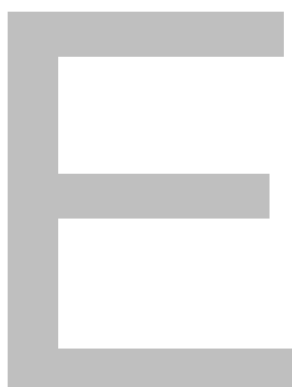


Decisions adopted by the Committee on the Human Rights of Parliamentarians

Virtual meeting, 25 - 29 May 2020

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Côte d'Ivoire

Decision adopted by the Committee on the Human Rights of Parliamentarians under Rule 12(4) of its Rules and Practices (29 May 2020)



Alain Lobognon, Twitter

CIV-07 - Alain Lobognon
CIV-08 - Jacques Ehouo
CIV-09 - Guillaume Soro
CIV-10 - Loukimane Camara
CIV-11 - Kando Soumahoro
CIV-12 - Yao Soumaïla
CIV-13 - Soro Kanigui
CIV-14 - Issiaka Fofana
CIV-15 - Bassatigui Fofana
CIV-16 - Mohamed Sess Soukou

Alleged human rights violations

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

A. Summary of the case

This case concerns the situation of several Ivorian members of parliament who have suffered violations of their fundamental rights since 2018 in the exercise of their parliamentary mandate.

In 2018, the investiture as mayor of Mr. Jacques Ehouo, a member of parliament from the Democratic Party of Côte d'Ivoire (PDCI), did not take place immediately following his election because of allegations of corruption and misappropriation of funds that surfaced shortly after his victory. Given that Mr. Ehouo refused to appear at a hearing with the Economic Police, invoking his status as a member of parliament, the Prosecutor wrote to the National Assembly in January 2019 stating that it was only Mr. Ehouo's arrest that was unauthorized when parliament was not in session. In a letter dated 7 January 2019, the parliamentary authorities made clear to the Prosecutor that, as Mr. Ehouo

Case CIV-COLL-01

Côte d'Ivoire: Parliament affiliated to the IPU

Victims: 10 male opposition members of parliament

Qualified complainants: Section I.1.(a) of the [Committee Procedure](#) (Annex I)

Submission of complaints: January 2019; February 2020 (CIV-09-CIV-16)

Recent IPU decision: April 2019

IPU mission(s): - - -

Recent Committee hearing: Hearing of the delegation of Côte d'Ivoire at the 140th IPU Assembly in Doha (April 2019)

Recent follow-up:

- Communication from the authorities: Observations from the Government (May 2020)
- Communication from the complainants: May 2020
- Communications addressed to the authorities: Letter addressed to the Minister of Justice and the Speaker of the National Assembly (April 2020)
- Communication addressed to the complainants: May 2020

was a member of parliament, he could not be prosecuted without the authorization of the Bureau of the National Assembly, especially given that the latter had been in session at the time the Prosecutor had summoned the member of parliament. Mr. Ehouo eventually attended the hearing on 10 January 2019, following which he was charged by the Prosecutor with misappropriation of public funds, forgery and the use of counterfeit documents, and money laundering.

Mr. Ehouo's case is linked to that of Mr. Alain Lobognon, who had expressed his concern about Mr. Ehouo's situation on social media in January 2019, posting the following tweet: "The National Assembly requested the suspension of proceedings against member of parliament Mr. Jacques Ehouo, under Article 92(3) of the Constitution and Article 45(3) of its Standing Orders. Despite this, the Prosecutor ordered the arrest of our colleague." As a result, Mr. Lobognon was accused of posting material on Twitter that amounted to spreading fake news and causing public disorder, and the Prosecutor issued an arrest warrant against him for an *in flagrante delicto* offence. On 15 January 2019, Mr. Lobognon was taken into custody.

The Bureau of the National Assembly met on 16 January 2019 and decided to request that Mr. Lobognon's custody and the proceedings against both members of parliament be suspended. The Prosecutor is understood to have disregarded this decision, as Mr. Lobognon was sentenced on 29 January 2019 in the court of first instance to a one-year prison term in a trial that his lawyers said showed a lack of fair trial proceedings and was biased. When his case was considered by the court of appeal on 13 February, Mr. Lobognon received a six-month suspended prison sentence. Mr. Lobognon was released and lodged an appeal at the court of cassation. As for Mr. Ehouo, he finally took office as mayor following his investiture on 23 March 2019 after a four-month deadlock. However, it is unclear whether Mr. Ehouo continues to be subject to a judicial investigation in connection with the charges of misappropriation of funds.

