DEMOCRATIC REPUBLIC OF CONGO

- **COD-158:** Chérubin Okende Senga
- **COD-COLL-05:** Twenty parliamentarians
- **COD-72:** Dieudonné Bakungu Mythondeke
- **COD-COLL-03:** Two parliamentarians
- **COD-COLL-04:** Three parliamentarians

Inter-Parliamentary Union
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Democratic Republic of the Congo

Decision adopted unanimously by the IPU Governing Council at its 218th session (Arusha, 9 October 2026)



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 Together for the Republic (*Ensemble pour la République*), a political party led by opposition candidate in the presidential elections Moïse Katumbi – was found murdered, according to the complainants, shot in the head, inside his vehicle which had been abandoned on a road near Kinshasa city centre. Mr. Okende had reportedly disappeared the day before he was killed. Mr. Okende's death occurred 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.

Case COD-158

Democratic Republic of the Congo: Parliament affiliated to the IPU

Victim(s): Male opposition member of parliament

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

Submission of complaint(s): July 2023

Recent IPU decision: October 2025

IPU mission(s): - - -

Recent Committee hearing(s): Hearing with the DRC delegation at the 149th IPU Assembly in Geneva (October 2024)

Recent follow-up:
- Communication(s) from the authorities: - - -
- Communication from the complainant: July 2026
- Communication to the authorities: Letters to the Speaker of the National Assembly (July and September 2026)
- Communication to the complainant: July and September 2026

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. Shortly after Mr. Okende's death, the contents of a confidential report attributed to the National Intelligence Agency (ANR) were published by *Radio France International* (RFI) and *Jeune Afrique* media on 31 August 2023. According to this report, military intelligence was responsible for his death. The journalist who accessed the contents of this report was imprisoned in September 2023 and then convicted of disseminating false information. He was released in March 2024 after serving a six-month prison sentence. The Congolese authorities have stated that the report was wrongly attributed

to the ANR and that its contents were totally false.

On 29 February 2024, the Public Prosecutor announced that the cause of Mr. Okende's death was suicide, according to the analyses carried out and following the discovery of his personal diary in which he had written that he was "at the end of his tether". Mr. Okende's family strongly criticized the authorities' conclusion, and, in September 2024, the family's lawyer announced that the family had again filed a complaint with the Public Prosecutor asking for the investigation to be reopened. However, it appears that they have not had any response by the Congolese judiciary to this complaint.

At the Committee's request, meetings took place with the Congolese delegation during the 147th and 149th IPU assemblies in October 2023 and October 2024. During the first meeting, the Congolese delegation had confirmed the opening of a judicial investigation and that it had sought the assistance of international experts from Belgium, South Africa and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), who agreed to collaborate with the Congolese authorities in this case. The delegation stated that the report drawn up at the end of this judicial investigation would be published very shortly and that the National Assembly would send it to the Committee as soon as it was available. This investigation report has still not been made available to the Committee.

In October 2024, during its second meeting with the Committee, the delegation stated that Mr. Okende's family and lawyers had been given access to the whole case file, as they had brought proceedings in Belgian courts against Colonel-Major Christian Ndaywell. Concerning the evidence according to which Mr. Okende had supposedly committed suicide, the delegation explained that analyses and samples relating to the deceased's car and body had been carried out and that this evidence had been backed up by the conclusions of international experts who had been invited to work with the Congolese Public Prosecutor's Office in this investigation. The delegation stated that the teams from South Africa and MONUSCO had reportedly concluded that it was indeed a case of suicide, while the Belgian team had allegedly expressed doubts that it was a case of murder, but without concluding that Mr. Okende had committed suicide. The delegation emphasized that the media had wrongly reported on the case, which explained the differences between the investigation findings and the allegations of murder.

In July 2025, the complainant submitted part of the autopsy report, as well as photos taken of Mr. Okende's body when it was discovered inside his car and photos taken during the autopsy, carried out by a team of Congolese doctors and international experts. The forensic autopsy carried out on Mr. Okende revealed considerable blood loss from a serious head injury caused by a gunshot fired at point-blank range. According to the autopsy, the bullet entered above the right ear and travelled along an oblique axis from bottom to top and from right to left, causing destruction of the brain tissue and massive haemorrhaging, both internal and external. Death apparently resulted directly from this gunshot wound to the head, and from complications related to haemorrhagic shock. The autopsy report does not confirm the finding of suicide and does not identify the true cause of death; it simply describes a wound compatible with a gunshot at very close range, without establishing whether it was self-inflicted or caused by a third party.

