141st IPU Assembly

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17 October 2019

Decisions of the Committee on the Human Rights of Parliamentarians

Decisions adopted by the IPU Governing Council at its 205th session (Belgrade, 17 October 2019)

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Uganda

Decision adopted by consensus by the IPU Governing Council at its 205th session (Belgrade, 17 October 2019) [1]

Bobi Wine, June 2019 © AFP Damien Grenon

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Alleged human rights violations

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

A. Summary of the case

Five opposition parliamentarians were violently arrested on 14 August 2018, together with 29 other people, in the district of Arua, after President Yoweri Museveni's convoy was reportedly pelted with stones. According to credible reports – confirmed by the parliamentary authorities – two of the parliamentarians, Mr. Kyagulanyi and Mr. Zaake, were tortured on 14 August 2018. All those arrested, including the five parliamentarians, were charged with treason, which in Uganda carries the death penalty. On 6 August 2019, the following additional charges were reportedly brought against them in relation to the same events: intent to annoy, alarm or ridicule the President, incitement to violence, disobedience of lawful orders, failure to prevent obstruction of traffic, confusion or disorder during a public meeting, and failure to give right of way to the President.

Case UGA-Coll-01

Uganda: Parliament affiliated to the IPU

Victim(s): Five male parliamentarians (including three young parliamentarians and a parliamentarian-elect); four independent and one opposition parliamentarian

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

Submission of complaint(s): August 2018

Recent IPU decision(s): October 2018

IPU mission(s): - -

Recent Committee hearing(s): Hearing with the Ugandan delegation to the 139th IPU Assembly (October 2018)

Recent follow-up:
- Communications from the authorities: Letter from the Attorney General (October 2018); letter from the Speaker of Parliament to the Minister of Foreign Affairs (November 2018); letters from the Speaker of Parliament (February and October 2019)
- Communication from the complainant: September 2019
- Communication(s) addressed to the authorities: Letters addressed to the Speaker of Parliament, the Attorney General and the Permanent Representative of Uganda in Geneva: September 2019
- Communication addressed to the complainant: September 2019

1 The Ugandan delegation expressed its reservations regarding the decision.

The complainants claim that due process guarantees have been violated from the outset, that the parliamentarians are victims of political repression, as there is no evidence to support the charges brought against them, and that no action has been taken to hold to account the security forces that mistreated them upon their arrest. They state that Mr. Kyagulanyi is a popular young parliamentarian and a well-known singer who enjoys wide popularity among young people. Through his songs and, since 2017, through his parliamentary work, he has been a vocal critic of President Museveni and his government. The complainants affirm that the authorities are doing everything possible to prevent Mr. Kyagulanyi from staging concerts and thus conveying his music and political message. Lately, these steps have gone as far as banning Mr. Kyagulanyi from wearing his trademark red beret.

An *ad hoc* parliamentary committee was immediately set up by the Speaker of the Parliament of Uganda to investigate the incidents and to visit the parliamentarians in detention. It concluded that at least four of the five parliamentarians had sustained injuries as a result of the violence inflicted upon them by the security forces, that there was a lack of due process in the proceedings against the parliamentarians and that the security officials responsible acted with impunity. It also concluded that accountability for these transgressions should be established. When parliament discussed the findings of the *ad hoc* committee on 5 September 2018, the Government was given one month to investigate and report back. However, the issue was apparently not raised again in parliament on the grounds that it was *sub judice*.

In his letter of 3 October 2018, the Attorney General stated that his office was still awaiting the reports of the police and defence forces and that indications so far pointed to the fact that, "the injuries that the two members of parliament may have suffered would be the result of the scuffles that characterized their apprehension due to their unwillingness to submit themselves to the arrest process".

According to the complainants, on 23 April 2019, Mr. Kyagulanyi was placed under *de facto* house arrest after being detained by police and forced to stay at home and to cancel scheduled events. On 29 April 2019, he was allegedly formally arrested and taken to Luzira maximum security prison in connection with a new charge in respect of leading a demonstration in July 2018 against the social media tax. The accusations seem to be that he disobeyed provisions of the Public Order Management Act by holding a public meeting without giving notice and without cooperating and coordinating with the police to ensure that all participants in the demonstration were unarmed and peaceful. On 2 May 2019, he had to appear at Buganda Road Court through a video conference before being released on bail in connection with this charge. The matter is reportedly next due to come before the court on 28 October 2019.

In her letters dated 25 February and 8 October 2019, the Speaker expressed support for the wish of the Committee to conduct a fact-finding mission to Uganda to interact with the executive and judicial branches, but formal authorization to travel to Uganda has not yet been forthcoming.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Speaker of Parliament for her letter of 8 October 2019; *regrets* nevertheless that she and the Ugandan delegation chose not to meet with the Committee on the Human Rights of Parliamentarians, all the more so given that the issues of concern in this case directly affect parliament; *recalls* in this regard that the Committee's procedure is based on continued and constructive dialogue with the authorities, first and foremost the parliament of the country concerned;

2. *Is disturbed* that, more than one year after the events, no one has been held to account for the torture and ill-treatment of at least four of the five parliamentarians, and allegedly several others, in Arua in August 2018 by the security forces; *considers* that, under Uganda's Prevention and Prohibition of Torture Act and the UN Convention against Torture, the national authorities are duty bound to act decisively and swiftly against those responsible; *urges*, therefore, the relevant authorities to comply fully with these national and international

obligations; *also urges* parliament, which asked the Government to report by October 2018 on the steps taken to investigate the torture and ill-treatment of the parliamentarians, to carry out its oversight function much more stringently, considering also that this particular matter does not appear to be before the courts and, even if it were, does not seem to be advancing;

3. *Remains deeply concerned* about the alleged serious violations of the right to a fair trial in proceedings initiated against the parliamentarians, as well as the other persons arrested in Arua in 2018, and about the nature and severity of the charge of treason, which carries the death penalty, especially in view of the allegations that it is unsupported by evidence and the facts at hand; *fails to understand* how, one year later, the accused are reportedly now subject to a whole set of additional charges in relation to the same events, including the charge of intent to annoy, alarm or ridicule the President with significant repercussions for free speech; *is concerned* that, earlier this year, Mr. Kyagulanyi was suddenly and temporarily taken into custody and charged with respect to his alleged role in a protest held in July 2018; *wishes* to receive official information on all these points, along with details on the facts in support of each of the charges against the parliamentarians concerned;

4. *Is deeply concerned* about the steps taken to prevent Mr. Kyagulanyi from conveying his political message, which run counter to his rights to freedom of expression and freedom of assembly; *urges* the authorities, therefore, to lift the restrictions imposed on him and to do everything possible to allow him to speak out, irrespective of whether he uses his platform as a parliamentarian or a singer, and to meet and interact with his supporters;

5. *Deeply regrets* that the long-requested mission by the Committee on the Human Rights of Parliamentarians to Uganda has still not received the official endorsement from all the relevant Ugandan authorities; *thanks* in this regard the Speaker of Parliament for her continued support for such a mission; *sincerely hopes* that the other relevant Ugandan authorities will likewise respond favourably so that a Committee delegation can soon travel to Uganda to meet all relevant executive, security and judicial authorities – including the President, the Chief of the Defence Forces, the Inspector General of Police and the Attorney General – so as to obtain clarifications on the issues at hand in this case; *mandates* the delegation to also meet with the Speaker and all relevant parliamentary authorities, the five members of parliament concerned and their legal counsels, representatives of the National Human Rights Commission of Uganda, of the main political parties, of civil society and of any other organizations and persons in a position to supply relevant information;

