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DH/2024/173-R.1
Geneva, 23 January–7 February 2024

173rd session of the Committee on the Human Rights of Parliamentarians

Decisions adopted by the Committee on the Human Rights of Parliamentarians

Geneva, 23 January to 7 February 2024

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Cameroon

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



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CMR01 – Dieudonné Ambassa Zang

Alleged human rights violations

- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of parliamentary immunity

A. Summary of the case

Mr. Ambassa Zang, then a member of the National Assembly, was accused of misappropriating public funds amounting to several billion CFA francs linked to the Wouri bridge renovation project when he was Minister of Public Works (2002–2004). The complainant rejects the charges and highlights the political and arbitrary nature of the proceedings initiated against Mr. Ambassa Zang. Criminal proceedings started after Mr. Ambassa Zang's parliamentary immunity was lifted on 7 August 2009. Mr. Ambassa Zang left Cameroon on 12 July 2009 and is currently living in France, where he has been granted political refugee status.

According to the Cameroonian authorities, the charges against him stemmed from an audit conducted following a complaint by the *Agence française de développement*, AFD (French Development Agency) and its German counterpart, which had funded the project in question. However, no proof of any such complaint has been made public, and in February 2020 the French Minister for Europe and Foreign Affairs stated that the AFD had not initiated a complaint against Mr. Ambassa Zang.

In May 2011, a Committee delegation went on mission to Cameroon and expressed serious doubts that the case could be handled fairly and objectively should Mr. Ambassa Zang return to Cameroon.

On 15 October 2012, the Head of State ordered that the charges against Mr. Ambassa Zang be heard by the *Conseil de discipline budgétaire et financière*, CDBF (Budget and Finance Disciplinary Council). Although Mr. Ambassa Zang was denied the right to be represented by a lawyer in his absence in the

Case CMR-01

Cameroon: Parliament affiliated to the IPU

Victim: Majority member of the National Assembly

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

Submission of complaints: November and December 2009

Recent IPU decision: October 2017

Recent IPU mission: May 2011

Recent Committee hearings: Hearing with the delegation of Cameroon at the 126th IPU Assembly (March–April 2012); hearing with the complainant at the Committee's 152nd session (January 2017); meeting between a Committee member and the complainant (June 2018)

Recent follow-up

- Communication from the authorities: Letter from the Secretary General of the National Assembly (January 2019)
- Communication from the complainant: December 2023
- Communication to the authorities: Letter to the Speaker of the National Assembly (December 2023)
- Communication to the complainant: December 2023

criminal proceedings against him, he was authorized to be represented by a lawyer in the proceedings before the CDBF. According to the complainant, the criminal judicial authorities invoked section 349 of the Code of Criminal Procedure to justify denying Mr. Ambassa Zang the right to be represented by his lawyer, as required under article 14 of the International Covenant on Civil and Political Rights.

On 9 June 2014, Mr. Ambassa Zang was ordered to appear before the Special Criminal Court on the same charges as those examined in parallel by the CDBF. According to the complainant, this decision violates the *non bis in idem* principle, as set out in article 14 of the International Covenant on Civil and Political Rights. An IPU observer attended the Special Criminal Court hearing, held on 17 September 2014. According to the observer, the referral order makes no mention whatsoever of any criminal intent, let alone personal enrichment. Noting that the criminal proceedings before the Special Criminal Court and the disciplinary proceedings before the CDBF had indeed related to the same acts and had been conducted in parallel, the observer noted that they were likely to lead to conflicting outcomes.

On 18 June 2015, the Special Criminal Court found Mr. Ambassa Zang guilty and sentenced him *in absentia* to: (1) life imprisonment; (2) payment to the State of Cameroon the sum of 5.8 billion CFA francs in damages and interest; and (3) a lifelong forfeiture of his civil rights. Mr. Ambassa Zang appealed to the Supreme Court, which rejected his appeal on 17 October 2017. On 30 June 2017, the CDBF handed down its ruling and found Mr. Ambassa Zang guilty of a number of irregularities and mismanagement allegedly resulting in a loss of 7.5 billion CFA francs to the State Treasury. The CDBF also ordered Mr. Ambassa Zang to pay a special fine of 2 million CFA francs. On 15 December 2017, Mr. Ambassa Zang instructed his lawyer to lodge an appeal with the Central Administrative Court, requesting the annulment of the CDBF's ruling on grounds of abuse of power and, in the alternative, to order an expert report on the matters relating to the renovation of the Wouri Bridge. Since then, neither Mr. Ambassa Zang nor his lawyer have been informed of the outcome of this appeal.

On 29 June 2017, Mr. Ambassa Zang also submitted a complaint to the United Nations (UN) Human Rights Committee (HRC), which is competent to deal with violations of the International Covenant on Civil and Political Rights. The State of Cameroon failed to provide the HRC with its observations on the admissibility and merits of the complaint within the set deadline. On 14 July 2023, the HRC adopted its findings, stating that the State had committed a series of violations of the right to a fair trial in this case.¹ Among the numerous irregularities found by the HRC were excessive delays, the authorities' refusal to allow Mr. Ambassa Zang to be represented by his lawyer in criminal proceedings or to submit his observations in writing, as well as the arbitrary nature of Mr. Ambassa Zang's conviction by the Special Criminal Court, which adopted the prosecution charges without examining them or generating an adversary procedure. The HRC gave the Cameroonian State 180 days to grant Mr. Ambassa Zang adequate reparations for the harm suffered and to review the sentences handed down against him in accordance with fair trial guarantees. In addition, the HRC found that the State was obliged to ensure that similar violations do not recur. According to the complainant, the HRC's findings were not implemented within the set deadline.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Deplores* the lack of progress in this case despite the concerns expressed by the Committee on numerous occasions regarding respect for the rights of Mr. Ambassa Zang, who has remained in exile in France as a refugee since 2009; *thanks* the French authorities for their official confirmation that the AFD did not issue a complaint against Mr. Ambassa Zang; and *hopes* to be able to count on their support for the satisfactory resolution of this case in the future and that he will be able to return as soon as possible to Cameroon in complete safety and in full respect of his rights;
2. *Notes* the findings of the United Nations Human Rights Committee adopted on 14 July 2023; and *can only agree with* the United Nations (UN) Human Rights Committee in its findings concerning the multiple violations of Mr. Ambassa Zang's right to a fair trial by the judicial authorities of Cameroon in light of the numerous irregularities that have arisen in this case;

¹ Human Rights Committee, Views adopted on communication No 3214/2018 (French only): https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2F138%2FD%2F3214%2F2018&Lang=en

3. *Calls on* the Cameroonian authorities to implement without delay the findings of the United Nations Human Rights Committee in order to restore Mr. Ambassa Zang's rights, that is, to review all convictions against him in accordance with Cameroon's international human rights obligations, and to grant him adequate reparations for the harm he has suffered; *urges* the parliamentary authorities of Cameroon to take the necessary steps to ensure his safe return to his native country; and *wishes* to be kept informed of developments in this respect;
4. *Calls on* the Parliament of Cameroon to review national legislation to ensure that violations of this nature are not repeated and to carry out all the necessary reforms to ensure that national standards are compatible with international standards on the right to a fair trial, including section 349 of the Code of Criminal Procedure;
5. *Invites* the authorities to take advantage of the reports of the UN Special Procedures, in particular the Special Rapporteur on the independence of judges and lawyers, to ensure that international fair trial standards are respected in practice; and *suggests*, also, that the IPU offer assistance to the Cameroonian authorities in this endeavour;
6. *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;
7. *Decides* to continue examining the case.

Democratic Republic of the Congo

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



Chérubin Okende Senga © Complainant

COD-158 – Chérubin Okende Senga

Alleged human rights violations

- ✓ Murder
- ✓ Abduction

A. Summary of the case

On 13 July 2023, Mr. Chérubin Okende – opposition member of parliament, former Minister of Transport and spokesperson for the *Ensemble pour la République* (Together for the Republic), a political party led by opposition candidate in the presidential elections Mr. Moïse Katumbi – was found murdered in his vehicle, shot in the head. The vehicle was abandoned on a road near Kinshasa city centre. Mr. Okende had reportedly disappeared the day before he was killed.

The same day, the Public Prosecutor's Office at Kinshasa-Gombe High Court, on the instruction of the Prosecutor General at the Court of Cassation, opened a murder investigation against persons unknown. However, the circumstances and possible motives for Mr. Okende's murder have yet to be clarified.

Mr. Chérubin Okende's murder is set within a particularly difficult context for political opponents in the Democratic Republic of the Congo (DRC), where the democratic space is shrinking and violations are committed against those speaking out against the incumbent regime. This crime also raises many questions relating to safety in the DRC, particularly the safety of political opponents.

At a hearing before the Committee on the Human Rights of Parliamentarians at the 147th IPU Assembly in October 2023, the Congolese delegation, chaired by the First Deputy Speaker of the National Assembly, said that the Speaker of the National Assembly had expressed his deep concern at the murder of Mr. Okende, in his speech marking the opening of the autumn session in September 2023. A number of members of parliament, including the First Deputy Speaker, had visited Mr. Okende's family to support them, and the National Assembly continued to provide financial support to his family and to the group of lawyers in charge of his case.

The First Deputy Speaker also confirmed that the Public Prosecutor had opened a judicial investigation, seeking the assistance of international experts from Belgium, South Africa and the United Nations Organization Stabilization Mission in the DRC, who agreed to collaborate with the Congolese authorities in this case. The delegation said that the report drawn up at the end of this

Case COD-158

Democratic Republic of the Congo:
Parliament affiliated to the IPU

Victim: An opposition member of parliament

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

Submission of the complaint: July 2023

Recent IPU decision: October 2023

Recent IPU mission(s): - - -

Recent Committee hearing: Hearing with the delegation of the DRC at the 147th IPU Assembly (October 2023)

Recent follow-up:

- Communication(s) from the authorities:
- - -
- Communication from the complainant: July 2023
- Communication to the authorities: Letter to the Speaker of the National Assembly (November 2023)
- Communication to the complainant: September 2023

judicial investigation would be published very shortly (the following week) and that the National Assembly would send a copy of the report to the Committee as soon as it was available. Despite the assurances from the Congolese authorities at their hearing, the investigation report has still not been made available to the complainants and the Committee.

With regard to the political climate, the First Deputy Speaker stated that the Democratic Republic of the Congo was preparing to hold presidential elections on 20 December 2023, and asserted that the Congolese authorities were committed to these elections being fair, credible, transparent and inclusive, in accordance with the Congolese Constitution. Nevertheless, the delegation stressed that the Congolese authorities continued to encounter considerable security challenges in the east of the DRC, owing to the serious violations committed by rebel fighters belonging to the M23 (March 23 Movement) armed militia, which had resulted in significant loss of life and the internal displacement of several thousand people. On 31 December 2023, President Félix Antoine Tshisekedi was re-elected for a second term in a disputed election. The opposition described the re-elected President's victory as an electoral "coup d'état".

On 7 November 2023, Mr. Okende's family lodged a complaint in Belgium against Colonel-Major Christian Ndaywell, head of the Congolese military intelligence, whom they suspect of involvement in the death of the member of parliament. The complaint was lodged as a civil party with a Brussels investigating judge on charges of war crimes. As a Belgian national, Mr. Ndaywell is subject to Belgian justice, which can prosecute him under its universal jurisdiction in criminal matters. The case was referred to the Brussels Public Prosecutor's Office, which notified the federal Public Prosecutor's Office on 14 December 2023. The federal Public Prosecutor's Office is currently considering whether the case can be handled at the federal level.