The information supplied by the complainant confirms that the Congolese authorities sought the support of international experts from the United Nations Joint Human Rights Office, MONUSCO and the South African Police Service (SAPS) in conducting the autopsy and collecting evidence, including in relation to Mr. Okende's car. According to the report drawn up by Mr. Bandile Mlumbi, a lieutenant colonel employed by the SAPS on 4 August 2023, analysis of fingerprints and other evidence, such as bloodstain patterns found inside the vehicle, showed that the person driving the vehicle on the night of 12 to 13 July 2023 (night of the death) was none other than Mr. Okende. However, this analysis does not settle the issue of whether any other individuals were present in Mr. Okende's car on the night of his death.

With regard to the lodging of a complaint in Belgium, the complainant confirmed that Mr. Okende's family had referred the case to the Belgium courts on 7 November 2023 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 action 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.

In December 2025, the complainant stated that Mr. Ndaywell and several colonels from military intelligence had been imprisoned in the DRC for reasons unrelated to Mr. Okende's death.

In July 2026, the complainant stated that there had been no developments in the case and that Mr. Okende's family still had not received any response to their requests.
The Committee invited the Congolese delegation to meet with its members to discuss the case during the 153rd IPU Assembly held in October 2026 in Arusha, United Republic of Tanzania. No response was received, however.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Deplores* that its requests to the authorities for a meeting and written information have gone unanswered*; also deplores* the authorities' lack of transparency in this case, noting that, even though the judicial investigation was closed in 2024, the investigation report and autopsy report have yet to be made public or sent to the complainant and the Committee;

2. *Deeply regrets* that, three years after Mr. Okende's death, the truth has yet to be established owing to the lack of sufficient evidence supporting the Public Prosecutor's conclusion that he died by suicide, and that Mr. Okende's family is still awaiting answers in order to honour his memory;

3. *Fails to understand* the legal reasons preventing the Congolese Public Prosecutor from accepting the request of Mr. Okende's family to reopen the case, given the persisting doubts surrounding his death and the complaint lodged against Mr. Ndaywell in Belgium; *takes note* of the alleged imprisonment of Mr. Ndaywell in the DRC; and *wishes* to receive information from the authorities in that regard;

4. *Urges,* once more, the Congolese authorities to take all necessary steps to shed light on the circumstances of Mr. Okende's death and to show greater transparency by making the investigation and autopsy reports public and sending complete copies to the Committee and the complainant as soon as possible in order to establish the truth in this case;

5. *Strongly reaffirms* that the sudden death of Mr. Okende, an opposition member of parliament, is of an absolutely serious nature for reasons including the obscure circumstances of his death and his family's rejection of the conclusions of the Congolese courts; *stresses* that impunity encourages the repetition of acts of the same nature and undermines the credibility of justice; *urgently requests* the National Assembly, as the guardian of human rights, to join the civil action lodged by Mr. Okende's family and to support the family's requests to the Congolese Public Prosecutor to reopen the case;

6. *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;

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

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Decision adopted unanimously by the IPU Governing Council at its 218th session (Arusha, 9 October 2026)



An official from the Independent National Electoral Commission (CENI) registers voters at a polling station at the Institut Ndahura in Goma on 21 December 2023.
© ALEXIS HUGUET / AFP

COD-159 – Claude Nyamugabo Bazibuhe
COD-160 – Aruna Ndarabu Amurani
COD-161 – Frederic Fikiri Asani
COD-162 – Jean-Marie Kabengela Ilunga
COD-163 – Michel Omba Taluhata
COD-164 – Didier Nasibu Ibrahim
COD-165 – Pascal Manshimba
COD-166 – Jocelyne Mupeka Kindundu (Ms.)
COD-167 – Samy Badibanga Ntita
COD-168 – Nazem Nazembe
COD-169 – Matthieu Kitanga Luanga
COD-170 – José Ngbanyo Mbunga Detato
COD-171 – Yannick Lumbu Ngoy
COD-172 – Prosper Mastaki Kuliva
COD-173 – Gilbert Tutu Tedeza Kango
COD-174 – Freddy Tshibangu Kabula
COD-175 – Magguy Kiala Bolenga Boley (Ms.)
COD-176 – Robert Koloba Denge
COD-177 – Mamie Ngalula Kalala (Ms.)
COD-179 – Modero Nsimba Matondo

Alleged human rights violations

- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Lack of fair trial proceedings

Case COD-COLL-05

Democratic Republic of the Congo: Parliament affiliated to the IPU

Victim(s): 20 opposition members of parliament (17 men and 3 women)

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

Submission of the complaint(s): May, June, July and August 2024; July 2025; January 2026

Recent IPU decision: October 2025

IPU mission(s): - - -

Recent Committee hearing(s): Hearing with the complainants at the 151st IPU Assembly in Geneva (October 2025)

