SENEGAL

- **SEN-07**: Khalifa Ababacar Sall
- **SEN-08**: Ousmane Sonko
Dakar’s mayor and head of the African Union’s observation team, Khalifa Ababacar Sall, speaks during a press conference, on 13 March 2011, AFP Photo/Seyllou

SEN-07 – Khalifa Ababacar Sall

Alleged human rights violations

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

A. Summary of the case

Mr. Khalifa Ababacar Sall was elected as a member of parliament in July 2017, while he was on remand in custody in connection with accusations of misappropriation of public funds. On 25 November 2017, at the request of the Public Prosecutor, the National Assembly lifted Mr. Sall’s parliamentary immunity.

At the conclusion of a trial that lasted nearly two and a half months, Mr. Sall was sentenced on 30 March 2018 to a five-year prison sentence without parole and a fine of 5 million CFA francs, for forgery and use of forgery in business documents, forgery and use of forgery in administrative documents, and fraud involving public funds.

Having had Mr. Sall’s case referred to it, the Court of Justice of the Economic Community of West African States (ECOWAS) raised several irregularities in the conduct of the trial and preliminary investigation. The ECOWAS court’s findings and the irregularities it raised were not taken into account by the Court of Appeal, which upheld the first-instance judgment on 30 August 2018. Mr. Sall’s lawyers withdrew from the appeal process in order to denounce the arbitrary nature of the trial. They then took the case to the Supreme Court (Court of Cassation), the last possible remedy. On 3 January 2019, the Supreme Court dismissed all the appeals brought by Mr. Sall on the grounds that they were "inadmissible or ill-founded" and upheld his sentence.
Once the conviction had been upheld, Mr. Sall’s parliamentary mandate was permanently revoked by the Bureau of the National Assembly. From his cell, Mr. Sall applied to stand in the 2019 presidential elections, but his candidacy was declared inadmissible by the Constitutional Court. Pardoned by the President of the Republic, Mr. Sall was released on 29 September 2019. The Electoral Code of Senegal provides that persons who, as a result of a conviction, have been disqualified from voting, cannot – once rehabilitated or amnestied – be refused registry on the electoral roll.

In September 2022, the President of the Republic reportedly instructed the Minister of Justice to examine, as soon as possible, the possibility and appropriate form of amnesty for persons who had lost their right to vote. At the hearing held at the 146th IPU Assembly, the Senegalese delegation confirmed that a draft amnesty law was being prepared and that targeted IPU assistance in that regard would be useful and welcome.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. **Thanks** the Senegalese delegation for the information provided and for having met with the members of the Committee on the Human Rights of Parliamentarians at the 146th IPU Assembly for a constructive discussion on the case under consideration and related concerns;

2. **Notes with satisfaction** Mr. Sall’s release following a presidential pardon in September 2019 and the information provided by the Senegalese delegation to the 146th IPU Assembly that a draft amnesty law is being prepared at the national level; **notes** that Mr. Sall’s situation is not an isolated case, as at least another opposition candidate (see case SEN-08) could be definitively excluded from the presidential race in 2024 following a possible conviction; **considers** in this regard that an amnesty scheme covering Mr. Sall’s situation and enabling him to regain full enjoyment of his civil rights would be an appropriate means of obtaining a satisfactory settlement of this long-standing case; **recalls**, nevertheless, that any amnesty law must meet a number of specific criteria in order to be compatible with international human rights standards;

3. **Notes with interest** the statement made by the Senegalese delegation to the 146th IPU Assembly that parliament would like to receive the IPU’s assistance in preparing the new amnesty law; **reaffirms** in this regard that the IPU stands ready to provide targeted assistance concerning the amnesty scheme under preparation, if officially requested; and **invites** the parliamentary authorities to provide further information on how the IPU could best provide such assistance;

4. **Requests** the Secretary General to convey this decision to the parliamentary authorities of Senegal and to the complainant;

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

Decision adopted unanimously by the IPU Governing Council at its 211th session
(Manama, 15 March 2023)

SEN-08 – Ousmane Sonko

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

Mr. Ousmane Sonko is president of PASTEF-Les Patriotes, a Senegalese opposition party. He was a member of the National Assembly in the previous legislature (2017–2022) and has his sights set on high office. Mr. Sonko came third in the 2019 presidential elections and has officially announced that he would run in the 2024 presidential elections. According to the complainant, the present case is part of ongoing efforts by the ruling party to remove any possibility of change in political leadership.