On 22 January 2024, Mr. Okende's family sent a letter to the DRC's Prosecutor General requesting a report within 72 hours on the progress of the case and the findings of the autopsy performed on the member of parliament's remains. Six months after his death, the autopsy report has still not been made available to the complainants, the lawyers or Mr. Okende's family.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Strongly deplores* the murder of opposition member of parliament Mr. Chérubin Okende, an unprecedented act of violence in the Democratic Republic of the Congo that occurred during an electoral period fraught with political tension; and *considers* that all necessary steps should be taken to identify and punish the perpetrators of this heinous act;
2. *Notes with concern* that since Mr. Okende's murder in July 2023, the hearing and the assurances given by the Congolese parliamentary authorities in October 2023, they have still not provided the investigation report, nor have they provided any information on the progress made in the investigation into Mr. Okende's murder, or on any serious steps taken to identify the perpetrators in this case;
3. *Urges* the Congolese authorities to make the autopsy report and the investigation report available to the complainants and to Mr. Okende's lawyers as soon as possible; *urges* the competent authorities to intensify their efforts to make progress in the investigation into the murder of Mr. Okende without further delay and to ensure the transparency of the judicial investigation; *calls on* the National Assembly, as the guardian of the human rights of parliamentarians, to closely monitor the investigation and to demand clear answers from the government authorities as to its progress and the likely identity of the perpetrators; and *wishes* to receive information in this regard;
4. *Reaffirms* that the abduction and murder of Mr. Okende, a member of parliament, constitute a serious threat not only to parliamentarians but also to those they represent and an attack on parliament as a whole; and *reaffirms*, also, that offences of this nature, particularly if they go unpunished, against opposition parliamentarians send a worrying signal to other critical voices in society and that such impunity can only serve as an incentive to commit further serious human rights violations;

5. *Calls on* the Congolese authorities to take all necessary steps to guarantee the physical integrity and fundamental rights of all members of parliament, former and current, irrespective of their political affiliation, in order to ensure that a similar crime never occurs again;
6. *Reiterates the wish* for a delegation from the Committee on the Human Rights of Parliamentarians to visit the DRC in the near future to meet with the Congolese authorities, in particular the Speaker of the National Assembly, the Public Prosecutor and the Minister of Justice, in order to contribute to and support the search for justice in the case at hand; *considers* it essential that the delegation also meets with Mr. Okende's family and lawyers and relevant third parties; and *hopes* to receive a positive response from and the support of the National Assembly to ensure the mission is conducted in the best possible conditions;
7. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be in a position to supply relevant information;
8. *Decides* to continue examining this case.

Eswatini

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



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

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

Alleged human rights violations

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

A. Summary of the case

Parliamentarians Mduduzi Bacede Mabuza and Mthandeni Dube were arrested in the evening of 25 July 2021 and have been held in detention ever since, first at Mbabane police station and then at the Matsapha Correctional Centre. A third parliamentarian, Mr. Mduduzi Simelane, fled the country before an arrest warrant could be implemented. Mr. Mabuza and Mr. Dube were charged under the Suppression of Terrorism Act, two murder charges and a charge for contravening COVID-19 regulations. The accused made several bail applications, which were all rejected.

The legal action against the parliamentarians was taken in the following context: In May 2021, calls for political reform started circulating on various platforms across Eswatini, with the aforesaid three parliamentarians also advocating for these changes. To prove that these members of parliament had the mandate from their constituencies to make this call resulted in a series of petitions being delivered

Case SWZ-COLL-01

Eswatini: Parliament affiliated to the IPU

Victims: Three independent members of parliament

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

Submission of complaint: January 2022

Recent IPU decision: October 2023

Recent IPU mission: Trial observation (November 2022)

Recent Committee hearing: Hearing with the delegation of Eswatini to the 145th IPU Assembly in Kigali (October 2022)

Recent follow-up:

- Communications from the authorities: Letters from the Clerk of the House of Assembly (October 2023)
- Communication from the complainant: November 2023
- Communication to the authorities: Letter to the Speaker of the House of Assembly (November 2023)
- Communication to the complainant: November 2023

to parliament in support of the call for change. Protesters were calling for constitutional and political reforms, were lamenting the Government's reported failure to deliver basic services to its citizens, demanded responses to socioeconomic challenges, and invoked alleged ill-treatment by police. Petitions were delivered to various *tinkhundla* centres, predominantly by young people, to their members of parliament as an endorsement of the call for constitutional and political reforms. These calls were heightened during protests against alleged "police brutality" following the death of a University of Eswatini law student, Mr. Thabani Nkomonye. On 24 June 2021, the then acting Prime Minister, Deputy Prime Minister, Mr. Themba N. Masuku, issued a ban on the delivery of these petitions, saying that this was "a conscious decision to maintain the rule of law and de-escalate tensions that had turned the exercise into violence and disorder". Protesters continued to deliver petitions in spite of the ban and were blocked by the police.

In its report released at the very end of June 2021 regarding the events that had occurred earlier that month, the Eswatini Commission on Human Rights and Public Administration (the Commission) – which is Eswatini's national human rights institution – found that human rights violations and abuses had been perpetrated during the unrest.

According to the complainant, the charges against Mr. Mabuza, Mr. Dube and, potentially, Mr. Simelane serve as reprisals and aim to silence them, given that they have been at the forefront of the aforesaid demands for democratic reforms in Eswatini, an absolute monarchy led by King Mswati III for over 30 years, where political parties are not legally recognized.

Mr. Rahim Kahn, a distinguished attorney and former acting chief magistrate in Botswana, with over 40 years of legal experience, was designated by the IPU to attend and follow the final trial proceedings against Mr. Mabuza and Mr. Dube, namely those which took place from 8 to 10 and 14 to 16 November and on 13 December 2022.

In his report, the trial observer states that, "[T]he basis of the charges were statements made by the two accused persons in which they encouraged members of the public to deliver petitions, and to reject the appointment of the acting Prime Minister. Neither of the accused persons explicitly encouraged or incited any acts of violence but were arrested on charges of acts of terrorism and sedition because they expressed a lack of support for the appointment of the acting Prime Minister. They expressed an opinion that proved to be controversial, but they neither encouraged violence nor incited public displays of disobedience. Their arrest and detention was an infringement of their constitutional rights to freedom of thought and conscience".

The trial observer moreover points out that, "[T]he two members of parliament have been denied bail essentially as they are considered flight risks, notwithstanding their official positions as members of parliament, have fixed assets in the country, have clean records, have not interfered with witnesses and are willing to offer a sum of money to secure their attendance. It appears extremely surprising that their bail has been consistently refused".

In his general comments and assessment of the trial, the trial observer stated that, "the trial is being continuously postponed, mainly at the instance of the Crown", and that the judge "does not direct any detailed questions to the Crown ... and grants them far too much latitude to conduct the trial as they wish".

On 31 January 2023, the defence and the Crown Prosecutor made final submissions in the criminal proceedings against Mr. Mabuza and Mr. Dube, after which the judge in the case reserved judgement. On 1 June 2023, the judge found them guilty of all charges, except for the charge related to the COVID-19 regulations with respect to Mr. Mabuza. The terrorism charge relates to the accusation that the two parliamentarians incited the population to revolt against the constitutionally elected government. The murder charges relate to the death of two people who were run over by a motor vehicle that hit seven people at Nkwalini at the roadblock. The judge acknowledged that the two parliamentarians were nowhere near the scene of the crime when the two victims died, and that they had at no point advocated for violence during their calls to the people. The judge nevertheless found them guilty on the basis of the principle of *dolus eventualis* – foresight and foreseeability – given that they should have foreseen the consequences of their actions, bearing in mind that some protests in Eswatini had become violent. It should be noted, however, that with regard to both the terrorism and murder charges, an analysis of the parliamentarians' calls to the people shows that they simply demanded constitutional and institutional change and at no point asked for the people to do so in a violent and unlawful manner.

In her ruling of 1 June 2023, the judge reserved sentencing for a hearing in December 2023. This hearing was subsequently postponed, with new hearings due to take place from 20 to 22 February 2024. Moreover, the defence counsel is scheduled to call additional witnesses from 6 to 13 March 2024.

In the early hours of 22 September 2022, the two detained parliamentarians were allegedly assaulted by prison guards who entered their cells and started beating them up for no reason. According to the Speaker, an inquiry into the matter has been opened in accordance with the Correctional Services Act, No. 13 of 2017, read in conjunction with the Prison Regulations of 1965. The former Speaker stated that, “We are eager for the resultant recommendations and further action which the inquiry may further recommend. The legal processes have not been finalized and we hope that the above allegations shall be adequately addressed”. It is alleged that on 29 September 2023, Mr. Mabuza was again beaten by a correctional services officer.

In response to the IPU’s wish to send a delegation from the Committee on the Human Rights of Parliamentarians to Eswatini, at a hearing held at the 145th IPU Assembly in October 2022 the then Speaker responded that he would welcome such a delegation. Subsequent attempts by the IPU to organize the mission have not yet borne fruit with the Eswatini authorities, who indicated early on that important national events prevented them from receiving the mission before the end of the first half of 2023. In response to the most recent IPU letter about the matter, on 5 March 2023, the Speaker stated in writing that, “The concern of the IPU Committee on the Human Rights of Parliamentarians is acknowledged and appreciated. The Parliament of the Kingdom of Eswatini is currently addressing a decision of SADC Heads of States on the same matter. It is our well-considered view that the IPU Committee shares similar sentiments with the SADC Troika and therefore would be satisfied to receive a report detailing all processes to be undertaken towards our national dialogue. Suffice to mention that some major processes and commitments are already ongoing. It is against this background that we kindly request your indulgence in bearing with us on this issue”.

On the night of 21 January 2023, Eswatini human rights defender and lawyer Mr. Thulani Maseko – the former lawyer representing both parliamentarians – was killed. United Nations and African Union experts immediately condemned the killing as “abhorrent” and demanded an impartial investigation. Mr. Maseko was a member of Lawyers for Human Rights Swaziland and chairperson of the Multi-Stakeholder Forum, a coalition of political opposition groups and civil society activists calling for constitutional reform in Eswatini. His murder remains unresolved to this day.

Parliamentary elections took place on 29 September 2023. As political parties are banned in Eswatini, candidates ran individually. Most of those who were elected are seen as loyal to the King.

