



Inter-Parliamentary Union  
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## Niger

**Decision adopted by consensus by the IPU Governing Council at its 202<sup>nd</sup> session (Geneva, 28 March 2018)<sup>1</sup>**



© Seidou Bakari

### NER116 - Seidou Bakari

#### Alleged human rights violations

- ✓ Arbitrary detention
- ✓ Lack of due process and excessive delays in proceedings
- ✓ Failure to respect parliamentary immunity
- ✓ Violation of freedom of opinion and expression

#### A. Summary of the case

On 28 July 2015, the Bureau of the National Assembly authorized the arrest of parliamentarian Seidou Bakari, chairperson of the MODEN/FA Lumana-Africa parliamentary group, without giving him a preliminary hearing. He was not re-elected and was arrested when his parliamentary mandate came to an end on 16 May 2017, since which date he has been held in pre-trial detention.

Mr. Bakari is accused of having embezzled public funds in 2005, when he was coordinator of a food emergency committee (CCA) that answered to the Office of the Prime Minister. At the time, the prime minister was Mr. Amadou Hama (NER115), currently the head of the opposition. According to the complainant, Mr. Bakari's parliamentary immunity was not respected and he was not given a hearing by the Bureau before his immunity was lifted, despite the fact that no criminal charges had yet been brought against him.

The complainant believes that Mr. Bakari's continued detention, and the lack of progress of the legal proceedings, are deliberate acts which constitute violations of Mr. Bakari's fundamental right to be given a fair hearing without undue delay. Mr. Bakari's applications for bail were allegedly refused, in

#### Case NER116

**Niger:** Parliament affiliated to the IPU

**Victim:** A male opposition member of the National Assembly

**Complainant(s):** Section I.1(a) of the [Committee Procedure](#) (Annex 1)

**Submission of complaint:** September 2015

**Recent IPU decision:** [February 2018](#)

**IPU Mission:** - - -

**Recent Committee hearings:** - - -

#### Recent follow-up:

- Communication from the authorities: Letter from the Speaker of the National Assembly (January 2018)
- Communication from the complainant: March 2018
- Communication from the IPU to the Speaker of the National Assembly (February 2018)
- Communication from the IPU to the complainant: February 2018 ■

<sup>1</sup> The delegation of Niger expressed its reservations regarding the decision.

violation of the Code of Criminal Procedure. The complainant also alleges that the rights of the defence were violated, and that the investigating judge ignored exculpatory evidence provided by Mr. Bakari's lawyer. According to the complainant, a hearing took place on 23 March 2018 following a request by Mr. Bakari's lawyer for the investigating judge to be taken off the case. The ruling is expected on 13 April.

The complainant asserts that the charges brought against Mr. Bakari are unfounded, and that no funds were embezzled by the food emergency committee (CCA). He states that Mr. Bakari was tasked simply with implementing decisions taken collectively by the CCA, and had no power to take individual decisions or order expenditure. He pointed out that all the CCA's decisions were recorded in writing. He recalled that Niger's international partners had been satisfied with the way the funds and the food crisis were being managed, at the time, and had officially thanked Mr. Bakari for his work (letter transmitted by the complainant). According to the complainant, several international audits had been carried out over the years of the CCA's operation, in order to certify its accounts.

The complainant asserts that Mr. Bakari is the victim of political and judicial harassment purely because he is a member of the opposition and a close collaborator of Mr. Amadou Hama. As a deputy, and as chairperson of his parliamentary group, he supported Mr. Hama – then Speaker of the National Assembly – when the latter was subjected to criminal proceedings after announcing that his party would be siding with the opposition at the next presidential elections.

The parliamentary authorities affirmed that they followed the procedure for lifting parliamentary immunity. New Rules of Procedure were adopted in March 2017 and, according to the Speaker of the National Assembly, the procedure is now better regulated. No information was provided by the authorities on the other allegations, neither on the alleged acts being prosecuted nor the reasons why charges were brought against Mr. Bakari 12 years after the acts in question. The Speaker of the National Assembly said he had been unable to obtain any answers owing to the principle of the separation of powers and the confidentiality of preliminary investigations, but that the investigating judge would soon be handing down a ruling on the case.

## **B. Decision**

The Governing Council of the Inter-Parliamentary Union

1. *Thanks* the delegation of Niger and the complainant for the information shared during the hearings with the Committee on the Human Rights of Parliamentarians during the 138<sup>th</sup> IPU Assembly;
2. *Commends* the National Assembly for appointing an inclusive delegation to the 138<sup>th</sup> IPU Assembly; *welcomes* the fact that the Committee on the Human Rights of Parliamentarians was able to hear the different views on the case taken by the various parties making up the delegation; *notes* the view of the National Assembly that it cannot take up the case owing to the principle of the separation of powers and the independence of the judiciary; *encourages* it nevertheless to continue dialogue and to transmit the concerns that persist in this case to the competent authorities and to actively undertake to facilitate a solution in accordance with the Constitution of Niger;
3. *Is concerned at* the length of Mr. Bakari's continued pre-trial detention, which does not appear to be in keeping with articles 131 and 133 of the Code of Criminal Procedure, and at the length of the preliminary investigation, in which no progress appears to have been made; consequently, *invites* the competent authorities to release him immediately, and to expedite the processing of the case;
4. *Expresses its concern* also regarding the merits of the charges brought against Mr. Bakari, given the substantial information and documentation provided by the complainant and the lack of response by the authorities on the issue;
5. *Urges* the Niger authorities to do their utmost to guarantee that the case is processed quickly, fairly and independently, in strict compliance with national and international fair trial standards and the fight against corruption; *requests* the authorities to keep it informed of the decisions to be taken by the Appeal Court and the investigating judge and, if appropriate, of the trial dates,

so as to be able to send an observer; *reiterates its request* that the authorities provide their observations and more detailed information on the case regarding the allegations made by the complainant;

6. *Notes* that this case has an undeniable political aspect to it, and that the proceedings brought against Mr. Bakari have evident similarities with those brought against the president of his party, Mr. Amadou Hama (NER115) – whose case is also before the Committee on the Human Rights of Parliamentarians – and that these similarities, as well the fact that the proceedings were initiated to coincide with the latest presidential and parliamentary elections, add weight to the complainant's allegations;
7. *Expresses the wish* for a delegation from the Committee on the Human Rights of Parliamentarians to visit Niger, in order to carry out additional checks, and talk directly with all actors involved, in particular with those in the judiciary and the executive, and to encourage the parties to re-establish political dialogue and find a satisfactory solution to this case; *hopes* to receive a positive reply from the National Assembly in this regard, and assistance from the Assembly to enable the mission to proceed smoothly;
8. *Recalls* the Committee's previous conclusions, according to which Mr. Bakari's defence rights were not respected during the parliamentary procedure for lifting his immunity, as he was not given a preliminary hearing; *notes with interest* that the Rules of Procedure of the National Assembly have been amended to better regulate the lifting of parliamentary immunity by the Bureau when parliament is in recess; *requests* the Speaker of the National Assembly to provide a copy of the amended provisions;
9. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be able to provide relevant information; *also requests* him to take all necessary steps to organize a mission to Niger by the Committee on the Human Rights of Parliamentarians;
10. *Requests* the Committee to continue examining this case and to report back to it in due course.