6. *Decides* to mandate a trial observer to monitor the upcoming court proceedings against the members of parliament; and *wishes to be kept informed* of the dates of the trial when available and of any other relevant judicial developments in the case;

7. *Requests* the Secretary General to convey this decision to the President, Minister of Foreign Affairs, Attorney General and the Speaker of the Parliament of Uganda, the complainants and any third party likely to be in a position to supply relevant information, and to proceed with all necessary arrangements to organize the fact-finding mission and trial observation mission;

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

Brazil

Decision adopted unanimously by the IPU Governing Council at its 205th session (Belgrade, 17 October 2019)

Jean Wyllys, Rio de Janeiro federal deputy for the Socialism and Liberty Party (PSOL), speaks during a rally of Brazilian leftist parties at Circo Voador in Rio de Janeiro, Brazil, on 2 April 2018. © Mauro Pimentel/AFP

BRA14 – Jean Wyllys de Matos Santos

Alleged human rights violations

- ✓ Threats, acts of intimidation
- ✓ Violation of freedom of opinion and expression
- ✓ Impunity

Case BR14

Brazil: Parliament affiliated to the IPU

Victim(s): Male opposition member of parliament

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

Submission of complaint(s): February 2019

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing(s): Hearing with the Brazilian delegation during the 141st IPU Assembly (October 2019)

Recent follow-up:
- Communication from the authorities: - - -
- Communication from the complainant: October 2019
- Communication to the authorities: Letter addressed to the President of the IPU Group (September 2019)
- Communication to the complainant: October 2019

A. Summary of the case

Mr. Jean Wyllys has been a member of the Brazilian Chamber of Deputies since 2010. He is the first openly gay Brazilian member of Congress and a well-known and active supporter of the efforts of the lesbian, gay, bisexual, transgender and intersex (LGBTI) community to tackle LGBTI discrimination and violence.

The complainant claims that, since Mr. Wyllys was first elected to parliament, he has been seriously threatened on account of his political views and sexual orientation. This claim is borne out by the copies of reports of threats and acts of intimidation made in 2016, 2017 and 2018 that are in the hands of the IPU. The IPU also has copies of several of the complaints made by Mr. Wyllys to the police and of his requests to the parliamentary authorities in 2013, 2016, 2017 and 2018. The complainant affirms that the threats against Mr. Wyllys were never properly investigated by the police. It also affirms that the threats have to be seen in the context of his continued harassment, denigration and defamation by conservative forces in Brazil.

In November 2018, the Inter-American Commission on Human Rights (IACHR) adopted precautionary measures in favour of Mr. Wyllys, asking the Brazilian State to take effective action to protect his right to life, as well as his and his family's physical integrity. According to the complainant,

the IACHR's decision was not implemented.

In January 2019, Mr. Wyllys decided to give up his parliamentary seat and go into exile because of death threats, the alleged failure of the Brazilian authorities to offer adequate protection and take effective action to hold those responsible to account, and an increasingly hostile environment for vocal members and advocates of the LGBTI movement. In this regard, the complainant points out that, despite many earlier demands, Mr. Wyllys only received a security detail in 2018, but that the measure was not sufficient. In their response to the IACHR, the parliamentary authorities stressed that the Brazilian Chamber of Deputies has funds available, which could be used for security purposes, but that Mr. Wyllys did not submit any requests for the reimbursement of costs he could have made to arrange additional protection.

Another crucial event that brought on Mr. Wyllys' decision to leave the country and parliament was the assassination of Ms. Marielle Franco in March 2018. She was a local council member from the state that Mr. Wyllys represented in the Chamber of Deputies and a close friend of his. Like him, Ms. Franco vocally and actively supported better respect for the rights of the poor and for LGBTI rights. Two ex-police officers were arrested in March 2019 over their alleged involvement in this murder.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Considers* the complaint concerning the situation of Mr. Jean Wyllys, a member of the Brazilian Chamber of Deputies at the time of the threats made against him, to be admissible under the Procedure for the Examination and Treatment of Complaints; and *declares itself* competent to examine the case;

2. *Thanks* the Brazilian delegation for meeting with the Committee on the Human Rights of Parliamentarians and for the information provided at the 141st IPU Assembly; *notes* that the delegation stated that it was unaware of any specific threats against Mr. Wyllys and that his situation had to be seen against the backdrop of increased polarization between extreme left and right political movements in Brazil; *also notes* that the delegation mentioned the long history of tension between Mr. Wyllys and Mr. Jair Bolsonaro, who was then a fellow member of the Chamber of Deputies and is now the President of Brazil;

3. *Is deeply concerned* about the threats against and intimidation of Mr. Wyllys that led him to conclude that his life was in jeopardy and to abandon his seat in parliament; *is particularly concerned* that, in the absence of information to that effect, his complaints to the relevant national authorities about these threats have not set in motion full and diligent investigations to identify and punish the culprits; *is also concerned* about the apparent slow reaction of the authorities to put in place a security arrangement for Mr. Wyllys and the allegation that the protection ultimately offered was not adequate; *wishes* to receive further details on this last point given the lack of clarity of the information on file;

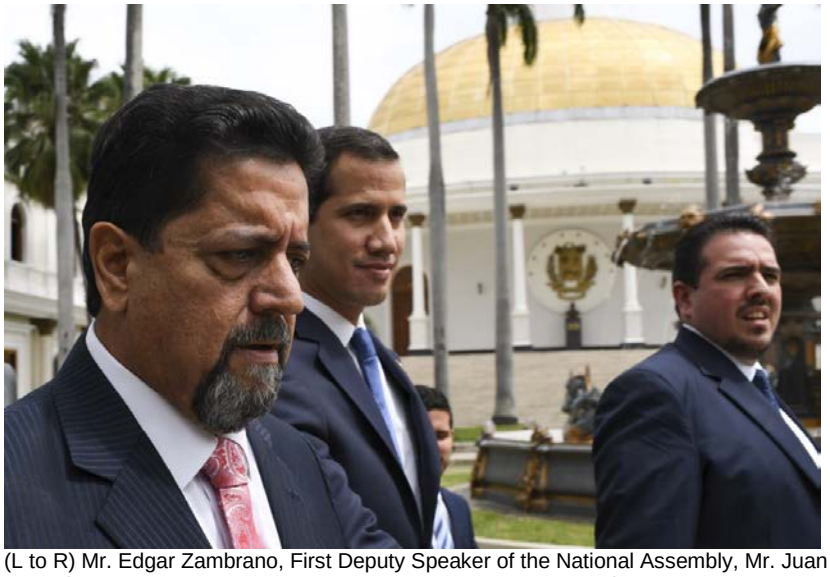
4. *Calls on* the Brazilian authorities to do everything possible to hold to account those responsible for the threats against Mr. Wyllys; *considers* that the Brazilian Parliament, even though Mr. Wyllys is no longer a member, has a special interest in helping to ensure that justice is effectively done in this case; *calls on* parliament to use its oversight function fully and effectively for this purpose; *wishes* to be kept informed of progress made in the investigations;

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

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

Venezuela

Decision adopted unanimously by the IPU Governing Council at its 205th session (Belgrade, 17 October 2019)



(L to R) Mr. Edgar Zambrano, First Deputy Speaker of the National Assembly, Mr. Juan Guaidó, Speaker of the National Assembly, and Mr. Stalin González, Second Deputy Speaker of the National Assembly, arrive for a session of the National Assembly in Caracas on 24 September 2019 © Yuri Cortez/AFP