Since the protests broke out in Eswatini in 2021, SADC and other international partners have strongly encouraged the Eswatini authorities to conduct a meaningful, substantive and inclusive national dialogue to discuss options for democratic and institutional reforms. Several voices in Eswatini have stated, however, that the way in which the authorities are setting up the dialogue is leaving full control in the hands of the King by framing it within the strict constraints of “Sibaya” – the traditional engagement of the King with his people. The Multi-Stakeholder Forum has rejected Sibaya as a vehicle for political dialogue. Moreover, they say that Mr. Thulani Maseko’s absence as the chairperson of the Multi-Stakeholder Forum has seriously impeded the effectiveness of different voices coming together to contribute to the national dialogue.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Remains deeply concerned* that Mr. Mabuza and Mr. Dube were found guilty as a result of a trial that had shown serious deficiencies, as identified in the trial observer’s report; *considers* that this report, and the reasons given by the judge for the verdict she reached, give serious weight to the complainant’s assertion that the criminal case came in response to the parliamentarians’ public appeal to strengthen democracy, which falls squarely within the legitimate exercise of their right to freedom of expression; *is convinced*, therefore, that both men should never have been detained and prosecuted in the first place; *sincerely hopes* that the matter will still be resolved, in a way that is in line with applicable human rights standards, before the men are sentenced; and *decides* to send the IPU trial observer back to attend and

observe the remaining hearings scheduled for February and, if considered useful, March 2024 and to produce a final report on the trial proceedings;

2. *Is deeply concerned* that, in the absence of any indication to the contrary, the alleged assaults in detention of Mr. Mabuza on two occasions and of Mr. Dube on one occasion appear to have gone entirely unpunished; *reiterates its views* that a situation of *de facto* impunity can only facilitate, if not encourage, further crimes, since perpetrators know they will be shielded from legal action; *urges* the authorities to carry out effective and independent investigations into both alleged assaults, to take whatever measures are necessary to establish accountability, and to avoid a repeat of these incidents; and *wishes* to receive detailed information on the measures taken to this effect;
3. *Notes with great interest* the efforts under way to have a national dialogue in Eswatini; *considers* that such a dialogue can only be fully successful if all stakeholders have the opportunity to contribute to it freely and effectively; *wishes* to receive official information on how the organizers of the dialogue plan to achieve this; and *affirms* that the IPU stands ready to provide any assistance that may be considered useful in this regard;
4. *Reaffirms its belief* that, over and above ongoing and new efforts to strengthen democracy in Eswatini, a mission by the IPU Committee on the Human Rights of Parliamentarians, which would include meetings with all the relevant authorities, a meeting with the two members of parliament and their lawyers, along with meetings with relevant third parties, would offer a useful opportunity to discuss the issues that have emerged in the case at hand and to examine possible solutions; *sincerely hopes*, therefore, that the Eswatini authorities will soon be able to receive this mission; and *requests* the Secretary General to continue to engage with the current parliamentary authorities of Eswatini with a view to dispatching the mission as soon as possible;
5. *Requests* the Secretary General to convey this decision to the Speaker of the House of Assembly, the complainant and any third party likely to be in a position to supply relevant information;
6. *Decides* to continue examining this case.

Mauritania

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



Mauritanian politician and advocate for the abolition of slavery, Biram Dah Abeid, during a press conference in Dakar on 29 September 2016 © SEYLOU / AFP

MRT-03 – Biram Dah Abeid

Alleged human rights violations

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

A. Summary of the case

Mr. Biram Dah Abeid, President of the party *Initiative de la Résurgence du Mouvement Abolitionniste* (Initiative for the Resurgence of the Abolitionist Movement, IRA) was arrested at his home on 7 August 2018 and charged with “causing harm to others, inciting violence and threatening to use violence” on 13 August 2018, following a complaint filed by a journalist. Mr. Dah Abeid was held in custody without charge for a week, even though, under the Code of Criminal Procedure, the maximum period of custody in such a case cannot exceed 48 hours.

The militant campaigning of Mr. Dah Abeid – and of his party, the IRA – to combat slavery in Mauritania has reportedly been the root cause of the political and judicial harassment towards him, in an attempt to exclude him from the political scene. The complainant alleges that the charges against Mr. Dah Abeid were not supported by evidence and that it was the victim’s alliance with the Essawab political party with a view to the September 2018 legislative elections that had triggered the proceedings brought against him, the aim of which had been to invalidate his candidacy in the legislative elections and prevent him from conducting his campaign freely. Mr. Dah Abeid’s candidacy was nevertheless validated by the Independent National Electoral Commission (CENI), which had also confirmed his election while he was still being held in detention on 1 September 2018.

Case MRT-03

Mauritania: Parliament affiliated to the IPU

Victim: Opposition member of parliament

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

Submission of complaint: October 2018

Recent IPU decision: March 2021

Recent IPU mission(s): - - -

Recent Committee hearing: Hearing with Mr. Dah Abeid at the 161st session of the Committee (January 2020)

Recent follow-up:

- Communications from the authorities: Letters from the Minister of Justice (February, May and June 2019)
- Communication from the complainant: September 2023
- Communication to the authorities: Letter to the Speaker of the National Assembly (December 2023)
- Communication to the complainant: October 2023

Despite being elected, Mr. Dah Abeid was kept in pretrial detention in violation of his parliamentary immunity and in the absence of a trial. Responding to this point in particular, the Minister of Justice explained in his letters of May and June 2019 that the proceedings against Mr. Dah Abeid had been initiated even before he had stood as a candidate and become a member of the National Assembly. Thus, the parliamentary immunity claimed by Mr. Dah Abeid, and which he did not acquire until after his election was confirmed, could not be retroactive. The Minister of Justice further added that the National Assembly had not requested Mr. Dah Abeid's release and had not called on the authorities to drop the charges against him as provided for in Article 50 of the Mauritanian Constitution.

On 31 December 2018, the Criminal Court sentenced Mr. Dah Abeid to six months' imprisonment, four of which were to be suspended. He was therefore immediately released because the duration of his pretrial detention had covered the length of his sentence. On his release from prison, Mr. Dah Abeid was able to resume his duties as a member of parliament by taking his seat in the National Assembly on 7 January 2019. He was also able to participate in the presidential elections that took place in June 2019.

Mr. Dah Abeid categorically refutes the charges against him, claiming that his conviction was politically motivated, since the complaint against him was initially rejected by the Public Prosecutor of Nouakchott West, considering it to be unfounded. The journalist who accused Mr. Dah Abeid subsequently filed the same complaint with the Public Prosecutor of Nouakchott South, who decided to prosecute him. His lawyers described the proceedings against Mr. Dah Abeid as arbitrary, especially as in a case of this nature he should have been in detention and should have been summoned to appear of his own will. The complainant also pointed out that the case was not based on any serious evidence and that it had been withdrawn the day the member of parliament was sentenced. Mr. Dah Abeid appealed against the conviction in order to re-establish the truth in the case, but his appeal has not yet been heard.

The National Assembly has never responded to the Committee's requests for information.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Deplores*, once again, the silence of the parliamentary authorities since the opening of this case in 2018; *considers* that this silence is all the more regrettable as Mr. Dah Abeid's pretrial detention continued after his election even though the National Assembly had not lifted his parliamentary immunity; *regrets*, also, that the National Assembly failed to exercise its prerogative to call on the Public Prosecutor to drop the proceedings against Mr. Dah Abeid after his election; and *calls on* the National Assembly to establish constructive dialogue and ongoing cooperation by responding to the Committee's enquiries and requests for information;
2. *Notes* that the facts of the case, in particular the initial rejection of the complaint by the Public Prosecutor of Nouakchott West, the continued pretrial detention of Mr. Dah Abeid without charge and with no access to his lawyers, the investigating judge's decision to refer his case to the criminal court even though the charges against him fall within the jurisdiction of the correctional court, and the withdrawal of the complaint filed against him on the day of his conviction, bear out the complainant's allegations that the proceedings against Mr. Dah Abeid and his conviction were politically motivated;
3. *Notes* that Mr Dah Abeid's case has been at a legal standstill for almost six years, depriving him of any possibility of winning his case; *remains concerned* that the appeal he lodged has been kept pending without response, given that all the evidence in the case should result in its closure; *stresses* that the absence of a response from the relevant authorities constitutes a denial of justice for Mr. Dah Abeid; and *calls on* the Mauritanian authorities to take the necessary steps to ensure that justice is done and that this case is resolved definitively;
4. *Sincerely hopes* that the National Assembly will take the necessary steps to prevent this type of situation from recurring and to ensure that the parliamentary immunity of its members is respected at all times;
5. *Requests* the Secretary General to convey this decision to the competent authorities, the complainant and any third party likely to be in a position to supply relevant information;

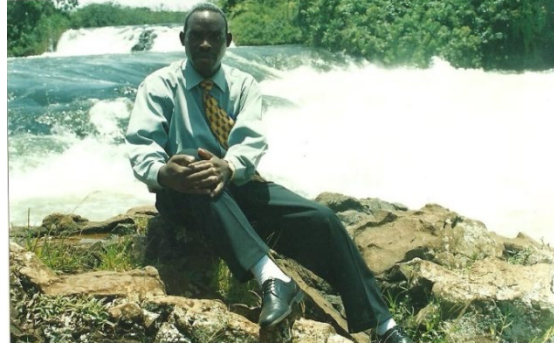
6. *Decides* to continue examining the case.

Rwanda

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



Leonard Hitimana and his wife Gahongayire Grâce Hitimana



Leonard Hitimana on mission to Uganda. One of the last existing photos before his disappearance

RWA-06 - Leonard Hitimana

Alleged human rights violations

- ✓ Enforced disappearance
- ✓ Lack of due process at the investigation stage

A. Summary of the case

Mr. Leonard Hitimana, a member of the (former) Transitional National Assembly of Rwanda and of the Republican Democratic Movement (MDR, now dissolved), disappeared on 7 April 2003, the day before he was to make a speech in parliament to defend the MDR, the sole remaining opposition party, following a parliamentary report that had recommended it be banned.

According to eyewitness accounts, as relayed by the complainants, Mr. Hitimana's car was intercepted late in the afternoon of 7 April 2003 by Rwandan Directorate of Military Intelligence (DMI) agents. The agents are alleged to have taken Mr. Hitimana to Kami military camp, where, on the orders of superiors, he was tortured and killed in May 2003 by Mr. John Karangwa, who was Deputy Director of Counter-intelligence at the time. Mr. Hitimana's remains were then removed to an unknown destination; persons making their rounds at the Kaniga border post say that they saw Mr. Hitimana's car and that of the military. Mr. Hitimana's car was allegedly moved by police or intelligence officers to Byumba, where it was apparently kept for a month. Mr. Hitimana's representatives subsequently retrieved the car and were told by the police that it was in the condition in which they had found it close to the border with Uganda. According to the representatives, the car's electrical cables had been cut, the key was no longer in the ignition and there were bloodstains on the front seat.

The complainants point out that the suspected perpetrator, DMI officer John Karangwa, has been accused by non-governmental sources not only of killing Mr. Hitimana, but also of abducting and executing, in April 2003, Mr. Augustin Cyiza, the Vice-President of Rwanda's Supreme Court, the President of Rwanda's Cassation Court and a founding member of two Rwandan human rights organizations. The sources believe that Mr. Hitimana was abducted by the DMI in order to silence any opposition to the dissolution of his party.

Case RWA-06

Rwanda: Parliament affiliated to the IPU

Victim: Opposition member of parliament

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

Submission of complaints: April and June 2003

Recent IPU decision: February 2017

Recent IPU Mission: June 2011

Recent Committee hearing: Hearing with the Rwandan delegation during the 135th IPU Assembly (Lusaka, March 2016)

Recent follow-up:

- Communication from the authorities: Letter from the Speakers of both Houses (January 2023)
- Communication from the complainants: February 2019
- Communication to the authorities: Letter to the Speakers of both Houses (December 2023)
- Communication to the complainants: January 2024

The authorities, for their part, have said that they believe Mr. Hitimana is in another country. While they have reaffirmed several times that the investigation remains open, they have also indicated that it has failed to produce any results so far.