In December 2019, the Committee received a new complaint about nine members of the National Assembly, including Mr. Lobognon, who had allegedly been arbitrarily arrested with Mr. Loukimane Camara, Mr. Kando Soumahoro, Mr. Yao Soumaïla and Mr. Soro Kanigui on 23 December 2019. The five members of parliament had been charged with causing public disorder, challenging the authority of the State and spreading fake news, and bringing discredit to state institutions and their operation, all of which amount to an attack on state authority. At the same time, member of parliament and former Speaker of the National Assembly, Mr. Guillaume Soro, was allegedly prevented from returning to Côte d'Ivoire and had an international arrest warrant issued against him for misappropriation of public funds and seeking to challenge the integrity of the State. The other members of parliament – Mr. Issiaka Fofana, Mr. Bassatigui Fofana and Mr. Sess Soukou Mohamed – were reportedly forced into exile following a campaign of political harassment against them because of their political affiliation (members of the opposition) and their support for Mr. Guillaume Soro's movement. The complainants claimed that the three members of parliament would currently be in detention had they not fled the country.

In its communication of 13 May 2020, the Ivorian Government rejected the complainants' allegations, emphasizing that the procedure followed in ordering the detention and arrest of the five members of parliament and the proceedings brought against Mr. Soro were legal. According to the Ivorian authorities, the five members of parliament currently in detention allegedly stated at a press conference held on 23 December 2019 at the headquarters of the *Généralions et Peuples Solidaires* (Generations and People in Solidarity – GPS) political movement that the Ivorian airport authorities had prevented Mr. Soro's private aircraft from landing in Côte d'Ivoire and that, as a result, his plane had been diverted to Ghana. According to the authorities, this information was misleading, since it was denied by the National Civil Aviation Authority in a press release in which it stated that an authorization to fly over Ivorian territory and to land at the airport in Abidjan had been granted on 20 December 2019. The authorities have not forwarded a copy of this press release.

With regard to Mr. Soro's case, the Ivorian Government confirmed its involvement in two separate cases, one relating to a destabilization plot planned for imminent execution, as revealed in a sound recording in which Mr. Soro reportedly exposed his plan of attack against state security. According to the authorities, the plot involved recruiting armed individuals from the country to subvert the integrity of the national territory. The Ivorian authorities concluded that there was a direct link between this recording, which apparently dates from 2017, and Mr. Soro's political campaign, the aim of which is to

discredit the Republic's institutions. According to the authorities, the plot became increasingly plausible following the discovery of weapons of war in a lagoon in the township of Assinie. The second case involving Mr. Soro is reportedly the misappropriation of funds following the alleged acquisition in 2007 of a property using public treasury funds, the actual ownership of which has been concealed.

In its communication of 13 May 2020, the Ivorian Government also refuted the complainants' allegations about the state of Mr. Lobognon's health, who it claims is not suffering from a medical condition requiring admission to hospital. However, a medical report written by Mr. Lobognon's doctor on 8 April 2020, and detailing a medical visit that took place on 30 March 2020, indicates that the member of parliament suffers from symptoms related to malaria and is undergoing antimalarial treatment. According to this report, the doctor was prevented from examining Mr. Lobognon on 8 April 2020 after the prison's governor refused him entry in the absence of authorization from the court administration. The complainants also stated that Mr. Lobognon's personal doctor was prevented on three occasions from entering the prison grounds.

Furthermore, the Ivorian Government argued in its communication of 13 May 2020 that the allegations of failure to respect the parliamentary immunity of the members of parliament were totally unfounded, given that they were accused of having actively participated in the first phase of the plot against state security and were prevented from carrying out the second phase of their plan, involving a popular uprising, when the judicial police intervened. For the Ivorian Government, these factors prove that an *in flagrante delicto* offence had taken place, justifying the lack of authorization by the bureaux of the Chambers to which these members of parliament belong. However, the authorities claimed that the immunity of members of parliament no longer posed an obstacle, since a decision to lift it had been taken by the Bureau of the National Assembly on 20 January 2020.

The African Court on Human and Peoples' Rights (AfCHPR), having had the case referred to it by the members of parliament's lawyers on 22 April 2020, implemented interim measures, ordering the suspension of the arrest warrant issued against Mr. Soro, the provisional release of the members of parliament currently in detention, and adherence to the *status quo ante* until the adoption of a decision on the merits of the case. Despite the AfCHPR's ruling, the Ivorian justice system continued examining Mr. Soro's case, who was convicted of misappropriation of funds and sentenced on 28 April 2020 by the Abidjan court of first instance to 20 years' rigorous imprisonment, deprivation of his civil and political rights for a period of five years and a fine of 4.5 billion CFA francs.