VEN-10 - Biagio Pilieri
VEN-11 - José Sánchez Montiel
VEN-12 - Hernán Claret Alemán
VEN13 - Richard Blanco
VEN16 - Julio Borges
VEN19 - Nora Bracho (Ms.)
VEN20 - Ismael Garcia
VEN22 - William Dávila
VEN24 - Nirma Guarulla (Ms.)
VEN25 - Julio Ygarza
VEN26 - Romel Guzamana
VEN27 - Rosmit Mantilla
VEN28 - Enzo Prieto
VEN29 - Gilberto Sojo
VEN30 - Gilber Caro
VEN31 - Luis Florido
VEN32 - Eudoro González
VEN33 - Jorge Millán
VEN34 - Armando Armas
VEN35 - Américo De Grazia
VEN36 - Luis Padilla
VEN37 - José Regnault
VEN38 - Dennis Fernández (Ms.)
VEN39 - Olivia Lozano (Ms.)
VEN40 - Delsa Solórzano (Ms.)
VEN41 - Robert Alcalá
VEN42 - Gaby Arellano (Ms.)
VEN43 - Carlos Bastardo
VEN44 - Marialbert Barrios (Ms.)
VEN45 - Amelia Belisario (Ms.)
VEN46 - Marco Bozo
VEN47 - José Brito
VEN64 - Miguel Pizarro
VEN65 - Henry Ramos Allup
VEN66 - Juan Requesens
VEN67 - Luis E. Rondón
VEN68 - Bolivia Suárez (Ms.)
VEN69 - Carlos Valero
VEN70 - Milagro Valero (Ms.)
VEN71 - German Ferrer
VEN72 - Adriana d'Elia (Ms.)
VEN73 - Luis Lippa
VEN74 - Carlos Berrizbeitia
VEN75 – Manuela Bolivar
VEN-76 – Sergio Vergara
VEN-77 - Franklin Duarte
VEN-78 - Oscar Ronderos
VEN-79 - Mariela Magallanes
VEN-80 - Héctor Cordero
VEN-81 - José Mendoza
VEN-82 - Angel Caridad (Ms.)
VEN-83 - Larissa González (Ms.)
VEN-84 - Fernando Orozco
VEN-85 - Franco Casella
VEN-86 - Edgar Zambrano
VEN-87 - Juan Pablo García
VEN-88 - Cesar Cardenas
VEN-89 - Ramón Flores Carrillo
VEN-90 - José Gregorio Noriega
VEN-91 - María Beatriz Martínez (Ms.)
VEN-92 - María C. Mulino de Saavedra (Ms.)
VEN-93 - José Trujillo
VEN-94 - Marianela Fernández (Ms.)
VEN-95 - Juan Pablo Guanipa

VEN48 - Yanet Fermin (Ms.)
VEN49 - Dinorah Figuera (Ms.)
VEN50 - Winston Flores
VEN51 - Omar González
VEN52 - Stalin González
VEN53 - Juan Guaidó
VEN54 - Tomás Guanipa
VEN55 - José Guerra
VEN56 - Freddy Guevara
VEN57 - Rafael Guzmán
VEN58 - María G. Hernández (Ms.)
VEN59 - Piero Maroun
VEN60 - Juan A. Mejía
VEN61 - Julio Montoya
VEN62 - José M. Olivares
VEN63 - Carlos Paparoni
VEN-96 - Luis Silva
VEN-97 - Eliezer Sirit (Ms.)
VEN-98 - Rosa Petit (Ms.)
VEN-99 - Alfonso Marquina
VEN-100 - Rachid Yasbek
VEN-101 - Oneida Guiaipe
VEN-102 - Jony Rahal
VEN-103 - Ylidio Abreu
VEN-104 - Emilio Fajardo
VEN-105 - Luis Loaiza
VEN-106 - Angel Alvarez
VEN-107 - Kerrins Mavares
VEN-108 - Gilmar Marquez
VEN-109 - José Simón Calzadilla
VEN-110 - José Gregorio Graterol
VEN-111 - José Gregorio Hernández

Alleged human rights violations

- ✓ Torture, ill-treatment and other acts of violence
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Lack of due process at the investigation stage
- ✓ Excessive delays
- ✓ Violation of the right to 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
- ✓ Other violations: right to privacy

Case VEN-COLL-06

Venezuela: Parliament affiliated to the IPU

Victim(s): 96 opposition members of parliament (73 men and 23 women)

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

Submission of complaint(s): March 2017

Recent IPU decision(s): April 2019

IPU mission(s): - - -

Recent Committee hearing(s): Hearings with members of the governing and opposition parties at the 141th IPU Assembly (October 2019)

Recent follow-up:
- Communication from the authorities: Letter from the Speaker of the National Assembly (February 2019)
- Communication from the complainant: October 2019
- Communication addressed to the authorities: Letter to the President of Venezuela (July 2019)
- Communication addressed to the complainant: October 2019

A. Summary of the case

The case concerns credible and serious allegations of human rights violations affecting 96 parliamentarians from the coalition of the Democratic Unity Roundtable (MUD), against the backdrop of continuous efforts by Venezuela's executive and judicial authorities to undermine the functioning of the National Assembly and to usurp its powers. The MUD opposes President Maduro's Government and obtained a majority of seats in the National Assembly in the parliamentary elections of 6 December 2015.

On 30 December 2015, the Supreme Court ordered the suspension of four members of parliament, three of them from the MUD, following allegations of fraud. The National Assembly first decided to disregard the ruling, considering the allegations to be baseless, which led the Supreme Court to declare all of the Assembly's decisions null and void. Failing any effort to examine the alleged fraud, the members of parliament were finally sworn in at the National Assembly on 16 July 2018.

Since March 2017, almost all parliamentarians listed in the present case have been attacked or otherwise intimidated with impunity by law enforcement officers and/or pro-government officials and supporters during demonstrations and/or at their homes. Protests intensified in Venezuela after President Maduro announced the convening of a national constituent assembly – which was

subsequently elected on 30 July 2017 – to rewrite the Constitution, but which instead has since appropriated and exercised many of the constitutional functions assigned to the National Assembly, which has not received any government funding since August 2016.

Invoking *flagrante delicto*, Mr. Juan Requesens was arrested and detained on 7 August 2018 on accusations of involvement in the alleged assassination attempt on President Maduro three days earlier. There have been serious concerns about his treatment in detention and respect for due process. Nine other members of the National Assembly spent up to four years in detention in recent years and continue to be subject to reportedly politically motivated legal proceedings. The latest case concerns that of Deputy Speaker Edgar Zambrano, who was arrested on 8 May 2019 and detained in a military prison, reportedly in prolonged incommunicado detention, before being released on parole on 17 September this year. On 26 April 2019, Mr. Gilber Caro was arbitrarily arrested and detained a second time without any notification to his lawyers and family of his place of detention and the reasons for his arrest. He was released on 17 June 2019.

In 2017, six members of parliament had their passports confiscated arbitrarily in connection with their international parliamentary work. Six other members of parliament have since been barred from holding public office, including the current Speaker, Mr. Juan Guaidó, allegedly in the absence of any legal basis. Sixteen members of parliament have by now left Venezuela, sought protection in foreign embassies in Caracas or gone into hiding. As of September 2019, 24 parliamentarians have had their parliamentary immunity lifted by the National Constituent Assembly, in violation of the Constitution, which states that parliamentary immunity should be lifted by the National Assembly.