Recent follow-up:
- Communication from the authorities: - - -
- Communication from the complainants: September 2025
- Communication to the authorities: July 2026
- Communication to the complainants: September 2025

- ✓ Right of appeal
- ✓ Undue invalidation, suspension, revocation or other acts obstructing the exercise of the parliamentary mandate
- ✓ Arbitrary invalidation of the election of a parliamentarian
- ✓ Threats, acts of intimidation[1]
- ✓ Arbitrary arrest and detention
- ✓ Inhumane conditions of detention
- ✓ Violation of freedom of movement
- ✓ Failure to respect parliamentary immunity

A. Summary of the case

On 20 December 2023, the Democratic Republic of the Congo (DRC) held general elections against a backdrop of disruption, malfunctioning, violence and accusations of attempted fraud. A number of voices among the opposition and observers condemned the deplorable conditions in which the elections took place.

On 13 January 2024, the Independent National Electoral Commission (*Commission électorale nationale indépendante* – CENI) published the provisional results of the legislative elections. Prior to the publication of these results, the CENI had issued a decision invalidating 82 candidates for electoral fraud and other unlawful acts. Following the announcement of the provisional results and in view of the numerous incidents that occurred during the elections, more than 1,000 appeals were lodged with the Constitutional Court to rule on the electoral dispute.

It is against this background that this collective complaint was filed, initially involving the situation of 15 members of parliament who are among a group of members of parliament who were not declared elected by the CENI on 13 January 2024. Following appeals lodged with the Constitutional Court, the latter validated their election in its ruling of 12 March 2024. The National Assembly was notified of their definitive election, and the 15 members of parliament were able to sit and exercise their parliamentary mandate. However, on 22 April 2024, the same Constitutional Court that had ruled on the definitive election of these members of parliament issued a new ruling following a procedure "rectifying a material error", during which the complainants were not informed of the appeals lodged nor invited to be heard. The ruling of 22 April 2024 invalidated the mandates of the 15 members of parliament in favour of other individuals, some of whom had not even been candidates in the legislative elections. The Court thus overturned its prior decision, which was supposedly not subject to appeal under Article 168 of the Constitution and Article 74(2) of the Electoral Law amended on 29 June 2022. In the operative part of this new ruling, the Court failed to explain how it reached a conclusion that was opposite to the one it had reached in March 2024.

Furthermore, according to the complainants, the ruling of 22 April 2024 was handed down outside the legal time limit of two months available to the Court to rule on electoral disputes. According to Article 74 of Law No. 22/029 of 29 June 2022, "the time limit for examining disputes relating to legislative, provincial, urban, municipal and local elections is two months from the date on which the matter is referred to the competent courts". Article 74 *quinquies* of the same law specifies that "material errors shall have no impact on the ruling, except in cases of proven inaccuracy of the figures mentioned in the contested decision, or transcription errors". The law of 29 June 2022 was adopted by the National Assembly in order to remedy the electoral disputes observed during the 2019 legislative elections. However, despite the proactive measures taken by the Congolese legislature, the Constitutional Court appears to have violated this law.

This case also concerns the situation of Ms. Magguy Kiala Bolenga Boley and Ms. Mamie Ngalula Kalala, whose candidacies were reportedly rejected by the CENI in favour of male candidates. Ms. Boley was replaced by a candidate belonging to the majority in her single-seat constituency, even though she had obtained more votes than him. She is said to have lodged two appeals with the Constitutional Court and, although the transcript of the voting results attests to her victory, the Court declared her applications admissible but unfounded.

[1] This and the alleged violations that follow only concern Mr. Modero Nsimba Matondo; the rest concern all other members of parliament included in this case.

As for Mr. Pascal Manshimba and Mr. Robert Koloba, they were declared elected by the CENI, but their election was invalidated by the Constitutional Court in favour of other candidates from the majority. In its ruling of 12 March 2024, the Court accused Mr. Manshimba of electoral fraud, an allegation that he refutes. As for Mr. Koloba, after a challenge that he claims was not brought to his attention, his election was invalidated by the same Court ruling of 12 March 2024 in favour of another candidate whose list allegedly obtained more votes.

During the 149th IPU Assembly in October 2024, the Committee met with the Congolese parliamentary authorities and the complainants concerned in this case. The Committee noted that the complainants had exhausted all possible avenues of appeal in the DRC. As for the parliamentary authorities, they stated that the rulings of the Constitutional Court could be overturned in electoral disputes in the event of a material error and that this was the context in which the Court adopted its second ruling in April 2024. The parliamentary authorities were invited by the Committee to provide written information but have not sent any such information to date.