The communication sent by the Ivorian authorities on 13 May 2020 included no documents proving the veracity of the statements made, in particular a copy of the ruling issued against Mr. Soro in the money laundering case, a copy of the sound recording mentioned (only extracts were provided), with the date on which it was allegedly recorded, and a copy of the arrest and search warrants. The authorities have provided no information on Mr. Jacques Ehouo's situation.

B. Decision

Pursuant to Rule 12(4) of its Rules and Practices, the Committee on the Human Rights of Parliamentarians

1. *Declares itself* competent to examine the cases of Mr. Guillaume Soro, Mr. Loukimane Camara, Mr. Kando Soumahoro, Mr. Yao Soumaïla, Mr. Soro Kanigui, Mr. Issiaka Fofana, Mr. Bassatigui Fofana and Mr. Mohamed Sess Souko, considering that the communication: (i) was submitted in due form by a qualified complainant pursuant to section I.1.(a) of the Procedure for the examination and treatment of complaints (Annex I to the Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) concerns incumbent members of parliament at the time of the alleged facts; and (iii) concerns allegations of arbitrary arrest and detention, lack of due process at the investigation stage, lack of fair trial proceedings, violation of freedom of opinion and expression, and failure to respect parliamentary immunity, allegations which fall within the competence of the Committee; and *decides* to merge the cases of the eight members of parliament into the present collective case CIV-COLL-01;

2. *Thanks* the Ivorian Government for its correspondence, while *regretting* the lack of response from the parliamentary authorities, even more so as the issue of respect for parliamentary immunity and the fundamental rights of members of the National Assembly directly concerns the latter;
3. *Notes with regret* that Mr. Lobognon's situation has taken a turn for the worse and that four other members of parliament are, like him, in pretrial detention in a court case that does not appear to be based on any material evidence proving their guilt; *notes with concern* that the only evidence against the five members of parliament to justify their arrest and detention consist of statements they made during a press conference, according to which Mr. Soro had been prevented from entering Côte d'Ivoire by air; *also notes* that there is currently no link between the five members of parliament and the alleged insurrection plot, of which Mr Soro is accused, and that their only connection with Mr. Soro lies in their support for the latter's political movement;
4. *Considers* that five of the nine members of parliament concerned were arbitrarily arrested in the absence of a decision by the Bureau of the National Assembly authorizing their arrest and detention, and that the latter only lifted their parliamentary immunity, and that of Mr. Soro, on 20 January 2020, even though the five members of parliament had already been in detention since 23 December 2019; *also recalls* that this is not Mr. Lobognon's first detention on similar grounds; and *once more invites* the parliamentary authorities to provide their observations on the procedure followed in authorizing the lifting of the parliamentary immunity of the members of parliament in question;
5. *Fails to understand* how the judicial authorities established that the offences alleged to have been committed by the members of parliament, in particular those alleged against Mr. Soro, fell under the offence of *in flagrante delicto* under Article 77 of the Criminal Procedure Code, given that the sound recording constituting the key evidence for the Prosecutor's charges dates back to 2017; and *wishes* to receive further clarifications in this regard from the authorities;
6. *Is concerned* about Mr. Lobognon's state of health and by the prison administration's refusal on three consecutive occasions to authorize his personal doctor to visit him to carry out a medical check-up; and about the fact that the application for a provisional release made by Mr. Lobognon because of his state of health was rejected without valid grounds;
7. *Calls on* the authorities to release Mr Lobognon and the four other members of parliament, particularly in the context of the current COVID-19 pandemic, which is leaving persons detained in prison and other enclosed places of detention even more vulnerable to the disease; *also wishes* to receive more detailed information on the facts on which all the criminal charges against them are based; *urges* the prison authorities, should Mr Lobognon not be released immediately, to facilitate his access to his personal doctor so that a medical report can be drawn up as soon as possible; and *wishes* to receive a copy of this report;
8. *Takes note* of Mr. Soro's conviction for the misappropriation of public funds; *notes* that Mr. Soro's lawyers did not appear at trial *in absentia* in order to report irregularities in the procedure followed against their client and expeditious justice; *notes* that the charges against Mr. Soro coincide with the election timetable and the formalization of his candidacy for the presidential elections of October 2020, and that his conviction deprives him of his political and civil rights for five years, thus preventing him from participating in the next presidential elections, all of which are elements contributing to the political nature of Mr. Soro's case; and *wishes* to obtain a copy of the decision of the court of first instance in order to understand on what grounds the sentence was passed against him;
9. *Considers* that the interim measures adopted by the African Court on Human and Peoples' Rights ordering the State of Côte d'Ivoire to suspend proceedings against Mr. Soro and the other members of parliament because of the election timetable, and the risk they run as politicians of being deprived of the enjoyment and exercise of their rights, reinforce the complainants' allegations that the proceedings against these members of parliament are politically motivated;

