR-105 - Erol Dora | TUR-142 - Saliha Aydemir (Ms.) |
| TUR-106 - Ertuğrul Kürkcü | |

Alleged human rights violations

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

A. Summary of the case

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

Since 2018, over 30 parliamentarians have been sentenced to prison terms. Since 4 November 2016, scores of parliamentarians have been detained and others have gone into exile. Nine current and former parliamentarians are in prison, namely the former HDP co-chairs, Mr. Selahattin Demirtaş and Ms. Figen Yüksekdağ, as well as Mr. Idris Baluken, Ms. Leyla Güven, Ms. Semra Güzel, Ms. Gültan Kışanak, Mr. Sebahat Tuncel, Ms. Ayla Akat Ata and Mr. Nazmi Gur. Some of them were arrested in September 2020, although the accusations against them relate to the events in the distant past that unfolded soon after the siege of Kobane in Syria in 2014. Fourteen HDP members of parliament have lost their parliamentary mandates in recent years, largely as a result of their criminal convictions. On 27 October 2022, former parliamentarian Ms. Aysel Tuğluk was released from prison following a forensic medicine institution report citing health concerns.

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

An IPU trial observer concluded in 2018 that the prospects for Ms. Yüksekdağ and Mr. Demirtaş receiving fair trials were remote and that the political nature of both prosecutions was evident. It should be noted that, on 17 July 2022, the Constitutional Court ruled in one of the cases against Ms. Yüksekdağ that her rights to freedom of thought and expression, as well as to be elected, were violated when she was stripped of her parliamentary immunity in 2016.

A 2018 IPU review of 12 court decisions issued against HDP members reached similar conclusions. It concluded, *inter alia*, that the judiciary in Türkiye, from the first-instance courts to the Constitutional Court, completely disregarded the case law of the European Court of Human Rights and the main

Case TUR-COLL-02

Türkiye: Parliament affiliated to the IPU

Victims: 67 opposition members of parliament (33 men and 34 women)

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

Submission of complaint: June 2016

Recent IPU decision: October 2022

IPU mission: June 2019

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

Recent follow-up:

- Communications from the authorities: Responses from the President of the Turkish IPU Group (January 2023)
- Communication from the complainant: January 2023
- Communication to the authorities: Letter to the President of the IPU Group (October 2022)
- Communication to the complainant: January 2023

judgment of the Turkish Constitutional Court in relation to freedom of expression when evaluating whether an expression constituted incitement to violence or one of the other offences with which the members of parliament were charged.

On 22 December 2020, the Grand Chamber of the European Court of Human Rights delivered its judgment in the case of *Demirtaş v. Türkiye* (No. 2) (Application No. 14305/17), and held that there had been violations of his rights to freedom of expression, to freedom and security, to a speedy decision on the lawfulness of detention and to free elections. The Court also found that Mr. Demirtaş' detention, especially during two crucial campaigns relating to the referendum of 16 April 2017 and the presidential elections of 24 June 2018, had pursued the ulterior motive of stifling pluralism and limiting freedom of political debate, which was at the very core of the concept of a democratic society. The Court held that the respondent state was to take all necessary measures to secure his immediate release. Since then, European parliamentary and executive institutions have called on the Turkish authorities to implement the judgment without delay. On 7 January 2021, the Ankara 22nd Assizes Court accepted a 3,500-page indictment against Mr. Demirtaş and 107 other defendants, issued by the Ankara public prosecutor on 30 December 2020, regarding the same protests that took place in October 2014, this time charging Mr. Demirtaş with 30 new offences. Since then, Mr. Demirtaş has been sentenced to prison terms in other criminal cases, reportedly most recently on 24 January 2022 with regard to public criticism voiced in February 2016 against the then Prime Minister, Mr. Ahmet Davutoğlu, during a rally held in Mersin. The Turkish authorities have stated that the ruling of the European Court of Human Rights could not be implemented, given that Mr. Demirtaş' ongoing detention was related to new evidence that is substantially different from that examined by the Court. Similarly, on 8 November 2022, the European Court of Human Rights ruled that Türkiye had violated Articles 10 (freedom of expression) and 5 (subparagraphs 1, 3 and 4 concerning the right to freedom and security) of the European Convention regarding the pretrial detention of 13 HDP parliamentarians elected to parliament in November 2015, namely Ms. Figen Yüksekdağ, Mr. İdris Baluken, Ms. Besime Konca, Mr. Abdullah Zeydan, Mr. Nihat Akdoğan, Ms. Selma Irmak, Mr. Ferhat Encu, Ms. Gülser Yıldırım, Mr. Nursel Aydoğan, Ms. Çağlar Demirel, Mr. Ayhan Bilgen, Ms. Burcu Çelik Özkan, and Ms. Leyla Birlik.