In January 2026, the Committee received a new complaint concerning Mr. Modero Nsimba Matondo, whose parliamentary mandate was invalidated under the same circumstances as the 15 other former members of parliament whose election was initially validated by the Constitutional Court only to be invalidated by the same Court not long after. The complainant also stated that on 18 March 2024, Mr. Matondo was summoned to a hearing before the Office of Military Intelligence regarding a recording attributed to him, which contained discussions of several sensitive issues, including the death of the late member of parliament Mr. Chérubin Okende. This recording, which had initially been kept private, was published on social media during the hearing. Following its publication, Mr. Matondo was accused of spreading false information, a punishable offence under Articles 199bis and 199ter of Book II of the Congolese Criminal Code.

Although he was not responsible for the recording's publication, Mr. Matondo was nonetheless detained at the Office of Military Intelligence in violation of his parliamentary immunity. After three days in detention, he was brought before the Court of Cassation, where he was tried under an accelerated procedure. He was immediately placed in detention to await judgment, in terrible conditions owing to extreme overpopulation and unsanitary facilities at the prison, insufficient food and insufficient access to health care. Mr. Matondo remained in detention for five months, then was placed under house arrest for five more months, all without receiving a final judgment.

Considering that life in the DRC had become impossible because of threats and intimidation targeting him, Mr. Matondo decided to go into exile.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning Mr. Matondo is admissible, considering that it: (i) was submitted in due form by a qualified complainant under Section I.(1)(a) of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns a member of parliament whose election was denied the CENI but validated by the Constitutional Court; and (iii) concerns allegations of lack of due process in proceedings against parliamentarians, lack of right of appeal, undue invalidation and other acts obstructing the exercise of the parliamentary mandate, threats and acts of intimidation, arbitrary arrest and detention, inhumane conditions of detention, violation of freedom of movement and failure to respect parliamentary immunity, allegations that fall within the Committee's mandate;

2. *Deplores* the silence of the parliamentary authorities regarding this case and the lack of concrete measures taken to implement related decisions of the Committee;

3. *Is concerned* by the legal proceedings undertaken against Mr. Matondo and his detention for expressing his opinion on the death of Mr. Chérubin Okende in a private recording that was published without his knowledge; *recalls* that, at the time Mr. Matondo was taken into custody, his election to parliament had been validated by the Constitutional Court and he was thus protected by parliamentary immunity;

4. *Fails to understand* how an opinion expressed in private about a public matter could justify legal proceedings against Mr. Matondo for spreading false information; and *wishes* to receive information from the authorities as to the factual basis for the accusations against him;

5. *Regrets* that Mr. Matondo, like the other former parliamentarians concerned in this case, has lost the ability to exercise his parliamentary mandate due to inconsistency and lack of transparency in the functioning of the CENI and the Constitutional Court; *deplores* the repeated reoccurrence of complaints of this nature; and *calls on* the authorities to take the necessary steps towards appropriate legislative and constitutional reforms that will put an end to these recurring violations and improve the regulatory mechanisms for resolving electoral disputes;

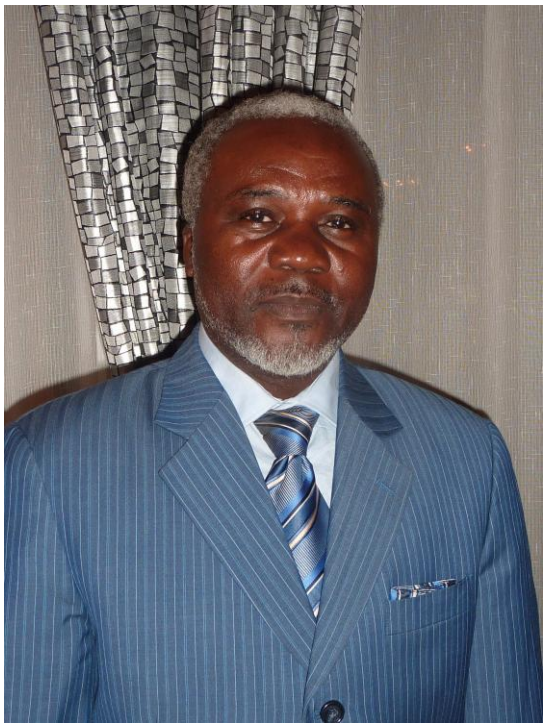
6. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainants and any third party likely to be in a position to supply relevant information;

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

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Decision adopted by the Committee on the Human Rights of Parliamentarians at its 176th session (Geneva, 3 to 19 February 2025)


Mr. Mythondeke © IPU June 2013

COD-72 – Mr. Dieudonné Bakungu Mythondeke

Alleged human rights violations

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

A. Summary of the case

Mr. Mythondeke was arrested, together with his family and bodyguards, in disputed circumstances, in February 2012. Charged with rebellion and breaches of state security, he was acquitted of all charges brought against him but was sentenced in first and final instance by the Supreme Court on 25 February 2012 to a 12-month prison term for incitement to hatred. The court proceedings were characterized by irregularities, which were largely upheld in the Supreme Court ruling. Mr. Mythondeke was released on 28 January 2013 after serving his sentence. He also won a civil claims case against the Congolese State in 2015. However, the State has reportedly not paid the amount ordered by the court.