The United Nations Working Group on Enforced or Involuntary Disappearances has repeatedly sought observations from the Rwandan authorities, including through a communication in May 2022, regarding the serious reports apparently showing the existence in recent decades of a practice of enforced disappearance of political opponents, human rights defenders, journalists and other perceived critics of the Government, both within and outside the country. In addition, several human rights organizations have documented, as recently as October 2023, how even Rwandans who are abroad and are critical of the Government allegedly face serious intimidation, sometimes with fatal consequences, for the purpose of silencing them. In this regard, it should also be noted that Mr. Hitimana's family and the relatives of one of the complainants have allegedly suffered reprisals for their insistence that light be shed on his disappearance.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Speakers of both houses of the Rwandan Parliament for their latest communication and their continued cooperation in this matter;
2. *Considers* that, more than 20 years after Mr. Hitimana disappeared and with only scant and relatively old details on file about the investigation, many questions remain unanswered, including with regard to any specific action that the Rwandan authorities may have taken to help shed light on his disappearance; *considers*, further, this state of affairs to be all the more regrettable as the lack of a serious investigation can only support the long-standing accusation that Mr. Hitimana was the victim of an enforced disappearance; and *stresses* that Mr. Hitimana was not a junior politician, but had played an important role in his party, and the fact that he was intending to speak in parliament the following day against the party's dissolution, in a pre-electoral context in which he was considered a serious contender, constitutes a serious motive for the crime;
3. *Recalls* that enforced disappearances are a serious human rights violation and that the enforced disappearance of a member of parliament, if the perpetrators are not brought to justice and punished, stands as a threat to parliament as such, to all its members and, in the final analysis, to the people parliament represents, as it can only encourage the repetition of such acts;
4. *Urges* the authorities, once again, to carry out an independent, prompt and effective investigation, examining all lines of enquiry; *is convinced* that, if new lines of inquiry are effectively followed, new evidence may still emerge; and *eagerly awaits* information to this effect;
5. *Calls on* parliament to do everything possible to help ensure that these steps are indeed taken, and to expedite the implementation of the long-standing recommendation to ratify the International Convention for the Protection of All Persons from Enforced Disappearance to which the Rwandan authorities agreed; and *wishes* to be kept informed of any action taken in this regard;
6. *Is deeply concerned* about renewed reports portraying the existence of a climate of intimidation that may well prevent any witnesses and others who could help shed light on this case to come forward; *urges*, therefore, the Rwandan authorities to do everything possible to ensure the safety of any potential witnesses and other sources of information who could assist with the investigation; and *wishes* to know what steps the authorities intend to take in this regard;
7. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainants and any third party likely to be in a position to supply relevant information;
8. *Decides* to continue examining the case.

Senegal

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



Ousmane Sonko speaks during a political rally in Thies on 20 February 2019. MICHELE CATTANI / AFP

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 dissolved on 31 July 2023. 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 will 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 the member of parliament's parliamentary immunity. The National Assembly plenary voted in favour of lifting Mr. Sonko's immunity on 26 February 2021.

Case SEN-08

Senegal: Parliament affiliated to the IPU

Victim: Opposition member of parliament

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

Submission of complaint: March 2021

Recent IPU decision: October 2023

Recent IPU mission(s): - - -

Recent Committee hearings:

- Hearing with the Senegalese delegation at the 147th IPU Assembly in Luanda (October 2023)
- Online hearing with Mr. Guy Marius Sagna, member of the Senegalese National Assembly, member of PASTEF-Les Patriotes, at the 147th IPU Assembly in Luanda (October 2023)

Recent follow-up:

- Communication from the authorities: Letter from the Secretary General of the National Assembly (January 2024)
- Communication from the complainant: January 2024
- Communication to the authorities: Letter to the Speaker of the National Assembly (November 2023)
- Communication to the complainant: January 2024

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 halfway by security forces, who arrested Mr. Sonko. The complainant alleges several irregularities surrounding Mr. Sonko's detention, the criminal proceedings and the procedure for lifting parliamentary immunity. 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 due to 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. On 3 November 2022, Mr. Sonko was heard by the senior judge in charge of the case concerning the rape allegations. According to the complainant, Mr. Sonko refused to take a DNA test requested by the Court, considering the case brought against him to be "a plot". On 1 June 2023, when handing down its decision on this case, the Criminal Section reclassified the charge of rape to that of corruption of a minor, and sentenced Mr. Sonko *in absentia* to two years' imprisonment and a fine of 20 million CFA francs in damages.

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 16 February 2023, Mr. Sonko was forcibly taken out of his car by police officers and driven to his home in an armoured van after appearing before the court. He had just responded to a summons to appear following a complaint by the Minister of Tourism, Mr. Mame Mbaye Niang, who had accused Mr. Sonko of libel in relation to the criticism of the Minister's handling of public funds. In this case, Mr. Sonko was sentenced on 8 May 2023 at second instance to a suspended six-month prison sentence and a fine of 200 million CFA francs. Mr. Sonko has appealed to the Supreme Court against the decision handed down on appeal. In its ruling of 4 January 2024, Senegal's Supreme Court upheld the decision of the Dakar Court of Appeal.

On 16 March 2023, Mr. Sonko's car was reportedly intercepted once again. According to the complainant, the police sprayed the car with tear gas before breaking the window and forcibly removing him through it, then driving him home in one of their armoured vans, without a warrant. Mr. Sonko was reportedly wounded by shards of the broken window glass. He was doused with an unknown liquid at the same time.

According to information supplied by the complainant, the police stationed themselves outside Mr. Sonko's home between 29 May and 24 July 2023, preventing anyone from entering and also hindering Mr. Sonko's free movement. Subsequently, Mr. Sonko was questioned at his home on 28 July 2023, charged with a number of offences, including "promoting insurrection", "conspiracy against the authority of the State" and "breaches of State security", and remanded in custody. To date, Mr. Sonko remains in detention.

Mr. Sonko received an official notification dated 3 August 2023 that he had been struck off the electoral list (*radiation*). At the hearing held during the 147th IPU Assembly, Mr. Guy Marius Sagna, a member of the Senegalese National Assembly and of the dissolved party *PASTEF-Les Patriotes*, said that on 12 October 2023, the Ziguinchor Court had overturned the decision to strike Mr. Sonko off the electoral list and had ordered his reinstatement on the list. He also stated that Mr. Sonko had resumed his hunger strike, that he had been hospitalized and that his state of health was very worrying.

At the hearing held during the 146th IPU Assembly (March 2023), the Senegalese delegation stated that this case was in no way political, that Mr. Sonko's rights had been respected throughout the proceedings and that justice should follow its course. The delegation was heard again by the Committee on the Human Rights of Parliamentarians in October 2023 at the 147th IPU Assembly. On this occasion, the delegation reaffirmed that the Senegalese judiciary was independent and impartial, that Mr. Sonko's rights had been scrupulously respected and that all necessary steps had been taken, with the help of the Senegalese Prison Administration Directorate and the medical services of the main Dakar hospital, to provide him with medical care. With regard to the decision of the Ziguinchor Court mentioned above, the delegation told the Committee that, as the State of Senegal had decided

to seek the remedy of appeal available to it, this decision was not final, and that as the judge had not yet handed down a final ruling, Mr. Sonko could not be reinstated on the electoral list.

In January 2024, the complainant informed the Committee that Mr. Sonko had not been included in the final list of candidates authorized by the Constitutional Council to take part in the presidential elections scheduled for February 2024. According to the complainant, the Constitutional Council had not accepted Mr. Sonko's candidate file because the payment receipt for the deposit required for acceptance as a candidate was missing. In this regard, the complainant stated that the police had allegedly obstructed access to the headquarters of the public institution from where the payment receipt had to be obtained, which had been brought to the attention of the Constitutional Council at the time the candidate file was submitted. Documents in support of proof of payment were reportedly included in the file, according to the Council's jurisprudence. The complainant also stated that, in its ruling no. 72 of 17 November 2023, the Supreme Court had quashed and set aside in its entirety Order No. 01 of 12 October 2023 of the President of the Ziguinchor Court – mentioned above – referring the case to the Dakar regional civil court (*Tribunal d'Instance hors classe de Dakar*). The latter, in Order No. 1 of 14 December 2023, had declared Mr. Sonko's removal from the electoral list null and void and ordered his reinstatement on the list.

The parliamentary authorities stated in a letter received on 25 January 2024 that, on 4 January 2024, the Supreme Court of Senegal had upheld the ruling of the Dakar Court of Appeal, finding Mr. Sonko guilty of libel in the case brought by the Minister of Tourism but did not pass a custodial sentence. As for Mr. Sonko's candidate file, the parliamentary authorities confirmed that the Constitutional Council had deemed Mr. Sonko's candidate file to be incomplete because there was no document proving payment of his deposit and that, as a result, the file had not been considered.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Senegalese Interparliamentary Group for its ongoing cooperation in the procedure and for systematically sending it updated observations on the case in question;
2. *Notes with interest* the observations provided in writing by the Senegalese Inter-Parliamentary Group stating that Mr. Sonko's candidate file was deemed to be incomplete by the Constitutional Council because there was no payment receipt signed by the Director General of the *Caisse des Dépôts et Consignations* proving payment of the deposit, contrary to Article L.122 of the Electoral Code; *notes*, nevertheless, that, according to the information provided by the complainant, the Constitutional Council was officially informed, at the time he declared his intention to stand as a candidate, that it would not be possible to produce the said payment receipt; *notes* also that, according to the complainant, documents in support of payment were included in the file; and *wishes* in this respect to receive detailed information on why the Constitutional Council ignored the complainant's arguments as to why it had been materially impossible to produce the required document;
3. *Recalls*, once again, that Mr. Sonko has his sights set on the State's highest office, that he came third in the 2019 presidential elections and that he had already been prevented from standing as a candidate in the legislative elections of July 2022; *considers* that the position taken by the Constitutional Council on Mr. Sonko's candidate file is part of ongoing actions by state institutions that had begun when he was an opposition member of parliament; *notes* that Mr. Sonko was apparently permanently excluded from the presidential race in 2024 after being the subject of several legal proceedings, and that the fact that he was unable to submit a complete candidate file does not appear, beyond all reasonable doubt, to be his fault; and *recalls* that in the past, other opposition candidates in Senegal have found themselves unable to exercise their right to participate in political and public affairs under conditions of equality after having been the subject of court decisions;
4. *Reaffirms* 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, *reiterates its concern* at the complainant's allegations that Mr. Sonko

is the subject of state harassment and a politically motivated prosecution aimed at preventing him from standing in the forthcoming presidential elections, allegations which seem to be borne out by the facts, such as Mr. Sonko's detention, the increasing number of convictions against him, the fact that his representatives are unable, firstly, to procure the forms for collecting the citizen sponsorships required for validating his candidacy and, secondly, to obtain the payment receipt signed by the Director General of the *Caisse des Dépôts et Consignations* proving payment of the deposit required by law; *urges*, in this respect, once again, the competent authorities to take all necessary steps to ensure that the conditions for the holding of such elections are met so that all candidates in the February 2024 presidential elections, including opposition candidates and their supporters, can 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 steps taken to this end;

5. *Remains* deeply concerned at Mr. Sonko's state of health, in particular at reports that he has required emergency treatment on several occasions; *urges* the national authorities to continue to take the necessary steps to protect Mr. Sonko's life; *once again invites* the National Assembly to ensure the necessary follow-up in this respect within its powers; and *requests* the parliamentary authorities to provide information on any action taken to this end;
6. *Regrets* that, despite the assurances of support given in this regard by the Senegalese delegation at the 147th IPU Assembly, the mission to Senegal requested by the Committee has still not been formally accepted by the competent authorities; *reiterates its wish* to send a delegation to Senegal as soon as possible in order to visit Mr. Sonko in detention and to meet with all legislative, executive and judicial authorities as well as prison authorities and all other institutions or civil society organizations or any individual able to provide relevant information on this case; and *hopes* that the competent national authorities will cooperate fully and that the mission will be able to settle this case in a satisfactory manner, in compliance with the applicable national and international human rights standards;
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.

Uganda

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



© Twitter @AdekeAnna

UGA-27 – Anna Adeke Ebaju

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association

A. Summary of the case

On 23 May 2022, Ms. Anna Adeke Ebaju was arrested along with another member of parliament and three other political activists following a standoff with police at Kasangati Town in Wakiso District. According to the complainant, they attempted to make their way to the home of former presidential candidate, Dr. Kizza Besigye, who had been detained earlier that same day. They were granted bail and released afterwards. The complainant reports that Ms. Adeke had been arrested about 10 times in recent years because of her political views and activities.