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

On 19 October 2021, in the landmark decision *Vedat Şorli v. Turkey*, the European Court of Human Rights found that Article 299 of the Turkish Criminal Code, which criminalizes insulting the President, was incompatible with the right to freedom of expression, and urged the Government to align legislation with Article 10 of the European Convention on Human Rights.

The Turkish authorities have provided extensive information on the legal status of the criminal proceedings against the HDP parliamentarians, without, however, providing information on the precise facts to support the charges or convictions. According to the official information note dated 21 September 2022, provided by the President of the Turkish IPU Group, with regard to the 531 criminal files against 51 HDP parliamentarians (out of the 66 that are the subject of the present case) 33 rulings were issued concluding that there was no room for prosecution and 126 merger/postponement/administrative sanction decisions were made. Moreover, legal proceedings were launched in 349 files, 51 of which are still pending, while convictions have been handed down in 79 files against 38 HDP parliamentarians. Moreover, 230 files, closed through resolutions, indicate that there is no room for acquittal/punishment/postponement of the prosecution. The note specifies in this regard that 23 files were sent to parliament with a decision to stop after the relevant person was elected as a member of parliament while the trial was still ongoing, and after these files were returned to their place; that a conviction decision was given for three members of parliament in three files; that, with regard to 11 files, there is no room for acquittal/punishment/postponement of prosecution and that they were closed through resolutions; and that nine files are still pending/ongoing.

The Turkish authorities have repeatedly justified the legality of the measures taken against the HDP parliamentarians, and invoked the independence of the judiciary, the need to respond to security and terrorism threats and legislation adopted under the state of emergency. The authorities have provided detailed information on parliament's May 2016 "provisional constitutional amendment" on parliamentary

immunity, which has been used to prosecute parliamentarians from all parties. They have asserted that there is no “HDP witch hunt” in Türkiye; that women parliamentarians are not being specifically targeted; that there is no Kurdish issue in Türkiye and no current conflict in south-eastern Türkiye; that Türkiye is facing a terrorism issue on many levels involving the PKK and its “extensions”; that the HDP has never publicly denounced the violent activities of the PKK; that HDP members, including members of parliament, have made many statements in support of the PKK and their “extensions”; that HDP members have attended funerals of PKK suicide bombers and called for people to take to the streets, which has resulted in violent incidents with civilian casualties; that this does not fall within the acceptable limits of freedom of expression; that the Constitutional Court has reached such conclusions in several cases and, in other cases, domestic remedies have not yet been exhausted; and that the independence of the judiciary and the rule of law in Türkiye must be respected.

On 17 March 2021, the chief prosecutor of the Turkish Court of Cassation referred a request for the dissolution of the HDP to the Constitutional Court, accusing the HDP of terrorist activities. It appears that the prosecution is drawing heavily on the ongoing proceedings against several HDP politicians in the 2014 Kobane case referred to earlier, which is ongoing. On 5 January 2022, the Constitutional Court agreed to a request by the chief prosecutor of the Court of Cassation for the interim measure of freezing the HDP’s bank accounts containing state treasury support, which political party groups in parliament are entitled to receive. Parliamentary and presidential elections are due to take place on 18 June 2023. It is said that, without public funding, running an election campaign is quite impossible. On 10 January 2023, the chief prosecutor gave an oral presentation of the case against the HDP to the Constitutional Court, which the HDP will respond to later before the Court convenes to deliberate and issue a final ruling. It is feared that the HDP will be banned before the general elections of 14 May 2023.