Case COD-72

Democratic Republic of the Congo: Parliament affiliated to the IPU

Victim: A member of parliament for the majority, having joined the opposition at the time of the alleged offences

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

Submission of complaints: August 2012 and May 2014

Recent IPU decision: February 2022

IPU mission: June 2013

Recent Committee hearing: Hearing with the DRC delegation at the 149th IPU Assembly in Geneva (October 2024)

Recent follow-up:
- Communication from the authorities: Letter from the Speaker of the National Assembly, making no reference to the case (January 2020)
- Communication from the complainant: January 2025
- Communications to the authorities: Letters to the President of the Republic and to the Speaker of the National Assembly (December 2024)
- Communication to the complainant: January 2025

Given the concerns for their safety and the absence of any measures by the Democratic Republic of the Congo (DRC) authorities to ensure their protection and to put an end to the threats, Mr. Mythondeke and his family reportedly took refuge abroad in early 2014.

Mr. Mythondeke wished to relocate to another country for security reasons, but did not obtain any assistance in regard to relocation because, according to United Nations reports, he had provided substantial financial and political support to an armed group before his arrest. The former member of parliament denies those accusations and invokes the presumption of innocence. The Speaker of the National Assembly reported in a letter dated 21 August 2017 that he had asked the executive branch to launch investigations into the reasons why Mr. Mythondeke had gone into exile and to seek proposals on how to facilitate his return. However, since 2017, the parliamentary authorities have not provided any information on the status of the investigations or on Mr. Mythondeke's situation. In December 2020, Mr. Mythondeke returned to the DRC in deplorable travel conditions. The return was said to have been motivated by the failure of the Office of the United Nations High Commissioner for Refugees (UNHCR) in Brazzaville to take any action and the desire to move his case forward with the Congolese authorities.

Since his return to the DRC, the former member of parliament has been desperately seeking compensation from the Congolese State for the violations he suffered, especially since, on 18 March 2021, the High Court in Goma handed down a judgment on the attack on his home in 2012, ordering the DRC to compensate him for the damages incurred by returning all his personal belongings that had been plundered and destroyed by soldiers from the Armed Forces of the Democratic Republic of the Congo (*Forces armées de la république démocratique du Congo*, FARDC) and Congolese national police officers. The court also ordered the DRC to repair his house and pay him financial compensation. The judgment became final on 18 April 2021, as the State reportedly did not appeal the court's decision.

After several referrals to the Minister of Finance in 2023 and 2024, Mr. Mythondeke received a reply on 11 July 2024 confirming that he is owed US$ 2 million as a result of the DRC's conviction following the attack he suffered in 2012. According to the Ministry of Finance, this debt is recorded in the domestic public debt portfolio, category V: “Court Conviction and Miscellaneous Compensation” for the 2012 financial year. According to the Congolese authorities, the payment of this debt will take place as part of the overall settlement of the domestic public debt, unless otherwise advised by the Directorate-General of the Treasury and Public Accounts.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Deplores* the ongoing silence of the parliamentary authorities regarding Mr. Mythondeke's situation and the lack of response to his requests for information about it;

2. *Notes with deep regret* that, despite the court decisions of 2015 and 2021 recognizing the damages incurred by Mr. Mythondeke and ordering the DRC to pay him financial compensation, the Congolese authorities only registered the debt owed to him in the public debt portfolio in 2023; and *states* that the inclusion of this debt owed to Mr. Mythondeke in the domestic public debt portfolio does not exempt the DRC from paying it within a reasonable time frame in order to respect the beneficiary’s rights;

3. *Notes* the measures taken by the Congolese authorities to regularize Mr. Mythondeke's situation; nevertheless, *urges* the competent authorities to speed up implementation of the court decisions so that Mr. Mythondeke and his family can close this chapter and return to decent living conditions in the DRC; *invites* the parliamentary authorities to follow the case

and to take all necessary measures to finally resolve this case; and *wishes to* be kept informed of the progress made in this regard;

4. *Remains convinced* that a mission to Kinshasa, security permitting, would help to resolve this case and clarify the facts and concerns expressed to the competent authorities, and to meet with the sources and any other person likely to provide clarification in the other cases involving former Congolese members of parliament; and *hopes* to receive a positive response and support from the National Assembly to this end to enable the mission to proceed in the best possible conditions;

5. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Minister of Finance of the DRC and the complainant, as well as to any third party likely to be in a position to supply relevant information;

6. *Decides* to continue examining this case.