UN human rights reports in June 2018 and July 2019 documented extensively the attacks against political opponents, social activists and human rights defenders. The July 2019 report states that "Intelligence services (SEBIN and DGCIM) have been responsible for arbitrary detentions, ill-treatment and torture of political opponents and relatives. Armed *colectivos* contribute to this system by exercising social control in local communities and supporting security forces in repressing demonstrations and dissent". The report also refers to "a public rhetoric, including by high-level authorities, that constantly discredits and attacks those who criticize or oppose the Government. The political opposition … are frequently the targets of discourse labelling them as "traitors" and "destabilizing agents". This rhetoric is widely disseminated through pro-government media, such as the weekly TV programme *Con el Mazo Dando*, presented by the President of the National Constituent Assembly, Mr. Diosdado Cabello. Moreover, the report states that "successive laws and reforms have facilitated the criminalization of the opposition and of anyone critical of the Government through vague provisions, increased sanctions for acts that are guaranteed by the right of freedom of peaceful assembly, the use of military jurisdiction for civilians, and restrictions on NGOs to represent victims of human rights violations". The UN High Commissioner for Human Rights was invited for an official visit to Venezuela in June 2019, in the course of which agreement was reached on re-establishing a presence of the Office of the United Nations Commissioner for Human Rights in Caracas and for the Venezuelan authorities to implement certain human rights commitments. By early September 2019, 83 detainees whose detention the UN Working Group on Arbitrary Detention had qualified as arbitrary were released.

Presidential elections took place on 20 May 2018. The MUD announced in February 2018 that it would boycott the elections, considering the electoral system to be rigged in favour of President Maduro, who obtained the most votes in elections that were widely criticized for failing to be free and fair. President Maduro was sworn in on 10 January 2019 for a second term.

On 15 January 2019, the National Assembly invoked the country's Constitution to declare the illegitimacy of President Maduro and declared the presidency to be vacant. On 23 January 2019, Mr. Guaidó publicly stated that, in conformity with the Constitution, he was ready to take on the interim presidency of Venezuela until free and fair elections were held, which decision was immediately endorsed by the National Assembly. Many countries in the Americas, including the United States and several members of the European Union, have since recognized Mr. Guaidó as President of Venezuela, which recognition is strongly opposed by several other countries from and outside the region, including China, Cuba, the Islamic Republic of Iran, the Russian Federation and Turkey.

On 29 January 2019, the Supreme Court launched an investigation into Mr. Guaidó, accusing him of being responsible for the commission of crimes that went against the constitutional order. On 30 April

2019, Mr. Guaidó called for the armed forces to defect and defy the Government. His attempt failed and since then 18 parliamentarians have been facing legal action for their alleged involvement in the event.

Outside mediation efforts between the Government and opposition parties have thus far failed and were last suspended in mid-September 2019. At that same time, the Government struck a six-point deal with small opposition parties outside of the MUD. This deal stipulates the return of the *Bloque de la Patria*, the coalition of governing parties, to the National Assembly and discussions on the release of certain detainees and the composition of the National Electoral Council. According to the *Bloque de la Patria*, their return to the National Assembly does not mean, however, that the latter is now seen to be acting within the boundaries of the Constitution.

Longstanding efforts since 2013 to send a delegation of the Committee on the Human Rights of Parliamentarians (CHRP) to Venezuela have failed in the absence of clear and decisive cooperation from the Government to welcome and work with the delegation. In October 2018, the IPU governing bodies decided that the mission would be of a joint nature, comprising members of the IPU Executive Committee and the CHRP and focusing on both the larger political matters at stake in the Venezuelan crisis and the specific concerns expressed by the CHRP.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that during the 141st IPU Assembly the Committee on the Human Rights of Parliamentarians met separately with a member of the National Assembly belonging to the MUD and with a member of the *Bloque de la Patria* parliamentary group;

2. *Is alarmed* at the multiple and detailed reports received since the last IPU Assembly in April 2019 showing record numbers of reprisals against opposition parliamentarians, with a total of 96 of them having now been targeted, up from 61 previously;

3. *Is disturbed* that these actions are part of an ever more systematic and widespread pattern of harassment of opposition members aimed at stopping them from carrying out their work; *is deeply concerned* that part of this intimidation appears to be directly inspired or instigated by high-ranking members of the main governing party; *points*, by way of illustration, to the situation of the Vice-President of the Committee on the Human Rights of Parliamentarians, who was falsely accused by a high-ranking government official, has faced all kinds of intimidation, and faces great difficulties when leaving and returning to Venezuela;

4. *Urges* the authorities to stop immediately all forms of harassment against members of the National Assembly, to ensure that all relevant state authorities respect their human rights and parliamentary immunity, and to fully investigate and establish accountability for previously reported violations of their rights; *requests* the relevant authorities to provide information urgently on steps taken to this end;

5. *Remains deeply concerned* about the continued detention of Mr. Juan Requesens, all the more so in light of the total disregard for his parliamentary immunity, the very serious indications that he may have been drugged to testify against himself, the fact that he is still kept at the headquarters of the National Bolivarian Intelligence Service, and the poor conditions in which he is allegedly being held, with very limited, if any, contact with his family; *calls on* the authorities to release him forthwith and to pursue the charges against him only if there is credible and convincing evidence of criminal responsibility;

6. *Calls on* the *Bloque de la Patria*, now that it has returned to the National Assembly, to do everything possible to help ensure that the National Assembly and its members can carry out their work freely and with the necessary resources, and that their deliberations and decisions are fully respected and implemented; *considers* in this regard that the original argument that the Supreme Court invoked in 2015 for ruling that the National Assembly was acting outside the law cannot stand, for the mere reason that the allegations of fraud that gave rise to this ruling were never investigated;

7. *Deeply regrets* that the Government of Venezuela has still failed to offer any assurances in writing that the long-proposed IPU mission to Venezuela can finally take place; *notes* that the member of the *Bloque de la Patria* parliamentary group stated to the Committee on the Human Rights of Parliamentarians that the mission would be welcome and that he would do everything possible to make it happen; *remains convinced* that such a mission could help address the concerns at hand; *requests once again*, therefore, the Secretary General to work with the parliamentary and executive authorities of Venezuela with a view to the mission taking place as soon as possible on the basis of a written official communication on their part that guarantees that it can take place under the conditions required for it to be effective;

8. *Reaffirms* its view that the issues in the cases at hand are part of the larger political crisis in Venezuela, which can only be solved through political dialogue and by the Venezuelans themselves; *calls once again on* all sides to act in good faith and to commit fully to political dialogue, with the assistance of external mediation that is acceptable to all sides; *reaffirms* the IPU's readiness to assist in these efforts; and *requests* the relevant authorities to provide further official information on how this assistance can best be provided;

9. *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;

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

Mongolia

Decision adopted unanimously by the IPU Governing Council at its 205th session (Belgrade, 17 October 2019)

© Zorig Foundation

MNG01 - 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 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 masterminds of his murder is still open and has not yielded any results yet.

Despite the governmental 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 of 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

Case MNG01

Mongolia: Parliament affiliated to the IPU

Victim(s): Male parliamentarian of the majority

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

Submission of complaint(s): October 2000, March 2001, September 2015

Recent IPU decision(s): April 2019

IPU mission(s): August 2001, September 2015, September 2017, June 2019

Recent Committee hearing(s): Hearing with the delegation of Mongolia at the 141st IPU Assembly (October 2019)

Recent follow-up:
- Communications from the authorities: Letters from the Deputy Speaker of the State Great Hural and the Chairperson of the *Ad Hoc* Committee (October 2019)
- Communication from the complainant: October 2019
- Communications addressed to the authorities: Letters addressed to the Deputy Speaker of the State Great Hural and the Chairperson of the *Ad Hoc* Committee (October 2019)
- Communication addressed to the complainant: October 2019

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 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 are still held in detention.