During the Soroti City East by-election on 28 July 2022, security forces allegedly broke into Ms. Adeke’s house with the intention of intimidating her. They broke her bedroom door down while looking for her and conducted a search of the entire house. People who were found in her house, many of whom were political activists, were reportedly beaten, pepper-sprayed, tear-gassed and arrested. According to the complainant, the security forces conducted an operation that day that led to the arrest of around 80 supporters and agents of her political party, the Forum for Democratic Change. The police refused to register Ms. Adeke’s complaint when she went to report it in Soroti City on 29 July 2022.

In January 2024, the complainant stated that Ms. Adeke was currently able to carry out her parliamentary duties without undue interference and that no further action was required by the Committee.

Case UGA-27

Uganda: Parliament affiliated to the IPU

Victim: A female opposition member of parliament

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

Submission of complaint: February 2023

Recent IPU decision: March 2023

Recent IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: January 2024
- Communication to the authorities: Letter to the Speaker of the National Assembly (August 2023)
- Communication to the complainant: January 2024

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Regrets* that the parliamentary authorities have failed to respond to its repeated requests for information regarding this case;
2. *Notes*, however, that the complainant has stated that Ms. Adeke was currently able to carry out her parliamentary duties without undue interference and that further action by the Committee was no longer useful; and *decides*, therefore, to close the case in line with paragraphs 25 and 25(c) of Annex I to its revised Rules and Practices;
3. *Recalls*, however, that the Committee reserves the right to re-open this case should any new information be subsequently provided by the complainant to show that Ms. Adeke is being subjected to acts of intimidation or any other human rights violations directly linked to the exercise of her parliamentary mandate;
4. *Requests* the Secretary General to convey this decision to the parliamentary authorities and to the complainant.

Zambia

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



© Twitter@Given Katuta Mwelwa

ZMB-21 – Given Katuta Mwelwa

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention

A. Summary of the case

According to the complainant, Ms. Given Katuta Mwelwa is an independent member of the National Assembly of Zambia who regularly expresses opinions critical of the governing party.

On 25 July 2023, Ms. Katuta was arrested by the police on charges of “common assault” when she voluntarily presented herself at Emmasdale police station. Her arrest took place after Mr. Henry Chunza, a photojournalist from a local newspaper, the *Times of Zambia*, reported that he had been assaulted by the member of parliament on 21 July 2023. Ms. Katuta was subsequently released.

The complainant states that Ms. Katuta had been suspended from the National Assembly for seven days. On 21 July 2023, as part of the suspension, she was made to take a “walk of shame” out of parliament. The alleged “common assault” reportedly took place as she was leaving the parliamentary chambers and the above-mentioned photojournalist was taking pictures of her.

According to the complainant, Ms. Katuta’s arrest was excessive, arbitrary and meant to intimidate and silence her. She was allegedly arrested in reprisal for carrying out her duties as an independent member of parliament and being a vocal opponent to the Government. The complainant also believes that this incident and the way it has been handled by the relevant authorities raise concerns about the potential “tribal nature” of the arrest, considering that the police spokesperson who issued a public

Case ZMB-21

Zambia: Parliament affiliated to the IPU

Victim: Female, independent member of the National Assembly

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

Submission of complaint: July 2023

Recent IPU decision(s): - - -

Recent IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

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

statement regarding the arrest, the photojournalist who lodged the complaint and the officer in charge of the matter are all members of the Tonga community. The complainant claims that the presence of potential ethnic biases in key positions within the justice system and government ministries, to the exclusion of other ethnic groups, such as Ms. Katuta's community, undermines the principle of equal participation and fair treatment for all citizens.

Ms. Katuta was temporarily re-arrested on 21 August 2023 on charges of "threatening violence" relating to the above-mentioned altercation with the photojournalist on 21 July 2023. According to the complainant, "through this calculated strategy, Ms. Katuta's opponents aim to prevent her from visiting her constituency" and these new charges "only serve to perpetuate the Government's efforts to marginalize, intimidate and isolate her".

According to information and documents provided by the parliamentary authorities, Ms. Katuta had been suspended from parliament in accordance with the applicable parliamentary rules and procedures. Legal proceedings against her, relating to the commission of the alleged offences of common assault and threatening violence, are being carried out in compliance with national law, affording her the opportunity to defend her case in a court of law.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint was submitted in due form by a complainant qualified under section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the complaint concerns an incumbent member of the National Assembly of Zambia;
3. *Notes* that the complaint concerns allegations of threats, acts of intimidation, arbitrary arrest and detention, and other acts obstructing the exercise of the parliamentary mandate, which are allegations that 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 parliamentary authorities of Zambia for the comprehensive information provided and their continued cooperation;
6. *Notes* that the complainant has not provided any specific evidence to substantiate the claimed potential "tribal nature" of the member of parliament's arrest in spite of the Committee's repeated requests and the complainant's ability to do so; *notes* also that the parliamentary authorities provided detailed information supporting their stance that Ms. Katuta had been suspended from parliament in accordance with the applicable parliamentary rules and procedures, which was not contested by the complainant;
7. *Is concerned* that Ms. Katuta is facing criminal proceedings in connection with events that took place within the parliamentary premises; *calls on* the National Assembly of Zambia to do its utmost, within its constitutional powers, to help ensure that Ms. Katuta's rights to a fair trial are respected; and *wishes* to be informed in due course of any action taken by parliament in this regard and of the progress and outcome of the ongoing legal proceedings;
8. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be in a position to supply relevant information;
9. *Decides* to continue examining this case.

Zimbabwe

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



Still from a live video shared by Mr. Takudzwa Ngadziore seconds before his abduction on 1 November 2023 © Facebook @Takudzwa Ngadziore.

ZWE-70 – Takudzwa Ngadziore

Alleged human rights violations

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

A. Summary of the case

Mr. Takudzwa Ngadziore is the youngest parliamentarian to be elected in the 2023 general elections in Zimbabwe.

Mr. Ngadziore is the Youth Taskforce Chairperson of the Citizens Coalition for Change (CCC) opposition party, which contested the majority party, Zimbabwe African National Union – Patriotic Front (ZANU-PF), which has ruled Zimbabwe since the creation of the country.

According to the complainant, as Mr. Ngadziore was making his way to parliament's pre-budget seminar on 1 November 2023, he was met by a group of men armed with AK-47 assault rifles who disembarked from six vehicles and abducted him, forcing him into one of their vehicles. The complainant shared a live Facebook video filmed by Mr. Ngadziore as the events were unfolding.

The complainant adds that the gang that abducted Mr. Ngadziore was equipped with guns, tasers, syringes and baton sticks. According to the complainant, Mr. Ngadziore was blindfolded and taken to

Case ZWE-70

Zimbabwe: Parliament affiliated to the IPU

Victim: Opposition member of the National Assembly

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

Submission of complaint: November 2023

Recent IPU decision(s): - - -

Recent IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

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

Christon Bank in Mazoe, about 30 kilometres north of Harare, where he was tortured and questioned about his political plans. The complainant also reports that Mr. Ngadziore was injected with an unknown substance, stripped naked and left for dead in Christon Bank, Mazoe. According to the complainant, Mr. Ngadziore was then taken to hospital, where he received emergency treatment. The complainant has shared photos showing the scars caused by the torture and violence meted out by the abductors.

According to the complainant, a report had been made to the police, but no action had been taken to investigate the facts. The complainant stresses that Mr. Ngadziore has become the third CCC official to be abducted and injected with an unknown substance since the disputed 23 August 2023 elections in Zimbabwe. The complainant claims that the CCC Youth Taskforce member, Mr. Womberal Nhende, and former member of parliament, Mr. James Chidhakwa, were also recently abducted, tortured, subjected to injections and dumped by a roadside. The complainant stresses that these cases were not properly investigated by the authorities and have remained unpunished. In the case of Mr. Ngadziore, the complainant highlights that the video made by the victim at the time of the abduction enables the identification of some of the perpetrators, namely police officers Mr. Nicholas Kajese, Mr. Abraham Pasi and Mr. Ishmael Mada, who are reportedly stationed at the Harare Central Police Station.

The complainant reports that the video quickly went viral and pressured the authorities to release Mr. Ngadziore without having him killed, unlike the late Pastor Tapfumaneyi Masaya. According to the complainant, Pastor Masaya was abducted by armed men on 11 November 2023 and found dead two days later. The complainant specifies that Pastor Masaya was abducted as he was campaigning for the by-election of a CCC parliamentarian in his constituency following a decision to revoke the mandate of 23 parliamentarians on the basis of a letter from an impostor claiming to be the CCC Secretary General. According to the complainant, since then an additional 18 parliamentarians have been stripped of their mandate and arbitrarily prevented from taking part in by-elections in their constituencies.

According to the complainant, this situation should be seen within the context of increased repression against the opposition and the closing of civic space that followed the disputed elections of 2023, which saw the ruling ZANU-PF party lose its two-thirds majority in parliament.

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 the initial allegations were made;
3. *Notes*, further, that the complaint concerns allegations of abduction, torture, ill-treatment and other acts of violence, threats and acts of intimidation, and impunity, which are allegations that 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 abduction of Mr. Ngadziore, allegedly by police officers, and the reported acts of torture inflicted upon him;
6. *Expresses shock* at allegations that this brutal attack on a sitting parliamentarian has not been duly investigated and that his captors remain at large, even though their appearance in the live video recorded and shared by Mr. Ngadziore at the moment he was abducted allowed them to be easily identified; and *stresses* that these crimes must not remain unpunished;

7. *Recalls* that impunity, by shielding those responsible from judicial action and accountability, decisively encourages the perpetration of further serious human rights violations, and that attempts on the lives of members of parliament, when left unpunished, not only violate the fundamental rights of individual parliamentarians and of those who elected them, but also affect the integrity of parliament and its ability to fulfil its role as an institution – even more so when leading figures of parliament and the opposition are targeted in the context of a broader pattern of repression, as in the present case;
8. *Reaffirms its view* that the Parliament of Zimbabwe has a direct responsibility for ensuring that every effort is made by all relevant authorities to investigate thoroughly and diligently the many leads and concerns that have emerged, to identify and punish those responsible for the reported abduction and torture of one of its members and to do everything possible to ensure that such violations do not recur in the future; *urges* parliament to take decisive and effective measures to this end; and *wishes* to be kept informed of progress made in this regard;
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.

Bolivia

(Plurinational State of)

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



Ms. Clotilde Padilla Solíz, 2022 © Bolivian Chamber of Deputies

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 carrying out her duties 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 take 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 arrested. The complainant reports that Ms. Padilla did not file a complaint afterwards.

In a letter dated 10 October 2023, the Bolivian parliamentary authorities stated that Ms. Padilla had not ceased her parliamentary duties since her election and that, according to the Ministry of the Interior and the national police, no complaint had been made to the relevant national authorities about any alleged acts of violence committed against the member of parliament. The parliamentary authorities also expressed their willingness to engage in a meaningful dialogue with the Committee with a view to finding

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: February 2023

Recent IPU mission(s): - - -

Recent Committee hearing: - - -

Recent follow-up:

- Communication(s) from the authorities: Letter from the President of the Legislative Assembly (October 2023)
- Communication from the complainant: January 2024
- Communication to the authorities: (November 2023)
- Communication to the complainant: January 2024

satisfactory solutions to the Bolivian cases referred to it and to identifying and adopting good practices that would ensure an environment free from all forms of violence within parliament.