On 8 February 2021, Mr. Sonko was summoned by the Section de recherche de la Gendarmerie nationale (National Gendarmerie's Research Section) after a complaint of rape was filed against him, an offence he categorically denied. On the same day, the Public Prosecutor requested the opening of a judicial investigation and the investigating judge requested the lifting of Mr. Sonko's parliamentary immunity. The National Assembly plenary voted in favour of lifting his immunity on 26 February 2021.

On 3 March 2021, Mr. Sonko was summoned to court and went accompanied by a crowd of activists. According to the complainant, the procession was stopped half way by security forces, who arrested Mr. Sonko. The complainant alleges several irregularities concerning Mr. Sonko's detention, the criminal proceedings and the procedure for lifting parliamentary immunity.
According to the parliamentary authorities, the case is not of a political nature and procedures have been followed. On the day he was summoned by the judge, Mr. Sonko allegedly mobilized members and supporters of his party and refused to follow the route designated by the law enforcement authorities, thus creating serious public disorder problems. All this took place against a background of a ban on gatherings and demonstrations, following the health emergency declared because of COVID-19. These acts of public disorder were reportedly the reason for his arrest and detention for insurgency and practices and acts likely to disrupt public security, which are offences provided for and punished in the Senegalese Criminal Code.

Mr. Sonko was released under judicial supervision on 8 March 2021. The Public Prosecutor dropped the initial charges brought against him for public disorder. In September 2022, the complainant stated that the investigation into the allegations of rape was ongoing, which the parliamentary authorities confirmed in an official letter dated 11 October 2022. On 3 November 2022, Mr. Sonko was heard by the senior judge in charge of the case. According to the complainant, Mr. Sonko refused to submit to a DNA test requested by the Court as, according to him, the case brought against him was “a plot”.

Given that the list of candidates for the proportional vote submitted by his coalition, on which he was included, had been declared inadmissible, Mr. Sonko could not participate in the legislative elections of July 2022 as a candidate.

On 6 February 2023, Mr. Sonko was forcibly taken out of his car by police officers and taken to his home in an armoured van after having appeared before the court.

At the hearing held during the 146th IPU Assembly, the Senegalese delegation reiterated that the case was not of a political nature, that Mr. Sonko’s rights had been respected throughout the procedure and that justice should follow its course.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. **Thanks** the Senegalese delegation for the information it communicated and for having met with the members of the Committee on the Human Rights of Parliamentarians during the 146th IPU Assembly to discuss in a constructive manner the case being examined and the concerns therein;

2. **Underlines** that Mr. Sonko has his sights set on the State’s highest office, that he came third in the presidential election in 2019 and that he announced that he would run in the 2024 presidential elections; **notes** that Mr. Sonko’s case is not an isolated case as in the past other opposition candidates (see case SEN-07) were definitively excluded from the presidential race after being convicted by the courts and that currently, in view of the circumstances, Mr. Sonko could also find himself deprived of his civil rights following a possible conviction against him; **notes also** that Mr. Sonko was not able to take part as a candidate in the legislative elections in July 2022 as a candidate;

3. **Recalls** that, according to both the letter and spirit of the IPU **Universal Declaration on Democracy**, the key to the functioning of democracy is the holding of free elections at regular intervals enabling the people’s will to be expressed on the basis of universal, equal and secret suffrage so that all voters can choose their representatives in conditions of equality, openness and transparency; consequently, **notes with concern** the complainant’s allegations that Mr. Sonko is the subject of politically motivated prosecution intended to invalidate his candidacy in the forthcoming presidential elections; **urges**, in this respect, the competent authorities to take all necessary measures to ensure that the conditions for the holding of such elections are met for the opposition candidates and their supporters to exercise their fundamental right to take part in the conduct of public affairs on an equal footing with the ruling party and its supporters; and **calls on** the parliamentary authorities to provide information on any measures taken to this end;

4. **Expresses** its hope that the ongoing trial against Mr. Sonko will lead to a final judicial decision without delay, following an independent and impartial procedure, and in full compliance with the relevant national and international standards, including the rights of the alleged rape victim; and **requests** the parliamentary authorities to provide information on any relevant developments in the proceedings;
5. 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;

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