As part of its findings, the delegation welcomed the establishment of an *ad hoc* committee on the Zorig case (the *Ad Hoc* Committee), in line with the IPU Committee's recommendations. It also welcomed the opportunity to meet with the three convicts, as well as to watch the video tape released showing alleged acts of torture and ill-treatment. However, the delegation failed to understand the reasons preventing the immediate release of Ms. Chimgee and Mr. Sodnomdarjaa given the recent turn of events.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Mongolian authorities, in particular the parliamentary authorities, for their cooperation during the recent mission by the Committee on the Human Rights of Parliamentarians to Mongolia and for facilitating its smooth conduct, including the meetings with the three convicts in prison; *thanks* the Mongolian delegation to the 141st IPU Assembly for meeting with the Committee;

2. *Fully endorses* the findings and recommendations contained in the mission report;

3. *Welcomes* the establishment of the parliamentary *Ad Hoc* Committee on the Zorig case, in line with the longstanding IPU recommendation; *regrets* nevertheless its limited role in ensuring due process in the ongoing investigation into the masterminds and in addressing the misgivings about the judicial proceedings against the three convicts; *hopes* that its role will be strengthened; and *wishes* to be kept informed on a regular basis of its work and of any new developments related to the case;

4. *Is pleased* that the *Ad Hoc* Committee fully supports the mission report's findings and recommendations; *is deeply concerned*, however, that members of the *Ad Hoc* Committee are now reportedly subject to several criminal cases and harassment campaigns for having revealed information about the Zorig case that should be accessible to the public at large; *fails to understand* in this regard that, despite the declassification order of 2017, the court verdicts may have been reclassified because of the ongoing investigation into the case of the torture of the two convicts; *believes* that these steps underscore that, far from truly advancing towards genuine openness and transparency, the authorities are bent on prolonging the secrecy that has dominated the case of Mr. Zorig;

5. *Considers* that any further delays in establishing the identity of those responsible for murdering Mr. Zorig, including the masterminds, are unacceptable; *firmly reiterates* that, as long as the court verdicts remain inaccessible to the public and that those with an interest in seeing justice prevail do not feel free to speak publicly about the case of Mr. Zorig, the lack of transparency continues to undermine the pursuit of justice in this case; *renews its call* for the authorities to provide copies of the court verdicts to all relevant parties, including the *Ad Hoc* Committee on the Zorig case; *urges* the authorities to allow all stakeholders, in particular the *Ad Hoc* Committee, to carry out their work without fear of reprisals;

6. *Urges* the relevant authorities to release Ms. Chimgee and Mr. Sodnomdarjaa promptly, regardless of the outcome of the proceedings in the torture case, and to seriously consider abandoning the legal proceedings against them unless there is clear evidence pointing to their responsibility, while ensuring that the people responsible for their wrongful conviction are held to account; *underlines* that the video watched by the delegation during its mission, combined with the testimonies of the three convicts, as well as evidence indicating that the convicts were framed by intelligence officers on the basis of fabricated evidence and forced confessions, are all compelling elements to justify their immediate release and to award compensation to Ms. Chimgee and Mr. Sodnomdarjaa for the miscarriage of justice and the torture they endured;

firmly believes that the mere fact that the authorities might not have detained and convicted the right persons demonstrates that they have not fulfilled their obligations to shed light on the true perpetrators of the crime;

7. *Recalls* that the case has long been used as a political bargaining chip by all political parties; *reiterates* that its resolution should remain a priority; and *expresses the hope* that at last justice will be done, and seen to be done, in the Zorig case;

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.

Turkey

Decision adopted by consensus by the IPU Governing Council at its 205th session (Belgrade, 17 October 2019) [2]

Pictures of Selahattin Demirtas and Figen Yuksekdag, jailed leaders of the pro-Kurdish opposition People's Democratic Party (HDP), are seen on a flag as supporters of the HDP and the 'Hayir' ('No') campaign attend a rally on 8 April 2017 in Istanbul about the referendum held on 16 April 2017, in which Turkey voted on whether to change the current parliamentary system into an executive presidency.
©YASIN AKGUL / AFP

TUR-69 - Gülser Yildirim (Ms.)
TUR-70 - Selma Irmak (Ms.)
TUR-71 - Faysal Sariyildiz
TUR-73 - Kemal Aktas
TUR-75 - Bedia Özgökçe Ertan (Ms.)
TUR-76 - Besime Konca (Ms.)
TUR-77 - Burcu Çelik Özkan (Ms.)
TUR-78 - Çağlar Demirel (Ms.)
TUR-79 - Dilek Öcalan (Ms.)
TUR-80 - Dilan Dirayet Taşdemir (Ms.)
TUR-81 - Feleknas Uca (Ms.)
TUR-82 - Figen Yüksekdağ (Ms.)
TUR-83 - Filiz Kerestecioğlu (Ms.)
TUR-84 - Hüda Kaya (Ms.)
TUR-85 - Leyla Birlik (Ms.)
TUR-86 - Leyla Zana (Ms.)
TUR-87 - Meral Daniş Beştaş (Ms.)
TUR-88 - Mizgin Irgat (Ms.)
TUR-89 - Nursel Aydoğan (Ms.)
TUR-90 - Pervin Buldan (Ms.)
TUR-91 - Saadet Becerikli (Ms.)
TUR-92 - Sibel Yiğitalp (Ms.)
TUR-93 - Tuğba Hezer Öztürk (Ms.)
TUR-94 - Abdullah Zeydan
TUR-95 - Adem Geveri
TUR-96 - Ahmet Yildirim
TUR-100 - Ayhan Bilgen
TUR-101 - Behçet Yildirim
TUR-102 - Berdan Öztürk
TUR-105 - Erol Dora
TUR-106 - Ertuğrul Kürkcü
TUR-107 - Ferhat Encü
TUR-108 - Hişyar Özsoy
TUR-109 - Idris Baluken
TUR-110 - Imam Taşçier
TUR-111 - Kadri Yildirim
TUR-112 - Lezgin Botan
TUR-113 - Mehmet Ali Aslan
TUR-114 - Mehmet Emin Adiyaman
TUR-115 - Nadir Yildirim
TUR-116 - Nihat Akdoğan
TUR-118 - Osman Baydemir
TUR-119 - Selahattin Demirtaş
TUR-120 - Sirri Süreyya Önder
TUR-121 - Ziya Pir
TUR-122 - Mithat Sancar
TUR-123 - Mahmut Toğrul
TUR-124 - Aycan Irmez (Ms.)
TUR-125 - Ayşe Acar Başaran (Ms.)
TUR-126 - Garo Paylan
TUR-128 - Aysel Tugluk (Ms.)
TUR-129 - Sebahat Tuncel (Ms.)

2 The Turkish delegation expressed its reservations regarding the decision.

TUR-97 - Ali Atalan
TUR-98 - Alican Önlü
TUR-99 - Altan Tan
TUR-130 - Leyla Guven (Ms.)
TUR-131 - Ayşe Sürücü (Ms.)