In response to the proposed return of a Committee delegation to Türkiye, the President of the Turkish IPU Group stated in a letter of 13 January 2023 that, given that “presidential and parliamentary elections will be held in the spring of this year in Türkiye, we will not be able to host the Committee in our country during the election process”.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the President of the Turkish IPU Group for her latest communication;
2. *Is deeply alarmed* at the ever more likely prospect of the dissolution of the HDP party, also bearing in mind that its predecessors were dissolved by court order; *considers* that this step shows once again that the authorities continue to view, wrongly, the PKK and the HDP as one and the same entity; *recalls* in this regard that, while recognizing that the two organizations rely largely on the same support base and pursue similar objectives, the HDP is a legal political party that does not in any way advocate violence to achieve its goals; *is concerned* that its dissolution would prevent candidates from the HDP from running for office in the forthcoming elections and hence prevent the party’s electorate from exercising their right to seek representation in the Turkish Parliament; *requests* assurances that the HDP will continue to be allowed to exist and function; *underlines* in this regard also that the European Court of Human Rights has ruled that the dissolution or ban of a party is an extreme measure only justified as a last resort, in very exceptional circumstances, and that it has already handed down several rulings, notably against Türkiye, in which the ban on a political party had been considered a human rights violation; and *urges* the Turkish authorities, therefore, to do their utmost to comply with its obligations under the European Convention on Human Rights in this area;
3. *Notes with concern* in this regard, also, that in recent years the number and scope of the rulings from the European Court of Human Rights underscore that the legal steps to which the HDP parliamentarians have been subjected did not follow due process and came in direct response to the exercise of their freedom of expression and, as determined in the case of Mr. Demirtaş, were aimed at stifling the opposition;
4. *Reaffirms its long-standing view* that, in their legitimate fight against terrorism, the Turkish authorities need to take more decisive action to ensure that current national legislation and its application are in line with international and regional standards on freedom of opinion and expression, assembly and association;

5. *Remains deeply concerned* in this regard that nine current and former parliamentarians continue to languish in prison; *considers*, once more, that the information provided by the Turkish Parliament does nothing to dispel the doubts that the HDP parliamentarians have been targeted in connection with the legitimate exercise of their political rights; *urges*, therefore, the Turkish authorities to review their situation and, where possible, release them and terminate the criminal proceedings; *decides* to send a trial observer to the criminal proceedings in the 2014 Kobane case, given the existing fair trial concerns and the potentially decisive impact that the outcome of these proceedings may have on the request for the dissolution of the HDP;
6. *Considers* that, in light of all the aforesaid concerns and the forthcoming elections in Türkiye, a mission to that country to discuss the issues at hand directly with all the relevant authorities and other stakeholders would be extremely timely now; *strongly encourages*, therefore, the parliamentary authorities, despite their busy schedule, to help facilitate the organization of this mission as soon as possible;
7. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
8. *Decides* to continue examining this case.

Tunisia

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session (Geneva, 21 January to 2 February 2023)



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

TUN-06 – Abir Moussi

Alleged human rights violations

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

A. Summary of the case

A member of the Assembly of People's Representatives elected in 2019, Ms. Abir Moussi was the victim of acts of verbal and physical violence and sexist, degrading insults directly linked to the exercise of her parliamentary mandate. The abuse suffered by Ms. Moussi is allegedly based, on the one hand, on the fact that she is the leader of an opposition political party and, on the other hand, on her gender. Ms. Moussi has also received serious death threats, which she has reported to the police, who are providing her with security.

The complainant's allegations were supported by videos and excerpts from social media posts that helped identify the alleged perpetrators, including two members of the Assembly of People's Representatives elected in 2019, Mr. Seifeddine Makhlouf and Mr. Sahbi Smara. The latter physically assaulted Ms. Moussi during Assembly proceedings on 30 June 2021. The two parliamentarians were apparently not punished, as before the suspension of the Tunisian parliament on 25 July 2021, no disciplinary measures had been taken by the parliamentary authorities against them or against other members of the same political party accused of harassing and intimidating Ms. Moussi with the aim of removing her from political life. To date, Ms. Moussi's complaints to the Public Prosecutor's Office and the police to initiate criminal proceedings against these members of parliament have not been acted on and no criminal sanctions have been taken against them.