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



Crispin Ngbundu Malengo



Martin Kabuya Mulamba-Kabitanga

COD-152 – Martin Kabuya Mulamba-Kabitanga
COD-153 – Crispin Ngbundu Malengo

Case COD-COLL-03

Democratic Republic of the Congo: Parliament affiliated to the IPU

Victims: Two majority members of parliament

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

Submission of the complaint: October 2022

Recent IPU decision(s): - - -

Recent IPU mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:
- Communication(s) from the authorities: - - -
- Communication from the complainant: February 2023
- Communication to the authorities: Letter to the Speaker of the National Assembly (February 2023)
- Communication to the complainant: February 2023

Alleged human rights violations

- ✓ Excessive delays
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association
- ✓ Other acts obstructing the exercise of the parliamentary mandate

A. Summary of the case

Mr. Martin Kabuya Mulamba-Kabitanga and Mr. Crispin Ngbundu Malengo were elected in the legislative elections held in December 2018. Upon accepting positions as provincial governors, deemed incompatible with their parliamentary mandates, they were reportedly suspended in April 2019 and replaced by their alternates.

In June and December 2020, Mr. Malengo and Mr. Kabuya were stripped of their governorship. Believing that the motions of impeachment against them were unfounded, the two governors filed a complaint with the Constitutional Court. In January and March 2021, the Constitutional Court dismissed Mr. Kabuya and Mr. Malengo who, having officially lost their governorships, initiated a procedure to be reinstated in their parliamentary functions. To this end, on 13 July 2021, legal counsel for the former members of parliament lodged a submission with the Constitutional Court requesting it to interpret the meaning and scope of paragraphs 1, 2 and 3 of Article 110 of the Constitution of 18 February 2006, amended by Law No. 11/002 of 20 January 2011, which list situations requiring the suspension of a parliamentary mandate, the acceptance of a political function that is incompatible with the exercise of a parliamentary mandate being one such situation.

On 1 March 2022, the Constitutional Court issued its ruling No. 1606 in which it clarified its position on the suspension of mandates saying that the latter "applies to any acceptance of an incompatible political office, whether elective or nominative, as envisaged under the Constitution amended on 20 January 2011. In this case, therefore, the parliamentarian whose mandate had been suspended can be reinstated immediately and rightfully in parliament, provided that during this same legislature, as provided in paragraph 6 of the interpreted article, the said parliamentarian or alternate has not deliberately left the political party on behalf of which they had obtained their mandate". Thus, in its ruling No. 1606 of 1 March 2022, the Constitutional Court definitively ruled on the right of the two members of parliament to resume their parliamentary mandates stating that "the members of parliament whose mandates have been suspended must take up their place in parliament". The complainants pointed out that, according to Article 168(1) of the Constitution, "The judgments of the Constitutional Court are not subject to appeal and are immediately enforceable. They are binding on the public authorities, on all administrative and judicial, civil and military authorities and on private individuals". Reportedly, however, the parliamentary authorities have not enforced the Constitutional Court's ruling No. 1606.

According to the documents submitted by the complainants, in a letter dated 14 March 2022 addressed to Mr. Kabuya, the Speaker of the National Assembly acknowledges the Constitutional Court's ruling. However, although the parliamentary authorities had taken note of the Constitutional Court's ruling on the right to resume their parliamentary mandates, the two former members of parliament were reportedly unable to sit in the National Assembly and did not receive their allowances.

Following the legislative elections in the Democratic Republic of the Congo in July 2022, Mr. Kabuya and Mr. Ngbundu are no longer members of parliament.

B Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the complaint concerning the situation of Mr. Martin Kabuya Mulamba-Kabitanga and Mr. Crispin Ngbundu Malengo is admissible, considering that the complaint: (i) was submitted in due form by a qualified complainant under section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the Revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns two incument members of parliament at the time of the alleged facts; (iii) concerns excessive delays, violation of freedom of opinion and expression, violation of freedom of assembly and association, and other acts obstructing the exercise of the parliamentary mandate, allegations which fall under the Committee's mandate;

2 *Regrets* the lack of response from the parliamentary authorities concerning the cases of Mr. Kabuya and Mr. Ngbundu; and *invites* the authorities to provide their observations in these cases;