10. *Takes note* of the lack of information on Mr. Jacques Ehouo's case; and *wishes* to know whether he is still subject to a judicial investigation into corruption offences so as to deal with his case once and for all;
11. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the Minister of Justice and the complainants, and to any third party likely to be in a position to supply relevant information;
12. *Decides* to continue examining this case.

Zimbabwe

Decision adopted by the Committee on the Human Rights of Parliamentarians under Rule 12(4) of its Rules and Practices (29 May 2020)



Joana Mamombe © Women's Academy for Leadership and Political Excellence (WALPE)

ZWE-45 – Joana Mamombe

Alleged human rights violations

- ✓ Abduction
- ✓ Torture, ill-treatment and other acts of violence
- ✓ Arbitrary arrest and detention
- ✓ Violation of freedom of opinion and expression
- ✓ Violation of freedom of assembly and association

A. Summary of the case

Ms. Joana Mamombe is a member of the Parliament of Zimbabwe and belongs to the opposition party Movement for Democratic Change (MDC Alliance).

According to the complainant, at around 2 p.m. on Wednesday, 13 May 2020, Ms. Mamombe and two other young women leaders, namely Ms. Cecilia Chimbiri and Ms. Netsai Marova, were abducted, tortured and sexually abused by suspected state security agents.

The complainant states that the three were intercepted at a police roadblock manned by members of the Zimbabwe Republic Police and the Zimbabwe National Army in Harare. They were reportedly informed that they had been arrested for taking part in a peaceful flash demonstration in Warren Park in Harare on 13 May 2020 while the country was in lockdown due to COVID-19. On that day, Ms. Mamombe led a flash protest with other young leaders over a lack of social safety nets for the poor in Zimbabwe in light of the pandemic.

According to the complainant, after being intercepted, Ms. Mamombe and the two other young women leaders were taken to Harare Central Police Station. Before they could be formally charged, they were

Case ZWE-45

Zimbabwe: Parliament affiliated to the IPU

Victim: female, opposition member of the Parliament of Zimbabwe

Qualified complainant: Section 1.1.(d) of the [Committee Procedure](#) (Annex I)

Submission of complaint: May 2020

Recent IPU decision(s): - - -

Recent IPU Mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities:
- - -
- Communication from the complainant:
May 2020
- Communication addressed to the authorities: - - -
- Communication addressed to the complainant: May 2020

taken to an undisclosed destination, where they were subjected to intense torture and degrading treatment. According to the complainant, the three suffered serious sexual abuse, which included their breasts being sucked and guns inserted into their anal passages. They were also made to sing, march and dance non-stop for more than 24 hours. The complainant also affirms that they were assaulted all over their bodies with iron rods. The three women were forced to drink each other's urine and to eat human excreta. The perpetrators allegedly also cut them on their backs using razor blades as part of the torture. According to the complainant, the three women were later dumped near Bindura around 9 p.m. on Thursday, 14 May 2020. They were finally rescued at around 2 a.m. on Friday, 15 May 2020, by a team of family members and lawyers.

According to the complainant, petitions regarding these abuses have been submitted to Zimbabwe's Gender Commission, Human Rights Commission and the National Peace and Reconciliation Commission. The complainant affirms that these petitions have been copied to the Ministry of Justice, Ministry of Home Affairs, Ministry of Women's Affairs and the Parliament of Zimbabwe.

The complainant states that Ms. Mamombe is one of the leading and vibrant young women leaders in Zimbabwe and the youngest in parliament. Over the past two years she has been very vocal and outspoken over deteriorating economic conditions in Zimbabwe and their effect on women and girls.

According to the complainant, Ms. Mamombe has been arrested five times in the past two years alone in connection with the exercise of her fundamental rights and parliamentary mandate. According to the complainant, her situation has also to be seen in the context of the rising number of cases of human rights abuses against human rights defenders and activists in recent years in Zimbabwe.