In their letters of November 2020 and April and May 2021, the parliamentary authorities pointed out that they had strongly condemned the actions of Mr. Makhlouf, as had the parliamentary committee

Case TUN-06

Tunisia: Parliament affiliated to the IPU

Victim: Female opposition member of parliament

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

Submission of complaint: October 2020

Recent IPU decision: October 2022

Recent IPU mission(s): - - -

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

Recent follow-up:

- Communications from the authorities: Letters from the executive authorities (January 2022 and June 2022)
- Communication from the complainant: December 2022
- Communication to the authorities: Letter to the President of the Republic (January 2023)
- Communication to the complainant: December 2022

set up for this purpose by the Speaker of Parliament elected in 2019. In their letter dated 14 April 2021, the parliamentary authorities stated that an initiative to create a code of parliamentary ethics to use as a mechanism to eliminate violence in parliament was under discussion. The authorities also expressed their willingness to cooperate with the Inter-Parliamentary Union in order to restore a climate of peace and eliminate all forms of violence in parliament. In their letter of May 2021, the parliamentary authorities nevertheless pointed out that Ms. Moussi had allegedly caused disturbances and verbally abused other members of the Assembly elected in 2019, allegations which were refuted by the complainant.

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

In their letter of 28 January 2022, the executive authorities stated that a security escort was provided by the Ministry of the Interior to Ms. Moussi (when travelling to and from work). The executive authorities stated that the acts of violence to which Ms. Moussi had been subjected on the Assembly premises in June 2021 were due to the decision of the Bureau of the Assembly to prohibit access to the security escort inside the Assembly. In their letter of 28 January 2022, the Tunisian authorities added that the failure of the Bureau of the Assembly to take measures to prevent the assaults against Ms. Moussi was evidence of the deterioration and paralysis of the National Assembly. Lastly, the authorities confirmed that Ms. Moussi had filed two complaints against the Speaker of the Assembly elected in 2019, which had reportedly been forwarded to the judicial police. Similarly, four complaints had also been filed against her by the Speaker of the Assembly elected in 2019 and the State General Counsel, accusing her of disrupting Assembly sittings and contempt of the complainants.

After months of prolonged political crisis in the country, President Kaïs Saïed suspended parliament on 25 July 2021, invoking Article 80 of the Constitution. President Saïed also lifted the parliamentary immunity of all members of parliament, dismissed the Prime Minister and his government and granted himself all state powers. After renewing the exceptional measures in August 2021, President Saïed issued a presidential decree (Decree No. 2021-117) in September 2021 granting him all state powers. The President can thus legislate by means of presidential decrees, which are not subject to judicial review in the absence of a Constitutional Court. Although their parliamentary immunity had been lifted, none of the members of parliament elected in 2019 who were guilty of the acts of violence have been apprehended to answer for their actions towards Ms. Moussi.

Despite the provisions of Article 80 of the Constitution, according to which parliament is considered to be in a permanent state of assembly during any exceptional measure taken by the President, the suspension of the legislative body led to its effective dissolution on 30 March 2022. The President also announced a road map, which included plans for legislative elections on 17 December 2022 and a constitutional referendum on 25 July 2022, the ratification of a new constitution on 30 June 2022 and the publication of a new electoral law on 15 September 2022. Following the constitutional referendum, the new constitution would expand the powers of the President and limit the role of parliament, while the new electoral law adopted by presidential decree would reduce the roles of political parties. President Saïed's draft reform has been marked by a lack of inclusive national dialogue and the marginalization of stakeholders involved in the Tunisian political landscape.

On 22 September 2022, the African Court on Human and Peoples' Rights adopted a decision on Tunisia, in which it ruled that the President's power to take exceptional measures was limited by the procedural requirements provided for in Article 80 of the Constitution. The court found that the measures adopted were disproportionate not only to their stated objectives, but also to Tunisian laws.

According to the allegations forwarded by the complainant in October 2022, the presidential decrees are prejudicial to Ms. Moussi and to the members of her political party, who were allegedly prevented from demonstrating peacefully against the holding of the constitutional referendum, the draft constitution, and the new electoral law. They were also allegedly subjected to acts of violence by the

police, whose neutrality was called into question by the complainant in view of the violence committed against Ms. Moussi and members of her party.