Alleged human rights violations

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

Case TUR-COLL-02

Turkey: Parliament affiliated to the IPU

Victim(s): 57 individuals (17 parliamentarians and 40 former members of parliament, all members of the opposition (30 men and 27 women)

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

Submission of complaint(s): June 2016

Recent IPU decision(s): April 2019

IPU mission(s): June 2019

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

Recent follow-up:
- Communications from the authorities: Responses from the President of the Turkish IPU Group and the Government of Turkey to the Joint Meeting of the Executive Committee and Committee on the Human Rights of Parliamentarians about the mission report (October 2019)
- Communication from the complainant: October 2019
- Communication to the authorities: Letter to the Speaker of the Turkish Parliament (September 2019)
- Communication to the complainant: October 2019

A. Summary of the case

Over 600 criminal and terrorism charges have been brought against the members of parliament of the People's Democratic Party (HDP) since 15 December 2015, when the Constitution was amended to authorize the wholesale lifting of parliamentary immunity. As a result, hundreds of trial proceedings are ongoing throughout the country against HDP parliamentarians and former parliamentarians. They are being tried on terrorism-related charges and charges of defamation of the President, Government or State of Turkey. Some of them also face older charges in relation to the KCK first-instance trial that has been ongoing for more than eight years, while others face more recent charges. In these cases, their parliamentary immunity was allegedly not lifted.

Since 2018, 29 current and former parliamentarians have been sentenced to terms of imprisonment. Eight current and former parliamentarians are either in pretrial detention or serving prison sentences, including the former HDP co-chairs, Mr. Selahattin Demirtaş and Ms. Figen Yüksekdağ. Others have gone into exile.

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

An IPU trial observer attended and reported on one court hearing in the case of Mr. Demirtaş in December 2017, and several hearings held in 2017 and 2018 in criminal proceedings against former HDP co-Chair Ms. Yüksekdağ. Having reviewed a translation of the allegedly incriminating statements made by Ms. Yüksekdağ, the IPU trial observer found that the prosecution's evidence put forward against Ms. Yüksekdağ "appears to fall squarely within her legitimate right to express her opinions, discharging her duty to draw attention to the concerns of those she represents". The report concluded that the prospects of Ms. Yüksekdağ and Mr. Demirtaş receiving fair trials were remote and that the political nature of both prosecutions was evident. The observer recommended that the IPU stand in

solidarity with the former members of parliament and remain informed by continuing to observe proceedings as much as possible.

A 2018 internal IPU review of 12 court decisions issued against HDP members reached similar conclusions. It concluded that the judiciary in Turkey, from the first instance courts to the Constitutional Court, completely disregarded the case law of the European Court of Human Rights and the main judgment of the Turkish Constitutional Court in relation to freedom of expression when evaluating whether an expression constituted incitement to violence or one of the other crimes with which the members of parliament were charged. The review found that the courts presumed guilt and applied harsher restrictions and punishments to the members of parliament because of their particular duties and influence, contrary to the special protection afforded under international law to political expression by public and political figures. The review further found that the interpretation of anti-terror laws by Turkish courts was arbitrary and unforeseeable. Similar speeches and acts were interpreted completely differently by different courts; sometimes interpretations were different in the same decision by the same court.

The Turkish authorities firmly deny all these allegations. To justify the legality of the measures taken, they have invoked the independence of the judiciary, the need to respond to security and terrorism threats, and legislation adopted under the state of emergency. They have provided detailed information on parliament's May 2016 "provisional constitutional amendment" on parliamentary immunity, which has been used to prosecute parliamentarians from all parties. They have asserted that there is no "HDP witch-hunt" in Turkey; that women parliamentarians are not being specifically targeted; that there is no Kurdish issue in Turkey and no current conflict in south-eastern Turkey; but that Turkey is facing a terrorism issue at multiple levels involving the PKK and its "extensions"; that the HDP has never publicly denounced the violent activities of the PKK; that HDP members, including members of parliament, have made many statements in support of the PKK and their "extensions"; that HDP members have attended funerals of PKK suicide bombers and called for people to take to the streets, which has resulted in violent incidents with civilian casualties; that this does not fall within the acceptable limits of freedom of expression; that the constitutional court has reached such conclusions in several cases and, in other cases, domestic remedies have not yet been exhausted; and that the independence of the judiciary and the rule of law in Turkey must be respected.

After lengthy consultations with the Turkish authorities, an IPU delegation comprising members of the IPU Executive Committee and the Committee on the Human Rights of Parliamentarians went to Turkey in June 2019 to obtain first-hand information on the issues that have arisen in this case, as well as on the general political and security situation in Turkey. The Turkish authorities provided extensive comments on the report, explicitly rejecting several of the report's findings and recommendations (Turkey's comments are annexed to the mission report). Since the mission, the Turkish authorities have also provided extensive information on the legal status of and grounds invoked in many of the criminal proceedings against current and former HDP parliamentarians. The complainant has also commented on the mission report and, with the exception of some points, largely agrees with the IPU delegation's assessment and recommendations.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the Turkish authorities for their extensive efforts to receive the IPU delegation and to allow it to fulfil its mandate, including by facilitating a visit to south-eastern Turkey; *regrets* nevertheless that the delegation was not allowed to meet with the current and former parliamentarians in detention; *considers* in this regard that the Ministry of Justice could have shown more flexibility to facilitate prison visits;

2. *Also thanks* the Turkish Government and the President of the Turkish IPU Group for their detailed comments on the mission report, as well as the complainant for its observations;

3. *Further thanks* the IPU delegation for carrying out the mission and for its report; and *fully endorses* its findings and recommendations;

4. *Considers* in this regard that the extensive comments from the Turkish authorities do not dispel the serious concerns in the mission report about the systematic affirmation by the Turkish authorities that the HDP, a legally authorized political party in Turkey, and the PKK are one and the same, or at least working closely together, and about the multiple criminal proceedings that have been – and continue to be – brought as a result of this assertion against current and former HDP parliamentarians;

5. *Reaffirms* its views that parliamentarians are not above the law and should not be shielded from prosecution if they directly commit or incite violence, or are in any other way involved in the commission of crimes; *considers*, however, that it has yet to receive information from the Turkish authorities that clearly points to concrete and convincing evidence to sustain the serious terrorism charges brought against the current and former parliamentarians; *notes* in this regard that the extensive information provided most recently by the authorities, except for a casual reference to specific incidents, does not provide details on the facts that form the basis of the charges laid against those being prosecuted; *understands* that it may be difficult to make these details available for all the cases at hand, but nevertheless hopes that the Turkish authorities can provide as much information as possible; *appreciates* in this regard the commitment made by the President of the Turkish IPU Group;

6. *Remains concerned* in the meantime that the information currently on file, particularly several court decisions and their analysis, confirms that HDP parliamentarians have been charged and convicted primarily for making critical public statements, issuing tweets, participating in organizing or calling for rallies and protests, and conducting political activities in furtherance of their parliamentary duties and political party programme, such as mediating between the PKK and the Turkish Government as part of the peace process between 2013 and 2015, publicly advocating political autonomy, and criticizing the policies of President Erdoğan in relation to the current conflict in south-eastern Turkey;

7. *Considers* that the prosecution for these statements and activities, despite their critical content and occasional harsh tone, runs counter to the parliamentarians' rights to freedom of expression, peaceful assembly and association, all of which should have been protected by Turkey; *points out* in this regard that several current and former HDP parliamentarians have been prosecuted or sentenced to hefty prison terms for insulting the President, Government or State of Turkey, contrary to the jurisprudence of the European Court of Human Rights and the UN Human Rights Committee; *considers* that the prosecution of the HDP parliamentarians has to be seen in the context of the concerns expressed in the mission report about the independence of the judiciary in Turkey;