B. Decision

Pursuant to Rule 12(4) of its Rules and Practices, the Committee on the Human Rights of Parliamentarians

1. *Notes* that the communication was submitted in due form by a qualified complainant under Sections I.1.(d) of the Procedure for the examination and treatment of complaints (Annex I of the Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the communication, inasmuch as it refers to Ms. Mamombe, concerns a member of parliament at the time of the alleged facts;
3. *Notes* that the communication concerns allegations of abduction, torture, ill-treatment and other acts of violence, including sexual violence, arbitrary arrest and detention, and violations of freedom of opinion and expression and freedom of assembly and association;
4. *Considers*, therefore, that the communication is admissible under its Procedure for the examination and treatment of complaints; and *declares itself* competent to examine the case.

Venezuela

Decision adopted by the Committee on the Human Rights of Parliamentarians under Rule 12(4) of its Rules and Practices (29 May 2020)



A woman holds a sign demanding jailed Venezuelan Deputy Juan Requesens be freed during a rally in Caracas on August 7, 2019, a year after his detention. Federico Parra / AFP

- | | |
|---------------------------------|--|
| VEN-10 – Biagio Pileri | VEN-86 – Edgar Zambrano |
| VEN-11 – José Sánchez Montiel | VEN-87 – Juan Pablo García |
| VEN-12 – Hernán Claret Alemán | VEN-88 – Cesar Cadenas |
| VEN-13 – Richard Blanco | VEN-89 – Ramón Flores Carrillo |
| VEN-16 – Julio Borges | VEN-90 – José Gregorio Noriega |
| VEN-19 – Nora Bracho (Ms.) | VEN-91 – María Beatriz Martínez (Ms.) |
| VEN-20 – Ismael García | VEN-92 – María C. Mulino de Saavedra (Ms.) |
| VEN-22 – Williams Dávila | VEN-93 – José Trujillo |
| VEN-24 – Nirma Guarulla (Ms.) | VEN-94 – Marianela Fernández (Ms.) |
| VEN-25 – Julio Ygarza | VEN-95 – Juan Pablo Guanipa |
| VEN-26 – Romel Guzamana | VEN-96 – Luis Silva |
| VEN-27 – Rosmit Mantilla | VEN-97 – Eliezer Sirit |
| VEN-28 – Renzo Prieto | VEN-98 – Rosa Petit (Ms.) |
| VEN-29 – Gilberto Sojo | VEN-99 – Alfonso Marquina |
| VEN-30 – Gilber Caro | VEN-100 – Rachid Yasbek |
| VEN-31 – Luis Florido | VEN-101 – Oneida Guaípe (Ms.) |
| VEN-32 – Eudoro González | VEN-102 – Jony Rahal |
| VEN-33 – Jorge Millán | VEN-103 – Ylidio Abreu |
| VEN-34 – Armando Armas | VEN-104 – Emilio Fajardo |
| VEN-35 – Américo De Grazia | VEN-105 – Luis Loaiza |
| VEN-36 – Luis Padilla | VEN-106 – Angel Alvarez |
| VEN-37 – José Regnault | VEN-107 – Kerrins Mavares |
| VEN-38 – Dennis Fernández (Ms.) | VEN-108 – Gilmar Marquez |