Regarding the request for an IPU mission, the Tunisian authorities stated in their letter of 20 June 2022 that they could not respond favourably to this request and that it would be considered after the next legislative elections, the first round of which was held on 17 December 2022. According to the results published by the Independent High Electoral Authority (ISIE), the participation rate was approximately 11 per cent. Several political parties, civil society organizations and the Tunisian General Labour Union (UGTT) – the country's most powerful union – boycotted the legislative elections, as they considered the whole constitutional process initiated by President Saïed not to have been free or fair. Those stakeholders therefore rejected the results of the elections, considering them to be illegitimate.

A communication received from the complainant in January 2023 stated that Ms. Moussi's party was allegedly prohibited from demonstrating freely, in particular in a march organized on 14 January 2023 from the building housing the Carthage Cantonal Court to the presidential palace to demonstrate their opposition to the decisions taken by President Saïed. According to the complainant, the Governor of Tunis had banned the demonstration on the grounds that the Carthage area was a secure area in which demonstrations were prohibited. In defiance of the ban, Ms. Moussi and her supporters were allegedly violently prevented by officers from a police squad from going ahead with their march on 14 January 2023. Ms. Moussi is also reportedly the subject of a smear campaign by President Saïed's supporters.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Reaffirms*, once more, that the assaults against Ms. Moussi are a step backwards and represent a danger both to women's political rights and to the proper functioning of parliament; *strongly condemns* the acts of violence committed against her and all other forms of violence suffered by her, as well as all demeaning practices aimed against female parliamentarians;
2. *Fails to understand* why the continued absence of judicial proceedings and criminal sanctions against the individuals who repeatedly assaulted Ms. Moussi, in particular Mr. Seifeddine Makhoulouf, who has been tried and convicted in a civil court in other cases brought against him; *stresses* that impunity, which amounts to shielding those responsible from justice and accountability, decisively encourages the commission of other serious violations of women's rights, and that attacks on the physical and psychological integrity of women parliamentarians, when they go unpunished, violate their fundamental rights and threaten their participation in political life, especially when they are in the opposition and are targeted in a context of generalized regression, as in the present case; *calls on*, once again, the competent authorities to take appropriate measures to hold to account those responsible for the acts of violence against Ms. Moussi;
3. *Expresses its concern* about the fresh allegations of harassment suffered by Ms. Moussi and the violation of her right to protest, which appear to stem from her openly expressed opposition to the exceptional measures adopted by the President of the Republic; *stresses* that the right to peaceful assembly and association is guaranteed under the Universal Declaration of Human Rights, to which Tunisia is a party; *reaffirms* that Tunisian women should be able to perform their civil and political rights without hindrance and intimidation; to that end, *calls on* the competent authorities to respect Ms. Moussi's rights;
4. *Reiterates* its request to carry out a mission to Tunisia and *hopes sincerely* that the Tunisian authorities will be able to welcome a delegation of the Committee on the Human Rights of Parliamentarians to Tunisia in the near future in order to find a satisfactory solution to Ms. Moussi's case, to foster a constructive and inclusive dialogue, and to explore ways to combat intimidation against women in politics;
5. *Requests* the Secretary General to convey this decision to the President of the Republic, the complainant and any third party likely to be in a position to supply relevant information;
6. *Decides* to continue examining this case.

Tunisia

*Decision adopted by the Committee on the Human Rights of Parliamentarians at its 170th session
(Geneva, 21 January to 2 February 2023)*