8. *Is convinced*, in light of the aforesaid considerations, that the Turkish authorities need to take more decisive action to ensure that current national legislation and its application are in line with international and regional standards on freedom of expression, assembly and association, and on the independence of the judiciary, as well as to ensure that ongoing criminal proceedings are freshly and critically reviewed with this perspective in mind; *looks forward* to hearing about concrete steps taken to this end;

9. *Notes* that the Turkish authorities have requested the Committee on the Human Rights of Parliamentarians to close several cases, arguing that the current and former parliamentarians concerned are no longer being prosecuted and that the complainant is contesting that their prosecution has been terminated; *sincerely hopes* that the Committee will soon receive clarity on these matters so that it can fully review these files and make appropriate recommendations;

10. *Requests* the Committee to explore further options to attend ongoing trial proceedings in the cases at hand; *trusts* that the Turkish authorities will grant unrestricted access to international observers to these proceedings, it being understood that it should be quite feasible for the authorities to do so, including by providing a larger court room, if need be, and without having to compromise on any security requirements;

11. *Renews its call* on all IPU Member Parliaments to take concrete actions in support of the urgent resolution of the Turkish cases, including by considering the dispatch of trial observers; *requests* Member Parliaments to keep the IPU informed of the outcome of their initiatives;

12. *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;

13. *Requests* the Committee to continue examining these cases and to report back to it in due course.

Libya

Decision adopted unanimously by the IPU Governing Council at its 205th session (Belgrade, 17 October 2019)

© Courtesy of the Sergiwa Family.

LBY-01 – Seham Sergiwa

Alleged human rights violations

- ✓ Abduction
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

Case LBY-01

Libya: Parliament affiliated to the IPU

Victim(s): female, independent member of the House of Representatives

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

Submission of complaint(s): July 2019

Recent IPU decision(s): - - -

Recent IPU Missions: - - -

Recent Committee hearing(s): Hearing with the delegation of Libya at the 141st Assembly (October 2019)

Recent follow-up:
- Communication from the authorities: Letter from the Speaker of the House of Representatives (September 2019)
- Communication from the complainant: July 2019
- Communication addressed to the authorities: Letter addressed to the Speaker of the House of Representatives (August 2019)
- Communications addressed to the complainant: July and September 2019

A. Summary of the case

Ms. Seham Sergiwa was abducted from her home on 17 July 2019. According to the complainant, masked armed men raided her house, wounding her husband and one of her sons as they captured her. The complainant claims that the abductors are members of the 106th Brigade of the Libyan National Army led by Mr. Khalifa Haftar, an assertion based on the *modus operandi* of the abductors and the SUV vehicles used. Moreover, following her abduction, the message "the army is a red line not to be crossed" was spray-painted across Ms. Sergiwa's house. There is growing concern about her fate in the absence of any signs of life since her abduction.

The complainant alleged that the abduction of Ms. Sergiwa was in response to her political stance against the military operations in Tripoli, as she was taken from her home shortly after she gave an interview criticizing the military offensive and calling for an end to the bloodshed.

On 18 July 2019, the House of Representatives in Tobruk issued a statement "strongly condemning the abduction of Ms. Sergiwa by unknown individuals", and "called upon the Ministry of the Interior, as well as all the security forces, to scale up their efforts to find Ms. Sergiwa, ensure her prompt release and hold to account those responsible for her abduction". The first and second Deputy Speakers of the House of Representatives told the IPU Committee on the Human Rights of Parliamentarians on 13 October 2019 that the Minister of the Interior of the interim government in eastern Libya had said that terrorist

groups may be responsible for the abduction of Ms. Sergiwa, that the House of Representatives continued to monitor the case, which was still under investigation, and that it could well be that Ms. Sergiwa would turn up alive.

B. Decision

The Governing Council of the Inter-Parliamentary Union

1. *Considers* the complaint concerning the situation of Ms. Sergiwa, a member of the House of Representatives at the time of her abduction, to be admissible under the Committee's Procedure for the Examination and Treatment of Complaints; and *declares itself* competent to examine the case;

2. *Thanks* the first and second deputy speakers of the House of Representatives for meeting with the Committee on the Human Rights of Parliamentarians and for the information provided at the 141st IPU Assembly; *regrets* nevertheless the lack of information provided by the delegation regarding the current situation of Ms. Sergiwa;

3. *Is shocked* that a member of parliament was brutally abducted from her home during a violent attack against her and members of her family and that, despite the fact that her alleged abductors vandalized and tagged her house with a clearly threatening message and that there were other indications hinting at their identity, the relevant authorities have still not been able to provide information on the attackers or her whereabouts; *is deeply concerned* about the serious allegation that Ms. Sergiwa's abduction came in response to the legitimate exercise of her parliamentary mandate and freedom of opinion;

4. *Is aware of* the formidable security challenges faced by the Libyan authorities; *considers* nevertheless that impunity poses a serious threat not only to parliamentarians but also to the people they represent, and that the State of Libya is duty-bound to do everything possible to find Ms. Sergiwa and to ensure that this attack will not remain unpunished and that the perpetrators will be held to account;

5. *Urges* the authorities, in particular the Ministry of the Interior and the House of Representatives, to ensure that all measures are taken to investigate the abduction of Ms. Sergiwa diligently and thoroughly in order to locate her; *stresses* in this regard that time is of the essence, as every further day without any sign of Ms. Sergiwa lessens the chances of finding her alive; *calls* on the House of Representatives, as the guardian of the human rights of parliamentarians, to monitor more forcefully the investigation and to require clear answers from the government authorities about the status of the investigation and the likely identity of the perpetrators;

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 this case and to report back to it in due course.

Yemen

Decision adopted by consensus by the IPU Governing Council at its 205th session (Belgrade, 17 October 2019) [3]

Yemeni members of parliament vote in Sana'a on 24 June 2000 to approve the 12 June border accord signed with Saudi Arabia. © Khaled Fazaa/AFP

