Democratic Republic of the Congo

Decision adopted unanimously by the IPU Governing Council at its 204th session (Doha, 10 April 2019)

COD-71 - Eugène Diomi Ndongala

Alleged human rights violations:
- Lack of due process at the investigation stage
- Lack of fair trial proceedings
- Right of appeal
- Violation of freedom of opinion and expression
- Violation of freedom of movement

A. Summary of the case

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

Mr. Ndongala was excluded from the presidential pardon granted to political prisoners in March 2019 following the elections held in December 2018. The Minister of Justice granted him parole on 20 March 2019 on the grounds that he had served over a quarter of his sentence and that “that he had made amends during his incarceration”. Mr. Ndongala was
released. However, his parole may be revoked at any time if he breaches the restrictive conditions attached to it. These conditions prohibit him from making statements and engaging in political activities "of such a nature as to disrupt public order and the smooth functioning of State institutions", from "causing scandal by his conduct", from travelling outside the country and from moving freely until April 2023. Mr. Ndongala is required to appear every Monday before the Prosecutor General at the Court of Cassation.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. Notes with satisfaction that Mr. Ndongala has finally been released;

2. Deplores, nonetheless, that he has not been accorded the presidential pardon granted to other political prisoners and that his release is conditional; underlines that most of the restrictive conditions attached to his release have nothing to do with the crime for which he was convicted; and considers that these conditions are part of the ongoing campaign of political and legal harassment to which he has been subjected since 2012; recalls that the Supreme Court’s decision did not deprive Mr. Ndongala of his civil and political rights, that the United Nations Human Rights Committee condemned the DRC for violating its obligations under the International Covenant on Civil and Political Rights and called for Mr. Ndongala’s immediate release and the annulment of his conviction;

3. Considers that the conditions attached to his release yet again undermine Mr. Ndongala’s fundamental rights while again confirming the political nature of the case; calls therefore on the relevant Congolese authorities to end these conditions;

4. Encourages the new parliamentary authorities elected in the last legislative elections to promote the protection of the fundamental rights of all members of the National Assembly irrespective of their political will to ensure that similar violations do not occur again in the future; also reiterates its long-standing recommendation that a level of appeal be introduced in judicial proceedings for parliamentarians to guarantee a fair trial in accordance with the relevant international standards; and calls again on the Congolese authorities to revise the Constitution in this regard;

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

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