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

- | | |
|---------------------------------------|--------------------------------|
| TUN-07 - Seifedine Makhoul | TUN-35 - Imed Khemiri |
| TUN-08 - Maher Zid | TUN-36 - Walid Jalled |
| TUN-09 - Maher Medhioub | TUN-37 - Safi Said |
| TUN-10 - Yosri Dali | TUN-38 - Iyadh Elloumi |
| TUN-11 - Fethi Ayadi | TUN-39 - Noomane El Euch |
| TUN-12 - Awatef Ftirch (Ms.) | TUN-40 - Abdelhamid Marzouki |
| TUN-13 - Omar Ghribi | TUN-41 - Ayachi Zammal |
| TUN-14 - Faiza Bouhlel (Ms.) | TUN-42 - Samir Dilou |
| TUN-15 - Samira Smii (Ms.) | TUN-43 - Habib Ben Sid'hom |
| TUN-16 - Mahbouba Ben Dhifallah (Ms.) | TUN-44 - Mabrouk Khachnaoui |
| TUN-17 - Mohamed Zrig | TUN-45 - Bechir Khelifi |
| TUN-18 - Issam Bargougui | TUN-46 - Nouha Aissaoui (Ms.) |
| TUN-19 - Samira Chaouachi (Ms.) | TUN-47 - Latifa Habachi (Ms.) |
| TUN-20 - Belgacem Hassan | TUN-48 - Ferida Laabidi (Ms.) |
| TUN-21 - KENZA Ajela (Ms.) | TUN-49 - Mohamed Affas |
| TUN-22 - Emna Ben Hmayed (Ms.) | TUN-50 - Abdellatif Aloui |
| TUN-23 - Bechr Chebbi | TUN-51 - Mehdi Ben Gharbia |
| TUN-24 - Monjia Boughanmi (Ms.) | TUN-52 - Rached Khiari |
| TUN-25 - Wafa Attia (Ms.) | TUN-53 - Lilia Bellil (Ms.) |
| TUN-26 - Jamila Jouini (Ms.) | TUN-54 - Moussa Ben Ahmed |
| TUN-27 - Mohamed Lazher Rama | TUN-55 - Oussama Khelifi |
| TUN-28 - Nidhal Saoudi | TUN-56 - Ghazi Karoui |
| TUN-29 - Neji Jmal | TUN-57 - Mohamed Fateh Khelifi |
| TUN-30 - Zeinab Brahmi (Ms.) | TUN-58 - Ziad El Hachemi |
| TUN-31 - Mohamed Al Azhar | TUN-59 - Sofiane Makhoulfi |
| TUN-32 - Nouredine Bhiri | TUN-60 - Majdi Karbai |
| TUN-33 - Rached Ghannouchi | TUN-61 - Anouar Ben Chahed |
| TUN-34 - Tarek Fetiti | TUN-62 - Yassine Ayari |

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage and of fair trial proceedings
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Violation of freedom of movement
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Failure to respect parliamentary immunity
- ✓ Other acts obstructing the exercise of the parliamentary mandate

A. Summary of the case¹

The present case concerns 56 members of the Assembly of People's Representatives of Tunisia elected in 2019 who, according to the complainants, are victims of arbitrary prosecutions after having expressed their opposition to the exceptional measures adopted by President Kaïs Saïed since 25 July 2021.

More generally, the suspension of parliament on 25 July 2021 by President Saïed had an impact on the 217 members of the Assembly of People's Representatives elected in 2019, who were deprived of their parliamentary immunity, allowances, medical coverage and freedom of movement, including for the purposes of receiving medical treatment.

On 30 March 2022, 120 members of parliament elected in 2019 took part in an online plenary session to discuss the presidential decrees. A few hours after the plenary session, President Saïed officially dissolved parliament and the public prosecutor opened an investigation into the members of parliament for an attempted coup d'état and conspiracy against justice. For fear of reprisals, only nine of the 120 members of parliament concerned, including the Speaker of the National Assembly, Rached Ghannouchi, submitted a complaint to the Committee. Mr. Ghannouchi was questioned at great length on 1 April 2022 about this case.

Moreover, the dissolution of parliament had, according to the complainants, additional consequences for some members of parliament elected in 2019 from the Ennahda and Al Karama blocs, who were directly targeted because of their opposition to President Saïed. Mr. Seifeddine Makhoul and Mr. Nidhal Saoudi were imprisoned for several months before being released in January 2022, while three other individuals were placed under house arrest until early October 2021. The cases concerning these members of parliament are also being examined in the military courts, as provided for by Tunisian law. In this regard, it should be noted that, according to the complainants, Mr. Seifeddine Makhoul, Mr. Nidhal Saoudi, Mr. Mohamed Affas and Mr. Maher Zid were first prosecuted in the so-called "airport" case in the civil courts, which in March 2022 sentenced them to a three-month suspended prison term. In May 2022, the Permanent Military Court of Tunis sentenced them again to five months' imprisonment. On 20 January 2023, the Criminal Chamber of the Military Court of Appeal handed down its final verdict in the case, sentencing Mr. Makhoul to one year and two months' imprisonment, Mr. Saoudi to seven months' imprisonment and Mr. Affas and Mr. Zid to five months' imprisonment. The complainants have requested a hearing to express their opposition to the verdict, which will take place on 10 February 2023.