3. *Takes note* of Constitutional Court Ruling N° 1606 of 1 March 2022, which ruled in favour of the reinstatement of former members of parliament in their parliamentary functions insofar as the political function they held had indeed ended while their parliamentary mandate was still valid; and *notes with concern* that the said ruling has not been executed despite the fact that the parliamentary authorities were allegedly notified thereof by the complainants and despite the immediate enforceability of Constitutional Court's rulings;

4. *Wishes* to receive information on the reasons that have prevented the parliamentary authorities from implementing the Constitutional Court's ruling by terminating the suspension of the two former members of parliament and paying them their exit allowances; and *calls on* the parliamentary authorities to ensure that Mr. Kabuya and Mr. Ngbundu obtain redress for the damage suffered;

5. *Notes* that Mr. Kabuya's and Mr. Ngbundu's situation are not isolated cases insofar as cases of invalidation for various reasons have already been submitted to the Committee in the past and continue to be examined by it; *also notes* that their cases are part of a hostile political context that is hostile *vis-à-vis* opposition voices; and *encourages* the Congolese authorities in this

election year, when tensions may lead to further violations against certain members of the National Assembly, to take all necessary measures to guarantee the fundamental rights of all its members, former and current, irrespective of their political affiliation, in order to ensure that the invalidation of the parliamentary mandate is not used to dismiss members of parliament for their political ideas;

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

Inter-Parliamentary Union
For democracy. For everyone.

Democratic Republic of the Congo

Decision adopted unanimously by the IPU Governing Council at its 212th session (Luanda, 27 October 2023)


© Papy Niango Iziamay Munshemvula


© Henri Mova Sakanyi


© Marie-Ange Mushobekwa Likulia

COD-151 – Papy Niango Iziamay Munshemvula
COD-154 – Henri Mova Sakanyi
COD-155 – Marie-Ange Mushobekwa Likulia

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Lack of due process in proceedings against parliamentarians
- ✓ Lack of due process at the investigation stage
- ✓ No right of appeal
- ✓ Violation of freedom of opinion and expression
- ✓ Undue invalidation, suspension, revocation or other acts obstructing the exercise of the parliamentary mandate
- ✓ Abusive revocation or suspension of the parliamentary mandate
- ✓ Abusive application of parliamentary sanctions
- ✓ Other violations

Case COD-COLL-04

Democratic Republic of the Congo: Parliament affiliated to the IPU

Victims: Three opposition members of parliament (two male and one female)

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

Submission of the complaints: October 2022 and January 2023

Recent IPU decision: March 2023 (concerns Mr. Niango alone)

Recent IPU mission(s): - - -

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

Recent follow-up:
- Communication from the authorities: - - -
- Communication from the complainant: August 2023
- Communications to the authorities: July and September 2023
- Communication to the complainant: August 2023

A. Summary of the case

On 15 June 2022, the mandates of Mr. Papy Niango Iziamay Munshemvula (Mr. Niango), Mr. Henri Mova Sakanyi and Ms. Marie Ange Mushobekwa, then opposition members of parliament, were invalidated for absenteeism following a report issued by an *ad hoc* special committee created on 28 April 2022 and tasked with examining reports of unauthorized and unjustified absences at National Assembly plenary sittings by several members of parliament, including the three individuals.

The National Assembly reportedly adopted the conclusions of the special committee at a closed plenary sitting held on 15 June 2022, at the end of which it invalidated the parliamentary mandates of the three individuals, despite them having submitted proof of absence for medical reasons. The plenary sitting allegedly ignored this proof and considered that their absence from two consecutive sittings justified the invalidation of their mandates. Furthermore,

the invalidation decision was taken in violation of Articles 19(3) and 61 of the Constitution, which guarantee the right of defence, since the National Assembly adopted the conclusions of the special committee's report without having first heard the three individuals concerned in plenary sitting when the report was adopted on 15 June 2022. It is to be noted that the three individuals were heard by the committee.

Furthermore, the National Assembly reportedly decided to submit the invalidation of the three individuals' mandates to voting by a show of hands, in disregard of rule 93(3) of the Standing Orders, which stipulates that "in the event of deliberations concerning individuals, the vote shall be by secret ballot". The three individuals lodged an application for reconsideration by the National Assembly against the invalidation of their mandates. No action was taken in response to the applications.

According to the complainant, the invalidation procedure and the creation of the special committee to examine the unjustified absences of the three individuals are an attempt to silence the opposition.