In January 2024, the complainant informed the Committee in writing that Ms. Padilla was satisfied with the Committee's actions in following up her situation, that she currently felt safe, that she was able to carry out her mandate with no problem and that no further action by the Committee was required.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the parliamentary authorities for the information provided and for their willingness to cooperate and engage in constructive dialogue with the Committee;
2. *Reiterates* its concern at the allegedly discriminatory and sexist nature of the violence to which the parliamentarian was subjected and *condemns in the strongest possible terms* the use of violence against women parliamentarians; *welcomes*, nevertheless, the willingness of the parliamentary authorities to cooperate with the IPU with a view to ensuring that parliament remains a place free from all forms of violence; and *invites*, in this respect, the parliamentary authorities to provide further information on how the IPU could best provide targeted assistance aimed at strengthening parliament's capacity in this respect;
3. *Considers*, in the light of the confirmation by the complainant and the parliamentary authorities that Ms. Padilla is able to carry out her parliamentary mandate fully and without restriction, and of the complainant's statement that there was no further need for the Committee to continue examining the case, that no further action is required in this case; and *decides* to close it in accordance with paragraphs 25 and 25(c) of Annex I to its Rules and Practices;
4. *Requests* the Secretary General to convey this decision to the parliamentary authorities and the complainant.

Bolivia

(Plurinational State of)

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



Ms Ericka Chávez Aguilar, 2022 © Bolivian Chamber of Deputies

BOL-85 – Ericka Chávez Aguilar

Alleged human rights violations

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

A. Summary of the case

According to the complainant, on Tuesday 23 May 2023, the Bolivian Minister of the Interior, Mr. Carlos Eduardo Del Castillo Del Carpio, was questioned in the chamber of the Plurinational Legislative Assembly of Bolivia about his alleged involvement in the arrest of the governor of the department of Santa Cruz, Mr. Luis Fernando Camacho. During the session, the minister reportedly failed to respond fully to questions from opposition parliamentarians, describing them as "radical, violent groups of thieves and thugs who have come to steal the money of the Bolivian people".

The complainant states that, following these remarks, opposition members of parliament rose to their feet and held up posters in support of the governor of Santa Cruz. In response, members of parliament of the majority party *Movimiento al Socialismo* (Movement towards Socialism) (MAS) began hitting and kicking them. Against this background, opposition member of parliament, Ms. Erika Chávez Aguilera, was allegedly assaulted by two MAS members of parliament, Ms. María José Rodríguez Gálvez and substitute senator Ms. Yolanda Ponce Condo. According to the information provided by the complainant, Ms. Ponce Condo violently pushed member of parliament Ms. Chávez Aguilera, who fell to the ground and hit herself hard against the wooden steps of the chamber's rostrum. She then got up to try to help another opposition member of parliament who continued to be hit by MAS members of parliament. At this point, member of parliament Ms. María

Case BOL-85

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: May 2023

Recent IPU decision(s): - - -

Recent IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: Letter from the President of the Legislative Assembly (September 2023)
- Communication from the complainant: January 2024
- Communication to the authorities: November 2023
- Communication to the complainant: January 2024

José Rodríguez allegedly attacked Ms. Chavez Aguilera from behind, pulling her violently by the hair and pushing her to the ground.

According to information provided by the complainant, member of parliament Ms Chávez Aguilera is currently having difficulty walking as a direct result of the attack to which she was allegedly subjected during the parliamentary session. Following a forensic examination, a medical certificate was issued authorizing her to be temporarily absent from parliament. A copy of a temporary sick note dated 26 May 2023 was added to the file. The complainant states that, to date, no action or disciplinary measures have been taken against member of parliament Chávez Aguilera's attackers.

In a letter dated 12 September 2023, the parliamentary authorities stated that no complaint had been recorded in the archives of the secretariat of the Chamber of Deputies regarding the complainant's allegations. Nor had any record of sick leave in the member of parliament's name been found in the relevant records during May, June, July and August 2023. The authorities also provided a copy of a witness statement signed by Ms. Rodríguez Gálvez maintaining that Ms. Chávez Aguilera had assaulted Ms. Rodríguez Gálvez and not the other way round, as the complainant had stated.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint was submitted in due form by a qualified complainant under section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the complaint concerns an incumbent member of parliament at the time of the alleged violations;
3. *Notes* that the complaint concerns allegations of torture, ill-treatment and other acts of violence, which are allegations that fall under the Committee's mandate;
4. *Considers*, therefore, that the complaint is admissible under section IV of the Procedure for the examination and treatment of complaints; and *declares itself competent* to examine the case;
5. *Thanks* the parliamentary authorities for the information provided and for their willingness to cooperate and engage in constructive dialogue with the Committee;
6. *Notes* in the information provided by the parliamentary authorities that no mention of member of parliament Chávez Aguilera's sick leave appears in the records for May, June, July and August 2023; *notes* that the statement that the member of parliament had not taken sick leave is signed by Ms. Rodríguez Gálvez in her capacity as First Secretary of the Chamber of Deputies; *wishes* to receive further information on the circumstances in which the statement was drawn up, and to receive assurance that the fact that the person accused by the complainant is the same person producing the evidence that could exonerate her from any liability will not alter the credibility of that evidence or compromise the impartiality essential to the fairness of any proceedings;
7. *Notes* also in the information provided by the parliamentary authorities that no complaint relating to the complainant's allegations is recorded in the archives of the secretariat of the Chamber of Deputies; *wishes* to receive in this regard, irrespective of potential individual complaints, information concerning any investigations and/or preventive measures that may have been put in place *ex officio*, and their outcomes, following the violent incidents that took place in parliament on 23 May 2023;
8. *Notes* that the version of events put forward by Ms. Rodríguez Gálvez contradicts that of the complainant; *wishes* in this regard to receive full, unedited copies of the video recordings taken by the relevant parliamentary departments in order to be able to form its own opinion on the alleged facts;
9. *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.

10. *Decides* to continue examining the case.

Kyrgyzstan

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



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KGZ-02 – Adakhan Madumarov

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Violation of freedom of opinion and expression
- ✓ Failure to respect parliamentary immunity

A. Summary of the case

Mr. Adakhan Kumsanbayevich Madumarov is a seasoned parliamentarian and former Speaker of the Kyrgyz Parliament, the *Jogorku Kenesh* (Supreme Council). Mr. Madumarov was the main challenger to interim President Sadyr Japarov in the 2021 presidential elections, and is also the leader of *Butun Kyrgyzstan* (United Kyrgyzstan), the largest opposition party in parliament.

According to the complainant, on 2 September 2023, as Mr. Madumarov was out on a stroll with his 13-year-old son, they were both arrested by a *Spetsnaz* (special forces) unit led by agents of the Central Investigative Department of the Interior Ministry. His son was later released and the parliamentarian transferred to the Bishkek Pervomaysky District Court, where he was charged with high treason and ordered to be held in pretrial detention in a State Committee on National Security (GKNB) remand prison. The complainant stresses that Mr. Madumarov has remained in prison until now with no possibility of continuing to carry out his mandate, as every appeal for his release has been rejected without justification. In addition, the complainant claims that Mr. Madumarov faces mistreatment and inhumane conditions of detention while being arbitrarily detained, as he suffers from a range of serious chronic health conditions, including type-2 diabetes and serious hypertension. The complainant stresses that the prolonged detention of Mr. Madumarov violates sections 3 and 6 of Government of the Kyrgyz Republic Decree No. 296 of 20 June 2018 on the approval of the list of serious diseases preventing the detention of suspects and accused persons.

Case KGZ-02

Kyrgyzstan: 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: January 2024

Recent IPU decision(s): - - -

Recent IPU Mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: January 2024
- Communication to the authorities: January 2024
- Communication to the complainant: January 2024

The complainant adds that, in March 2022, the *Jogorku Kenesh* rejected the Prosecutor General's initial request to lift Mr. Madumarov's immunity. However, following a new request in June 2023, parliamentarians rejected charges related to preparing mass riots and attempting to seize power but allowed the abuse of power case against Mr. Madumarov to go ahead. The complainant stressed that the fact that the authorities subsequently upgraded the abuse of power charge to the charge of high treason was never explained and therefore maintains that the arbitrary arrest of Mr. Madumarov violates his parliamentary immunity. The complainant adds that the authorities later introduced fraud charges related to an old electoral donation supported by questionable evidence. The complainant adds that parliament's approval to prosecute in the fraud charge case was never sought and stresses that both charges have exceeded the statute of limitations. The complainant adds that the Pervomaysky District Court further violated Mr. Madumarov's rights by extending his custody and declaring the proceedings a closed trial. The complainant highlights the arbitrary classification of the case as "secret", imposing a non-disclosure obligation on Mr. Madumarov's lawyers and undermining their ability to defend their client.

According to the complainant, the charge of high treason against Mr. Madumarov is linked to his participation in a bilateral meeting with Tajikistan in March 2009, where he was sent, together with a larger delegation, as Secretary of the Security Council to discuss long-standing issues related to the un-demarcated border between the two countries. The complainant adds that Mr. Madumarov was acting on instructions from the Head of State when he co-signed the protocol (minutes) of the meeting, where the idea of a land swap was flagged. According to the complainant, the document carries no legal value, as it was never endorsed by parliament, nor implemented.

The complainant concludes that the detention of Mr. Madumarov violates Kyrgyz due process principles and human rights standards, which they see as a punishment for his criticism of the authorities, including his opposition to a recent controversial land swap deal with Uzbekistan, and an attempt to stamp out opposition in parliament. Statements from his party describe a campaign of "unthinkable threats, psychological pressure and criminal prosecution" following the 2020 elections and the subsequent political upheaval. Regarding Mr. Madumarov specifically, the statement reads that there is "no doubt that the protocol of 2009 is just a pretext for the total destruction of our party and our leader". The authorities have also made statements that seem to presume Mr. Madumarov's guilt.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint was submitted in due form by a qualified complainant under section I.(1)(a) of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the complaint concerns an incumbent member of parliament at the time the initial allegations were made;
3. *Notes* that the complaint concerns allegations of torture, ill-treatment and other acts of violence, arbitrary arrest and detention, inhumane conditions of detention, lack of due process in proceedings against parliamentarians, violation of freedom of opinion and expression and failure to respect parliamentary immunity, which are allegations that fall within the Committee's mandate;
4. *Considers* that the complaint is therefore admissible under the provisions of section IV of the Procedure on the examination and treatment of complaints; and *declares itself competent* to examine the case;
5. *Requests* the Secretary General to convey this decision to the relevant authorities and the complainant;
6. *Decides* to continue examining the case.

Maldives

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



© Twitter Ahmed Shiyam @Shiyamaldives

MVD-79 – Ahmed Shiyam

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Abusive application of parliamentary sanctions

A. Summary of the case

According to the complainant, Mr. Ahmed Shiyam was forcibly removed from and attacked in the parliamentary chamber in the course of an important debate in the People's Majlis on 2 June 2020, during which he and other colleagues belonging to the opposition protested against the handling of a motion to revise the Constitution. According to the Speaker of the People's Majlis, Mr. Shiyam was fully able to exercise his right to freedom of expression during the debate but chose to disrupt parliamentary proceedings incessantly and pointlessly. After warning him in vain, the situation left the Speaker no other choice but to have Mr. Shiyam removed from the parliamentary chamber. According to the Speaker, while some scuffles took place during the removal, Mr. Shiyam was not attacked and was not injured. This seems to be attested by video footage made available to the IPU.

Following the presidential elections held on 9 September 2023, Mr. Shiyam was appointed to the Cabinet of the Maldives in November 2023.