On 31 December 2021, Mr. Noureddine Bhiri was arrested without warrant or explanation and placed under house arrest as a preventive measure before being released on 8 March 2022. Charged in connection with a number of cases, Mr. Rached Khiari has been detained since 3 August 2022 in connection with a case where he is accused by the Ministry of Education of defamation on social media

Case TUN-COLL-01

Tunisia: Parliament affiliated to the IPU

Victim: 56 members of the opposition (43 men and 13 women)

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

Submission of complaints: August, September and October 2021

Recent IPU decision: October 2022

IPU mission(s): - - -

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

Recent follow-up:

- Communications from the authorities: Letters from the executive authorities (June and October 2022)
- Communication from the complainants: January 2023
- Communication to the authorities: Letter to the President of the Republic (January 2023)
- Communication to the complainants: January 2023

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

networks. Mr. Khiari is also alleged to have accused President Saïed of receiving foreign funding for his 2019 election campaign, a case that was referred to the military courts. According to the complainants, on 17 January 2023, Mr. Khiari appeared in this case before the Criminal Chamber of the Military Court, which dismissed the case for lack of jurisdiction. However, the prosecution has reportedly appealed this decision and Mr. Khiari remains in prison. The complainants alleged that Mr. Khiari's right of access to health care had been violated, as his health condition required medical treatment outside his place of detention. Similarly, Mr. Mehdi Ben Gharbia has been held in pretrial detention since 20 October 2021, accused of money laundering. Mr. Ben Gharbi is allegedly still being held in pretrial detention, despite that detention exceeding the legal six-month limit. The new request for release submitted by his lawyers was again reportedly rejected without grounds. The complainants also allege that the proceedings against Mr. Ben Gharbia are aimed solely at keeping him in detention. The Criminal Chamber of the Court of First Instance of Sousse decided to postpone the hearing until 16 February 2023. As for Mr. Rached Ghannouchi, he is allegedly the target of politically motivated persecution, as he has been charged in several cases that are, according to the complainants, politically motivated.

Although this case includes individual situations, some of which relate to events prior to the dissolution of parliament, the violations suffered by all the members of parliament concerned, belonging to the Assembly of People's Representatives elected in 2019, are part of the exceptional measures taken by President Saïed since 25 July 2021. President Saïed invoked Article 80 of the Constitution to suspend and dissolve parliament, lift the parliamentary immunity of members of parliament, dismiss the Prime Minister and his government, and assume executive power after months of prolonged political crisis in the country. After renewing the exceptional measures in August 2021, President Saïed issued a presidential decree (Decree No. 2021-117) in September 2021 granting him all state powers. The President can thus legislate by means of presidential decrees, which are not subject to judicial review in the absence of the Constitutional Court.

Despite the provisions of Article 80 of the Constitution, according to which parliament is considered to be in a permanent state of assembly during any exceptional measure taken by the President, the suspension of the legislative body was replaced by its effective dissolution on 30 March 2022. The road map announced by the President provided for the organization of parliamentary elections on 17 December 2022, a constitutional referendum to be held on 25 July 2022, a new constitution ratified on 30 June 2022 and a new electoral law published on 15 September 2022. The new Constitution reportedly extends the powers of the President and limits the role of parliament, while the new electoral law adopted by presidential decree reportedly reduces the roles of the political parties. President Saïed's reform plan was marked by the absence of an inclusive national dialogue and the marginalization of relevant actors in the Tunisian political landscape.

In their letter of 28 January 2022, the executive authorities stated that all members of parliament, whose functions had been frozen, enjoyed freedom of movement and travel, apart from those covered by a legal decision prohibiting them from leaving the country. In a more recent communication of 11 October 2022, the executive authorities confirmed that the members of parliament who had taken part in the online session of 30 March 2022 were being investigated. As for the situation of Mr. Ben Gharbia, the authorities stated that he was currently the subject of a criminal prosecution; his first hearing of 7 July 2022 had been deferred to 13 October 2022. The requests for him to be freed were refused.