YEM09 - Abd Al-Hameed Saif Al-Batra'
YEM-10 - Insaf Ali Mohamed Mayou
YEM-11 - Ja'abal Mohamed Salem Mohsin Ta'iman
YEM-12 - Abd Al-Rahman Ibrahim Abdah Nashtan
YEM-13 - Abd Al-Khalek Abd Al-Hafed Ben Shihoun
YEM-14 - Abd Al-Khalek Abdah Ahmad Al-Barkani
YEM-15 - Mohamed Qasem Mohamed Al-Naqib
YEM-16 - Mohamed Maqbal Ali Hasan Al-Hamiri
YEM-17 - Mafdal Ismail Al-Abara
YEM-18 - Haza' Saad Mathar Yahya Al-Masouri
YEM-19 - Amine Mohamed Al-Saloui
YEM-20 - Abd Al-Rahman Hasin Ali Al-A'shbi
YEM-21 - Abd Al-Aziz Ahmad Ali Mohamed Ja'bari
YEM-22 - Abd Al-Wahab Mahmoud Ali Ma'wadah
YEM-23 - Ali Hasin Naser Ahmad Al-A'nsi
YEM-24 - Ali Mohamed Ahmad Al-Ma'mari
YEM-25 - Ali Masaad Al-Lahbi
YEM-26 - Mohamed Rashad Mohamed Ali Al-Alimi
YEM-27 - Mohamed Saif Abd Al-Latif Hosam Al-Shamiri
YEM-28 - Mohamed Ali Salem Al-Shadadi
YEM-29 - Sakhr Ahmad Abas Ahmad Al-Wajih
YEM-30 - Mohamed Naser Malhi Al-Hazami Al-Idrissi
YEM-31 - Najib Said Ghanem Saleh Al-Dab'i
YEM-32 - Ibrahim Ahmad Al-Mazlam
YEM-33 - Ahmad Yahya Mohamed Ali Al-Haj
YEM-34 - Bakil Naji Abd Allah Al-Soufi
YEM-35 - Rabish Ali Wahban Ahsan Al-Ali
YEM-36 - Zayd Ali Al-Shami
YEM-37 - Soultan Hazam Al-Atwani
YEM-38 - Soultan Said Abd Allah Yahya Al-Barkani
YEM-39 - Samir Khayri Mohamed Ali Reda
YEM-40 - Sadeq Qasem Mohamad Qaed Al-Ba'dani
YEM-41 - Saleh Abd Allah Ali Qasem Al-Sanbani
YEM-42 - Saleh Ali Farid Al-Barhami
YEM-43 - Saleh Farid Mohsin Al-Awlaqi
YEM-44 - Aref Ahmad Al-Sabri
YEM-45 - Abd Allah Mohsin Ahmad Abd Allah Al-Ajr
YEM-46 - Abd Al-Karim Sharaf Mohsin Shiban
YEM-47 - Abd Allah Ali Al-Khalaki
YEM-48 - Abd Allah Mohamed Saleh Mohamed Al-Maqtari
YEM-49 - Abd Al-Malak Abd Allah Hasan Saleh Al-Qosous
YEM-50 - Abdah Mohamed Hasin Al-Hudhaifi Al-Jaradi
YEM-51 - Ali Ahmad Mohamed Saleh Al-Amrani
YEM-52 - Ali Qaed Sultan Al-Wafi
YEM-53 - Awad Mohamad Abd Allah Al-Awlaqi
YEM-54 - Fouad Abid Said Waked
YEM-55 - Mohamad Thabet Mohamad Ali Al-Asli
YEM-56 - Mohamad Mohamed Ahmad Mansour
YEM-57 - Mansour Ali Yahya Maflah Al-Hanq
YEM-58 - Nasr Zayd Mahi Al-Din
YEM-59 - Hiba Allah Ali Saghir Sharim
YEM-60 - Abd Allah Saad Sharaf Abas Al-Namani
YEM-61 - Abd Al-Razaq Maslah Al-Hijri
YEM-62 - Abd Al-Karim Ahmad Yahya Al-Sinissi
YEM-63 - Abd Al-Karim Mohamed Mach'ouf Al-Aslami
YEM-64 - Abd Al-Aziz Abd Al-Jabar Ghaleb Dabwan
YEM-65 - Othman Hasin Fayed Majli
YEM-66 - Fathi Tawfiq Abd Al-Rahim Mathar
YEM-67 - Mohsin Ali Omar Baserah
YEM-68 - Isaac Al'Qa'hm
YEM-69 - Ali Hassan Ahmad Jilan
YEM-70 - Ibrahim Chouaib Mohamed Al-Facheq
YEM-71 - Amine Ali Mohamed Al-Akimi
YEM-72 - Hamid Abd-Allah Saghir Ahmad Al-Jabarati
YEM-73 - Zakaria Said Mohamed Al-Zekri
YEM-74 - Chawqi Al-Raqib Chaman Al-Qadi
YEM-75 - Saghir Hamoud Aziz Al-Sifani
YEM-76 - Mohamed Naji Abd Al-Aziz Al-Shayef
YEM-77 - Hashem Abd Allah Hasin Al-Ahmar

3 The delegations of Yemen, Egypt and Jordan expressed their reservations regarding the decision.

Alleged human rights violations

- ✓ Abduction
- ✓ Threats, acts of intimidation
- ✓ Arbitrary arrest and detention
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity
- ✓ Abusive revocation or suspension of the parliamentary mandate

Case YEM-COLL-01

Yemen: Parliament affiliated to the IPU

Victim(s): 69 male opposition members of parliament

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

Submission of complaint(s): May 2019

Recent IPU decision(s): - - -

IPU mission(s): - - -

Recent Committee hearing(s): Hearing with the delegation of Yemen at the 141st Assembly (October 2019)

Recent follow-up:
- Communication from the authorities: Letter from the Speaker of the House of Representatives (October 2019)
- Communication from the complainants: May 2019
- Communication to the authorities: Letter to the Speaker and Deputy Speaker of the House of Representatives (September 2019)
- Communication addressed to the complainant: June 2019

A. Summary of the case

This case concerns 69 members of the Yemeni Parliament, all elected during the 2003 parliamentary elections for a six-year term and who remain members of parliament in accordance with the Yemeni Constitution. Starting in 2014, they have been allegedly subjected to various human rights violations, including attempted murder, abduction, arbitrary detention and property destruction.

Since the beginning of the political crisis in 2011 and the outbreak of the war in Yemen in 2015, two different factions claim to embody the Yemeni Parliament: the Houthi militia, which controls the parliament in Sana'a in addition to other institutions in the territories under their control, and the parliamentarians who fled Sana'a and belong to the internationally recognized government of President Abdrabbuh Mansur Hadi. The present case concerns members of parliament who fled Sana'a and neighbouring governorates that are under the control of the Houthi militia.

The complainants allege that the violations have been committed by the Houthis, and took place in different governorates in Yemen, including Sana'a and other parts of Yemen under the control of the internationally recognized government. The complainants affirm that, due to the violations and security situation, 22 of the 69 parliamentarians are now in exile.

The parliamentary faction controlled by the Houthis in Sana'a provided written information in October 2019 on the cases of several parliamentarians included in the complaint. They indicated that several of the violations mentioned took place within governorates under the control of the internationally recognized government in Aden. According to the complainants, these violations were the result of Houthi attacks. In their written response, the parliamentary faction controlled by the Houthis in Sana'a did not provide substantial information on each violation, particularly on the steps taken to help identify and hold to account the alleged culprits. In this regard, the complainants are unanimous in their affirmation that the Houthi security forces are responsible.

B. Decision

The Committee

Decides to recommend to the Governing Council of the Inter-Parliamentary Union that it adopt the following decision:

The Governing Council of the Inter-Parliamentary Union

1. *Notes* that the collective complaint concerning the cases of 68 members of the House of Representatives is admissible under Section I.1(a) of the Procedure for the Examination and Treatment of Complaints; *declares itself* competent to examine the alleged violations (Annex I of the revised Rules and Practices of the Committee on the Human Rights of Parliamentarians); and *also notes* that the case of Mr. Abd Al-Hameed Saif Al-Batra' has been

merged with the present case, which brings the total number of parliamentarians in this complaint to 69;

2. *Thanks* the Yemeni delegation for meeting with the Committee on the Human Rights of Parliamentarians during the 141st IPU Assembly; *also thanks* the parliamentary authorities for their letter;

3. *Is deeply concerned* by the large number of parliamentarians included in this complaint and the alleged violations they have suffered since 2014, including attempted murder, abduction, arbitrary arrest and detention. These violations seem to be a response to the legitimate exercise of their parliamentary mandate and in particular the expression of their exercise of freedom of speech; *is aware* of the exceptional situation in which Yemen finds itself and the formidable challenges that the Yemeni authorities face in establishing law and order;

4. *Is deeply concerned* that 35 parliamentarians face arbitrary measures; *stresses* that these parliamentarians are facing such measures in response to their vocal support for the internationally recognized government;

5. *Requests* the Secretary General to follow up the situation with the complainant and any third party likely to be in a position to supply relevant information;

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

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