B. Decision

The Committee on the Human Rights of Parliamentarians

Case MVD-79

Maldives: Parliament affiliated to the IPU

Victim: male, opposition member of the People's Majlis

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

Submission of complaint: June 2020

Recent IPU decision(s): - - -

Recent IPU Mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities:
Letter from the Speaker of the People's Majlis (November 2020)
- Communication from the complainant:
June 2020
- Communication to the authorities:
Letter to the Speaker of the People's Majlis (December 2022)
- Communication to the complainant:
November 2023

1. *Notes* that the complaint was submitted in due form by a complainant qualified under section I.1 (a) of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the complaint concerns an incumbent member of parliament at the time the initial allegations were made;
3. *Notes* that the complaint concerns allegations about ill-treatment and other acts of violence and the abusive application of parliamentary sanctions, which fall under the Committee's mandate;
4. *Considers*, however, that since the original submission of the complaint no compelling information has been provided by the complainant that would sustain their allegation that Mr. Shiyam was removed from the parliamentary chamber in violation of parliamentary procedure and that he was attacked in the course of and immediately following his removal;
5. *Concludes*, therefore, that the complaint is not admissible under the provisions of section IV of the Procedure; and *decides* not to examine the case;
6. *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 173rd session (Geneva, 23 January to 7 February 2024)



© Zorig Foundation

MNG-01 - Zorig Sanjasuuren

Alleged human rights violations

- ✓ Murder
- ✓ Impunity

A. Summary of the case

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

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

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

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

Case MNG-01

Mongolia: Parliament affiliated to the IPU

Victim: Member of the majority

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

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

Recent IPU decision: February 2022

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

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

Recent follow up:

- Communication from the authorities: Letter from the Vice-Chairman of the State Great Hural (February 2021)
- Communication from the complainants: May 2021
- Communication to the authorities: Letter to the Vice-Chairman of the State Great Hural (December 2023)
- Communication to the complainants: January 2023

transferred to the prison hospital as a result of the video and a criminal case was opened against intelligence and law enforcement officials allegedly responsible for torturing them. Nevertheless, they remained in detention at that time.

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

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

On 14 May 2021, the Supreme Court of Mongolia ordered the release on bail of Ms. Chimgee and Mr. Sodnomdarjaa and returned the case of Mr. Zorig for further investigation. However, the Mongolian authorities have yet to confirm that the court has officially abandoned all legal proceedings against Ms. Chimgee and Mr. Sodnomdarjaa.

In June 2024, Mongolia will hold parliamentary elections that will increase the number of parliamentarians from 76 to 126 members of parliament.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Recalls with satisfaction* that Ms. Chimgee and Mr. Sodnomdarjaa have been released on bail and that accountability for their torture has finally been established in court; *regrets*, however, the lack of information from the relevant authorities confirming that the legal proceedings against the two individuals have been officially abandoned and that their release is final, given its 2019 mission report's findings; and *calls on* the relevant authorities, once again, to provide the requested information and ensure that they are compensated for the wrongdoings suffered;
2. *Firmly believes* that the resolution of the Zorig case would be a landmark achievement for the Mongolian authorities in upholding human rights and that transparency is an important step in the pursuit of justice in this case, which can only be achieved when the identity of the masterminds responsible for murdering Mr. Zorig is established; *renews its call*, therefore, for the authorities to ensure a robust and effective investigation into establishing the identity of those accountable for this crime and to allow unhindered access to all relevant documents; and *reiterates its wish* to be kept regularly apprised of all significant developments, including with regard to any progress made;
3. *Reaffirms* that parliamentary oversight remains crucial towards helping to ensure that justice finally prevails in Mr. Zorig's case; *calls on* the Mongolian State Great Hural, once again, to use its oversight power to ensure that an effective and thorough investigation is being conducted, and to request clear answers from the Government regarding the identity of the masterminds; *invites* the parliamentary authorities, in light of the upcoming parliamentary elections due to be held in June 2024, to re-establish an *ad hoc* committee on the Zorig case, with a strong and clear mandate to continue monitoring the ongoing investigation; and *wishes* to be kept informed in this respect;

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

Tunisia

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 173rd session (Geneva, 23 January to 7 February 2024)



Abir Moussi (centre), President of the Free Destourian Party (PDL), lifts her face mask as she gestures during a parliamentary session as Tunisian lawmakers debate ahead of a vote of confidence 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 of Tunisia 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, 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 Makhoulf and Mr. Sahbi Smara. The latter physically assaulted Ms. Moussi during Assembly proceedings on 30 June 2021.

The two parliamentarians have not been punished as 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.

In several of their letters sent between 2020 and 2023, the parliamentary executive authorities pointed out that measures had been taken to protect Ms. Moussi's rights, in particular the provision of permanent security by the Ministry of the Interior. Nevertheless, the Tunisian authorities have repeatedly asserted that Ms. Moussi's conduct was prejudicial and that certain measures taken against her were justified.

Case TUN-06

Tunisia: Parliament affiliated to the IPU

Victim: Female opposition member of parliament

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

Submission of complaint: October 2020

Recent IPU decision: February 2023

Recent IPU mission(s): - - -

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

Recent follow-up:

- Communication from the authorities: Letter from Speaker of the Assembly of People's Representatives (December 2023)
- Communication from the complainant: December 2023
- Communication to the authorities: Letter to the President of the Republic (December 2023)
- Communication to the complainant: December 2023

On 25 July 2021, President Kais Saïed suspended parliament and lifted the parliamentary immunity of all parliamentarians, invoking Article 80 of the Constitution. The President granted himself the power to legislate by means of presidential decrees, which are not subject to judicial review in the absence of a Constitutional Court. On 30 March 2022, the President officially dissolved parliament and announced a road map for the year 2022 that included the organization of parliamentary elections and the adoption of a new Constitution. According to the results published by the *Instance supérieure indépendante pour les élections*, ISIE (Independent High Authority for Elections), the turnout for the parliamentary elections was around 11%. Several political parties, civil society organizations and the Tunisian General Labour Union (UGTT), a powerful national trade union organization, boycotted the elections on the grounds that the whole constitutional process initiated by President Saïed had been neither free nor fair. They therefore rejected the election results as illegitimate.

In January 2023, Ms. Moussi's political party was reportedly banned from protesting freely against the decrees adopted by President Kais Saïed. Ms. Moussi and her supporters were allegedly violently prevented from marching by a public order brigade.

On 3 October 2023, Ms. Moussi was arrested while attempting to lodge an appeal against the presidential decrees on the organization and conduct of local elections scheduled for December 2023, citing a lack of transparency in the electoral process. On 5 October 2023, she was reportedly questioned by an investigating judge about a series of security-related allegations, and the judge ordered that she be remanded in custody. She is accused of "an attack aimed at changing the form of government, inciting people to arm themselves against each other or to provoke disorder, murder or pillage in the country", as stipulated in section 72 of the Tunisian Penal Code. According to the complainant, Ms. Moussi faces the death penalty as a consequence of these charges. The complainant added that Ms. Moussi's detention was intended to hinder her participation in the forthcoming presidential elections scheduled for autumn 2024.

In a letter received on 20 December 2023, the parliamentary authorities stated that they did not have official information on the judicial cases in progress, as these proceedings fell within the remit of the judicial authorities, in accordance with the principle of the separation of powers set out in the Tunisian Constitution of 2022. Furthermore, according to the parliamentary authorities, these cases are also subject to the principle of confidentiality of the investigation in order to ensure the proper conduct of investigations and protection of personal data. In the same letter of 20 December 2023, the parliamentary authorities refuted the allegations that the proceedings initiated against the former members of parliament, including Ms. Moussi, were political in nature, stating that these allegations were unfounded, without, however, providing any arguments to that effect. According to the authorities, the current proceedings are based on laws applicable to all citizens, who remain equal before the law, and that involvement in politics does not guarantee immunity for those who break the law, contrary to what prevailed in the past.

Regarding the request for an IPU mission, the Tunisian authorities continue to decline the Committee's request for various reasons, including the legislative elections in December 2022, the establishment of the new Assembly of People's Representatives and the setting up of its internal structures, and the parliamentary recess (August–September 2023). In their letter of 20 December 2023, no response to the Committee's request for a mission was forthcoming.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Thanks* the Tunisian authorities for the information provided in their letters of 29 May and 20 December 2023; *regrets*, nevertheless, the lack of any concrete information on Ms. Moussi's case; *deplores* the fact that, despite its numerous efforts to organize a mission to Tunisia, the authorities have still not provided a clear answer as to when the mission can take place;
2. *Deplores* the detention of Ms. Abir Moussi, an alarming step backwards in this case, particularly in view of the charges against her, which should not have led to this measure; *regrets* that the former member of parliament has been imprisoned for attempting to question the validity of the presidential decrees on local elections before the Tunisian courts; and *is alarmed* at the

seriousness of the charges against her and at the disproportionate sentence she faces in relation to the alleged offences, namely the death penalty;

3. *Calls on* the Tunisian authorities to release Ms. Moussi as a matter of urgency and to drop the charges against her, given that they appear to be based solely on the peaceful exercise of her rights to freedom of expression, association and assembly, which are guaranteed under the International Covenant on Civil and Political Rights, to which Tunisia has acceded;
4. *Deeply regrets* the turn of events in the case in question as, instead of holding Ms. Moussi's assailants accountable before the courts, the Tunisian authorities arrested and detained her for criticizing presidential decrees and the current government; *reiterates* that healthy democracies are based on the diversity of political opinion, which should be heard and respected; *reiterates*, also, that Tunisian women should be able to carry out their political duties in a respectful environment where their rights are defended effectively and seriously; and, to this end, *calls on* the relevant authorities to respect and protect the rights of women politicians in Tunisia;
5. *Is concerned* at the allegation that Ms. Moussi was arrested with the aim of preventing her participation in the forthcoming presidential elections; *reiterates* that the participation of women in legislative and presidential elections enriches and strengthens the democratic process in place; *encourages* the Tunisian authorities, therefore, in an election year likely to result in an exacerbation of political tensions, to take all necessary steps to guarantee the fundamental rights of all former and current parliamentarians, irrespective of their political affiliation and opinions;
6. *Reiterates its hope* that a delegation from the Committee on the Human Rights of Parliamentarians will be able to visit Tunisia in the near future in order to foster constructive and inclusive dialogue and help resolve Ms. Moussi's case and, together with the Tunisian Parliament, explore ways to combat the intimidation of women in politics; and *hopes* to receive a positive response and support from the Assembly of People's Representatives to this end to enable the mission to take place in the best possible conditions;
7. *Requests* the Secretary General to convey this decision to the Speaker of the Assembly of People's Representatives, 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 173rd session
(Geneva, 23 January to 7 February 2024)*