On 22 September 2022, the African Court on Human and Peoples' Rights adopted a decision against Tunisia, finding that the power of the President of the Republic to take exceptional measures was limited by the procedural requirements of Article 80 of the Constitution. The Court concluded that the measures adopted were not only disproportionate to their stated objectives, but also to the laws of Tunisia.

Concerning the request for an IPU mission, the Tunisian authorities indicated in their letter of 20 June 2022 that they could not respond favourably to this request and that it would be considered after the next legislative elections, the first round of which was held on 17 December 2022. According to the results published by the Independent High Electoral Authority (ISIE), the participation rate was approximately 11 per cent. Several political parties, civil society organizations and the Tunisian General Labour Union (UGTT) – the country's most powerful union – boycotted the legislative elections, as they considered the whole constitutional process initiated by President Saïed not to have been free or fair. Those stakeholders therefore rejected the results of the elections, deeming them to be illegitimate.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Regrets* the lack of detailed official information concerning the situation of the members of parliament elected in 2019 who are subject to judicial proceedings; and *calls* on the Tunisian authorities to continue the dialogue with the Committee by providing the requested information;
2. *Expresses its deep concern* at the double conviction of the members of parliament elected in 2019, of Mr. Seifeddine Makhlouf, Mr. Nidhal Saoudi, Mr. Mohamed Affas and Mr. Maher Zid by the military and civilian courts in the same case; *stresses* that, according to Article 14(7) of the International Covenant on Civil and Political Rights, to which Tunisia is a party, “No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country”; *reiterates* in this respect its concern about the use of the military courts in cases concerning civilians; *calls on* the Tunisian authorities to ensure that military courts are not used in cases concerning the members of parliament elected in 2019 and to review the provisions of Tunisian law that allow this practice;
3. *Calls on* the Tunisian authorities to take the necessary steps to ensure fair trials in accordance with the relevant national and international standards for all individuals subject to criminal proceedings; *wishes* to receive detailed information on the situation of Mr. Seifeddine Makhlouf, Mr. Nidhal Saoudi, Mr. Mohamed Affas, Mr. Maher Zid, Mr. Rached Khiari and, in particular, on the situation of Mr. Mehdi Ben Gharbia, with a view to gaining an understanding of the reasons why he has been kept in detention since 20 October 2021;
4. *Reiterates its concern* at the situation of the 120 members of parliament elected in 2019 who took part in the online plenary session of 30 March 2022 and who are consequently being investigated for attempted conspiracy and endangering state security; *stresses* that the members of parliament at the online meeting appear to have discussed the presidential decrees adopted since 25 July 2021 in order to examine their constitutionality, in the exercise of their parliamentary duties; *is deeply concerned* that the plenary session led to the dissolution of parliament by the President of the Republic; *affirms* that, despite the suspension of parliament by the President, and bearing in mind the general political situation, the meeting of those members of parliament should not lead to legal proceedings and criminal sanctions against them; and once more *calls on* the authorities to abandon the proceedings against them;
5. *Remains concerned* at the situation of all members of the Assembly of People's Representatives elected in 2019 and the restrictions to which they have been subjected, including lifting of immunity, travel ban, withdrawal of allowances and, in particular, health care cover, which constitutes a major obstacle for some members of parliament who need expensive medical care; and *calls on* the authorities to lift this restriction and allow those members of parliament requiring medical care abroad to travel;
6. *Reiterates* its request to carry out a mission to Tunisia and *hopes sincerely* that the Tunisian authorities will be able to welcome a delegation of the Committee on the Human Rights of Parliamentarians to Tunisia in the near future, so that satisfactory solutions can be found to the cases at hand, to foster a constructive and inclusive dialogue, and to discuss the kind of assistance the Inter-Parliamentary Union could provide to the Tunisian Parliament;
7. *Requests* the Secretary General to convey this decision to the President of the Republic, the complainants and any third party likely to be in a position to supply relevant information;
8. *Decides* to continue examining this case.

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