At a hearing with the Committee on the Human Rights of Parliamentarians at the 147th IPU Assembly, in October 2023, the Congolese delegation, led by the First Deputy Speaker of the National Assembly, said that in view of the many cases of absenteeism at the National Assembly, the Assembly had decided to establish a special committee responsible for examining the unjustified absences of over 100 members of parliament. When the Committee had completed its work, the mandates of only 10 members of parliament had been invalidated under Article 110(6) of the Congolese Constitution, according to which "a member of parliament's mandate shall end in the case of his unjustified and unauthorized absence from more than a quarter of the meetings of a session". Those members of parliament, including the three covered by the present decision, had reached the total number of unauthorized absences and thus had their mandates invalidated in accordance with this article.

According to the First Deputy Speaker, the committee noted that the members of parliament whose mandates were invalidated had submitted fake medical supporting documents and fake invitations to receive medical care abroad. In the same way as Mr. Niango, Mr. Sakanyi and Ms. Mushobekwa had the opportunity, according to the delegation, to express their views to the special committee and to present their defence. As regards the plenary decision to vote on the invalidation of their mandates by show of hands rather than by secret ballot, the First Deputy Speaker said that the plenary had the discretionary power to decide on the appropriate voting method.

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 the 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.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Congolese delegation, in particular the First Deputy Speaker of the National Assembly, for the information provided at the 147th IPU Assembly;

2. *Notes* that the complaints in the cases relating to Mr. Henri Mova Sakanyi (Mr. Sakanyi) and Ms. Marie-Ange Mushobekwa Likulia (Ms. Mushobekwa) are admissible, considering that the complaints: (i) were submitted in due form by a qualified complainant under section I.1(a) of the Procedure for the examination and treatment of complaints (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concern two incumbent members of parliament at the time of the initial allegations; and (iii) that the complaint concerns threats, acts of intimidation; lack of due process in proceedings against parliamentarians; lack of due process at the investigation stage; lack of right of appeal; violation of freedom of opinion and expression; undue invalidation, suspension, revocation or other acts obstructing the exercise of the parliamentary mandate; abusive revocation or

suspension of the parliamentary mandate; and abusive application of parliamentary sanctions, which are allegations falling under the Committee's mandate; and *notes* that the Committee decided to merge its consideration of the situation of these two individuals with the case relating to Mr. Niango, given the similar nature of the alleged violations and the proceedings taken out against them;

3. *Remains concerned* at the fact that a copy of the report by the special committee responsible for examining cases of unauthorized and unjustified absences was not given to Mr. Niango, Mr. Sakanyi or Ms. Mushobekwa, thus depriving them of their right to know the exact reason why the committee decided to recommend to the National Assembly that their mandates be invalidated; *regrets* that the National Assembly did not respond to the requests of the two parliamentarians to be given a copy of the said report, in violation of the adversarial principle, according to which all parties have the right to know the material and legal arguments and evidence on the basis of which they shall be judged; therefore *calls on* the authorities to provide the complainants and the Committee with a copy of the said report, in order to understand the exact reasons why their mandates were invalidated;

4. *Notes with concern* that the situation of Mr. Niango, Mr. Sakanyi and Ms. Mushobekwa is not an isolated case, since cases of invalidation for various reasons have previously been submitted to it, and remain under examination; *also notes* that their cases are set in a political context that is hostile to dissident opposition voices; and *reiterates* that invalidation of a member of parliament's parliamentary mandate must follow a clear procedure that complies with the provisions of the National Assembly's standing orders and the principles of the Constitution;

5. *Calls on* the parliamentary authorities to consider the applications for reconsideration submitted by Mr. Niango, Mr. Sakanyi and Mushobekwa as soon as possible and to grant them the required reparation if the alleged violations are borne out; and *encourages* the Congolese authorities, in this election year where tensions could lead to new violations against members of the opposition, to take all necessary measures to guarantee the fundamental rights of all members of the National Assembly, former or current, regardless of their political affiliation, in order to guarantee that invalidation of the parliamentary mandate is not used to remove members of parliament because of their political ideas;

6. *Reiterates* its deep concern at the lack of possibility of appeal in the judicial proceedings relating to members of parliament in the Democratic Republic of the Congo and recalls that the existence of the possibility of appeal is one of the main safeguards of a fair trial; therefore *calls again on* the Congolese Parliament to establish the possibility of appeal so that a member of parliament's right to a defence in judicial proceedings is protected in the same way as that of other Congolese citizens;

7. *Expresses the wish* for a delegation from the Committee on the Human Rights of Parliamentarians to visit the DRC after the elections to meet with the competent Congolese authorities, in particular the Speaker of the National Assembly, the Public Prosecutor and the Minister of Justice, as well as Mr. Niango, Mr. Sakanyi and Ms. Mushobekwa, and relevant third parties, to help settle these cases in a satisfactory manner; and *hopes* to receive a positive response and support from the National Assembly to this end, to ensure the mission is conducted in the best possible conditions;

8. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;

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