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 Makhoulf | TUN-39 - Noomane El Euch |
| TUN-08 - Maher Zid | TUN-40 - Abdelhamid Marzouki |
| TUN-09 - Maher Medhioub | TUN-41 - Ayachi Zammal |
| TUN-10 - Yosri Dali | TUN-42 - Samir Dilou |
| TUN-11 - Fethi Ayadi | TUN-43 - Habib Ben Sid'hom |
| TUN-12 - Awatef Ftirch (Ms.) | TUN-44 - Mabrouk Khachnaoui |
| TUN-13 - Omar Ghribi | TUN-45 - Bechir Khelifi |
| TUN-14 - Faiza Bouhlel (Ms.) | TUN-46 - Nouha Aissaoui (Ms.) |
| TUN-15 - Samira Smii (Ms.) | TUN-47 - Latifa Habachi (Ms.) |
| TUN-16 - Mahbouba Ben Dhifallah (Ms.) | TUN-48 - Ferida Laabidi (Ms.) |
| TUN-17 - Mohamed Zrig | TUN-49 - Mohamed Affas |
| TUN-18 - Issam Bargougui | TUN-50 - Abdellatif Aloui |
| TUN-19 - Samira Chaouachi (Ms.) | TUN-51 - Mehdi Ben Gharbia |
| TUN-20 - Belgacem Hassan | TUN-52 - Rached Khiari |
| TUN-21 - Kenza Ajela (Ms.) | TUN-53 - Lilia Bellil (Ms.) |
| TUN-22 - Emna Ben Hmayed (Ms.) | TUN-54 - Moussa Ben Ahmed |
| TUN-23 - Bechr Chebbi | TUN-55 - Oussama Khlifi |
| TUN-24 - Monjia Boughanmi (Ms.) | TUN-56 - Ghazi Karoui |
| TUN-25 - Wafa Attia (Ms.) | TUN-57 - Mohamed Fateh Khlifi |
| TUN-26 - Jamila Jouini (Ms.) | TUN-58 - Ziad El Hachemi |
| TUN-27 - Mohamed Lazher Rama | TUN-59 - Sofiane Makhloufi |
| TUN-28 - Nidhal Saoudi | TUN-60 - Majdi Karbai |
| TUN-29 - Neji Jmal | TUN-61 - Anouar Ben Chahed |
| TUN-30 - Zeinab Brahmi (Ms.) | TUN-62 - Yassine Ayari |
| TUN-31 - Mohamed Al Azhar | TUN-63 - Ghazi Chaouachi |
| TUN-32 - Nouredine Bhiri | TUN-64 - Ahmed Mechergui |
| TUN-33 - Rached Ghannouchi | TUN-65 - Mohamed Ben Salem |
| TUN-34 - Tarek Fetiti | TUN-66 - Lazhar Akremi |
| TUN-35 - Imed Khemiri | TUN-67 - Ali Laraiedh |
| TUN-36 - Walid Jalled | TUN-68 - Ahmed Ameri |
| TUN-37 - Safi Said | TUN-69 - Sayed Ferjani |
| TUN-38 - Iyadh Elloumi | TUN-70 - Sahbi Atig |

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

B. Summary of the case

This case concerns 64 members of the Assembly of People's Representatives of Tunisia elected in 2019 who, according to the complainants, are victims of arbitrary prosecutions after expressing 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 insurance 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 reprisal, only nine of the 120 members of parliament concerned, including the former Speaker of the National Assembly, Mr. Rached Ghannouchi, submitted a complaint to the Committee. Mr. Ghannouchi was summoned for questioning 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 and were imprisoned before being released, including Mr. Seifedine Makhlouf and Mr. Nidhal Saoudi. Mr. Nourredine Bhiri, who had initially been arrested and detained on 31 December 2021 before being released on 8 March 2022, was again arrested on 13 February 2023 by officers from the national terrorist crimes investigation unit. Mr. Bhiri is still being held in pretrial detention. The cases concerning certain members of parliament are also being examined in the military courts, as provided for by Tunisian law.

In the same context, Mr. Rached Khiari, who has been charged in other cases, has been detained since 3 August 2022 on a charge of defamation against another person on social media brought by the Ministry of Education. Mr. Khiari is also alleged to have accused President Saïed of receiving foreign funding for his 2019 election campaign and is now facing the military courts on these charges. Similarly, Mr. Mehdi Ben Gharbia has been held in pretrial detention since 20 October 2021, accused of money laundering, and is allegedly still being held despite the detention exceeding the legal six-month limit. In its Opinion No. 50/2023 of 26 September 2023 concerning the case of Mr. Ben Gharbia, the Working Group on Arbitrary Detention stated that Mr. Ben Gharbia's detention was arbitrary based on the information provided by the source. The working group also called on the Tunisian authorities, who have not sent their official observations to the UN mechanism, to release Mr. Ben Gharbia immediately and grant him the right to obtain compensation.

Case TUN-COLL-01

Tunisia: Parliament affiliated to the IPU

Victims: 64 members of the opposition (51 men and 13 women)

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

Submission of complaints: August, September and October 2021

Recent IPU decision: February 2023

Recent IPU mission(s): - - -

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

Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the Assembly of People's representatives (December 2023)
- Communication from the complainants: January 2024
- Communication to the authorities: Letter to the President of the Republic (December 2023)
- Communication to the complainants: December 2023

As for Mr. Rached Ghannouchi, he is allegedly the target of politically motivated persecution, as he has been charged in several cases that the complainants maintain are politically motivated. On 15 May 2023, he was sentenced by Tunisia's anti-terrorism court to one year's imprisonment and a fine for public statements he had made in 2022.

In their letter of 28 January 2022, the executive authorities stated that all members of parliament, whose mandates had been suspended, enjoyed freedom of movement and travel, apart from those subject to a legal ruling 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 Mr. Ben Gharbia's situation, 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. Requests for his release had been refused.

In May and June 2023, the complainants referred eight new complaints to the Committee concerning the cases of eight former Tunisian members of parliament who were subject to arbitrary prosecutions because of their opposition to the measures taken by the President of the Republic. These include Mr. Sayed Ferjani and Mr. Ahmed Mechergui, who were allegedly arrested on 27 February and 19 April 2023, respectively, in connection with the investigation against Mr. Ghannouchi in the Instalingo case. Similarly, Mr. Ahmed Laâmari and Mr. Mohamed Ben Salem were reportedly arrested in March 2023 for organizing an illegal border crossing and illegally holding currency. Mr. Lazhar Akremi and Mr. Ghazi Chaouachi were reportedly arrested in February 2023 in connection with a plot against state security. Mr. Ali Laraiedh, the former Prime Minister, was arrested on 19 December 2022 on vague terrorism charges. The complainants state that he is being held in detention without having appeared before a judge. Finally, former member of parliament Mr. Sahbi Atig was allegedly arrested on 6 May 2023 and prosecuted for "corruption" and "money laundering". According to the complainants, the aim of all these cases is to silence former members of parliament who had publicly criticized the Head of State. In a recent communication, the complainants also indicated that Ms. Lilia Bellil wished to have her name removed from the present case, on the grounds that she had never expressed the wish for the Committee to examine her case.

In their letters of July and December 2023, the authorities stated that they were not in a position to provide information on the judicial proceedings under way because of the principle of the separation of powers. Furthermore, according to the parliamentary authorities, these cases are also subject to the principle of confidentiality of the investigation in order to ensure the proper conduct of investigations and protection of personal data. In the same letter of 20 December 2023, the parliamentary authorities refuted the allegations that the proceedings initiated against the former members of parliament were political in nature, stating that these allegations were unfounded, without, however, providing any arguments to that effect. According to the authorities, the current proceedings are based on laws applicable to all citizens, who remain equal before the law, and that involvement in politics does not guarantee immunity for those who break the law, contrary to what prevailed in the past.

Concerning the request for an IPU mission, the Tunisian authorities continue to decline the Committee's request for various reasons, including the legislative elections in December 2022, the establishment of the new Assembly of People's Representatives and the setting up of its internal structures, and the parliamentary recess (August–September 2023). In their letter of 20 December 2023, no response to the Committee's request for a mission was forthcoming.

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. The latter invoked Article 80 of the Constitution to suspend and dissolve parliament, lifting the parliamentary immunity of members of parliament and granting himself the power to legislate by presidential decrees, which are not subject to judicial appeal given the absence of a Constitutional Court. On 30 March 2022, the President officially dissolved parliament, announcing a road map for 2022 that included the organization of legislative elections and adoption of a new Constitution. According to the results published by the *Instance supérieure indépendante pour les élections*, ISIE (Independent High Authority for Elections), the turnout for the legislative elections, which finally took place in December 2022 and January 2023, was around 11%. Several political parties, civil society organizations and the Tunisian General Labour Union (UGTT), a powerful national trade union organization, boycotted these elections on the grounds that the whole constitutional process initiated by President Saïed had been neither free nor fair. The parties involved therefore rejected the election results as illegitimate.

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

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Notes* that the complaint concerning the situation of eight members of the Tunisian Assembly of People's Representatives elected in 2019, which are the subject of cases TUN-63 to TUN-70, is admissible, considering that the complaint: (i) was submitted in due form by qualified complainants under section I.1(a) and (b) of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns members of parliament whose mandate was arbitrarily suspended at the time the initial allegations were made; and (iii) concerns allegations of failure to respect parliamentary immunity, violations of the freedom of opinion and expression, freedom of movement and freedom of assembly and association, arbitrary arrest and detention, and threats and acts of intimidation, allegations which fall under the Committee's mandate; and *decides* to merge the examination of their situation with the present case; *notes*, also, the information concerning Ms. Lilia Bellil; and *decides* to close her case under section IX, paragraph 25(c), of its Procedure for the examination and treatment of complaints;
2. *Thanks* the Tunisian authorities for the information provided in their letters of 29 May, 24 July and 20 December 2023; *regrets*, nevertheless, the lack of any detailed official information on the situation of former members of parliament subject to judicial proceedings; and *deplores* the fact that, despite its numerous efforts to organize a mission to Tunisia, the authorities have still not provided a clear answer as to when the mission can take place;
3. *Expresses its deep concern* at the new arrests and detentions of several former Tunisian members of parliament for criticizing the current government and the President of the Republic; and *is alarmed* at the seriousness of the charges brought against them and the disproportionate sentences they face in relation to the alleged offences, namely the death penalty;
4. *Reaffirms* that healthy democracies are based on the diversity of political opinion, which should be heard and respected; and, to this end, *calls on* the Tunisian authorities to release as a matter of urgency any former members of parliament detained for expressing their opposition to the exceptional measures adopted by the President of the Republic and to drop the charges against them and the 120 former members of parliament who met on 30 March 2022, given that these proceedings appear to be based solely on the peaceful exercise of their rights to freedom of expression, association and assembly, which are guaranteed under the International Covenant on Civil and Political Rights to which Tunisia has acceded;
5. *Stresses* that the absence of detailed information in this collective case from the relevant Tunisian authorities reinforces the complainants' allegations that the judicial proceedings brought against these former members of parliament are political in nature; *reaffirms* that the principle of the separation of powers, respect for which remains crucial to the proper functioning of the judiciary, does not exempt the parliamentary authorities from their duty of oversight; and *calls on* the Assembly of People's Representatives, the guardian of the human rights of parliamentarians, to closely monitor the ongoing cases and to demand clear answers from the government authorities on the charges against the former members of parliament, and 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;
6. *Reiterates its concern* about the use of military courts in cases concerning civilians; *urges* the Tunisian authorities to ensure that military courts are not used in cases concerning members of parliament elected in 2019 and to review the provisions of Tunisian law that allow this practice; and *wishes* to receive detailed information on the situation of all the former members of parliament included in this case;

7. *Encourages* the Tunisian authorities, in an election year likely to result in an exacerbation of political tensions, to take all necessary steps to guarantee the fundamental rights of all former and current parliamentarians, irrespective of their political affiliation and opinions;
8. *Reiterates the hope* that a delegation from the Committee on the Human Rights of Parliamentarians will be able to visit Tunisia in the near future in order to find satisfactory solutions to the cases under examination, foster constructive and inclusive dialogue and discuss the matter of the possible provision of IPU assistance to the Tunisian Parliament; and *hopes* to receive a positive response and support from the Assembly of People's Representatives to this end to enable the mission to take place in the best possible conditions;
9. *Requests* the Secretary General to convey this decision to the Speaker of the Assembly of People's Representatives, the complainants and any third party likely to be in a position to supply relevant information;
10. *Decides* to continue examining this case.

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