VEN-39 – Olivia Lozano (Ms.)
VEN-40 – Delsa Solórzano (Ms.)
VEN-41 – Robert Alcalá
VEN-42 – Gaby Arellano (Ms.)
VEN-43 – Carlos Bastardo
VEN-44 – Marialbert Barrios (Ms.)
VEN-45 – Amelia Belisario (Ms.)
VEN-46 – Marco Bozo
VEN-47 – José Brito
VEN-48 – Yanet Fermin (Ms.)
VEN-49 – Dinorah Figuera (Ms.)
VEN-50 – Winston Flores
VEN-51 – Omar González
VEN-52 – Stalin González
VEN-53 – Juan Guaidó
VEN-54 – Tomás Guanipa
VEN-55 – José Guerra
VEN-56 – Freddy Guevara
VEN-57 – Rafael Guzmán
VEN-58 – María G. Hernández (Ms.)
VEN-59 – Piero Maroun
VEN-60 – Juan A. Mejía
VEN-61 – Julio Montoya
VEN-62 – José M. Olivares
VEN-63 – Carlos Paparoni
VEN-64 – Miguel Pizarro
VEN-65 – Henry Ramos Allup
VEN-66 – Juan Requesens
VEN-67 – Luis E. Rondón
VEN-68 – Bolivia Suárez (Ms.)
VEN-69 – Carlos Valero
VEN-70 – Milagro Valero (Ms.)
VEN-71 – German Ferrer
VEN-72 – Adriana d'Elia (Ms.)
VEN-73 – Luis Lippa
VEN-74 – Carlos Berrizbeitia
VEN-75 – Manuela Bolívar (Ms.)
VEN-76 – Sergio Vergara
VEN-77 – Franklyn Duarte
VEN-78 – Oscar Ronderos
VEN-79 – Mariela Magallanes (Ms.)
VEN-80 – Héctor Cordero
VEN-81 – José Mendoza
VEN-82 – Angel Caridad
VEN-83 – Larissa González (Ms.)
VEN-84 – Fernando Orozco
VEN-85 – Franco Casella
VEN-109 – José Simón Calzadilla
VEN-110 – José Gregorio Graterol
VEN-111 – José Gregorio Hernández
VEN-112 – Mauligmer Baloa (Ms.)
VEN-113 – Arnoldo Benítez
VEN-114 – Alexis Paparoni
VEN-115 – Adriana Pichardo (Ms.)
VEN-116 – Teodoro Campos
VEN-117 – Milagros Sánchez Eulate (Ms.)
VEN-118 – Denncis Pazos
VEN-119 – Karim Vera (Ms.)
VEN-120 – Ramón López
VEN-121 – Freddy Superlano
VEN-122 – Sandra Flores-Garzón (Ms.)
VEN-123 – Armando López
VEN-124 – Elimar Díaz (Ms.)
VEN-125 – Yajaira Forero (Ms.)
VEN-126 – Maribel Guedez (Ms.)
VEN-127 – Karin Salanova (Ms.)
VEN-128 – Antonio Geara
VEN-129 – Joaquín Aguilar
VEN-130 – Juan Carlos Velasco
VEN-131 – Carmen María Sivoli (Ms.)
VEN-132 – Milagros Paz
VEN-133 – Jesus Yanez
VEN-134 – Desiree Barboza (Ms.)
VEN-135 – Sonia A. Medina G. (Ms.)
VEN-136 – Héctor Vargas
VEN-137 – Carlos A. Lozano Parra
VEN-138 – Luis Stefanelli
VEN-139 – William Barrientos
VEN-140 – Antonio Aranguren
VEN-141 – Ana Salas (Ms.)
VEN-142 – Ismael León
VEN-143 – Julio César Reyes
VEN-144 – Ángel Torres
VEN-145 – Tamara Adrián (Ms.)
VEN-146 – Deyalitzza Aray (Ms.)
VEN-147 – Yolanda Tortolero (Ms.)
VEN-148 – Carlos Proserpi
VEN-149 – Addy Valero (Ms.)
VEN-150 – Zandra Castillo (Ms.)
VEN-151 – Marco Aurelio Quiñones
VEN-152 – Carlos Andrés González
VEN-153 – Carlos Michelangeli
VEN-154 – César Alonso

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 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
- ✓ Impunity

A. Summary of the case

The case concerns credible and serious allegations of human rights violations affecting 139 parliamentarians from the coalition of the *Mesa de la Unidad Democrática* (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 is opposed to 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, inside parliament 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.

At least 17 parliamentarians have gone into exile, sought the protection of foreign embassies in Caracas or gone into hiding due to continued harassment. Six have been barred from holding public office and the passports of at least 13 members of parliament have been confiscated, not been renewed, or cancelled by the authorities, reportedly as a means of pressure and to prevent them from travelling abroad to denounce what is happening in Venezuela.

According to the complainant, another means of pressure used by the authorities against parliamentarians is to cause damage to their property. On 29 February 2020, during a demonstration in Caracas, the car of Mr. Marco Aurelio Quiñones was reportedly stolen by paramilitary groups. The complainant affirms that the police witnessed the robbery and chose not to intervene because of Mr. Quiñones' political opinions. Mr. Quiñones was also among the group of people surrounding Mr. Juan Guaidó during the same rally when a paramilitary pointed a gun at them, which put their lives in danger.

Five members of the National Assembly are currently deprived of their liberty, reportedly due to politically motivated legal proceedings. In all these cases, the members were detained without due respect for the constitutional provisions on parliamentary immunity. There are also serious concerns regarding respect for due process and their treatment in detention. The parliamentarians in question are:

Case VEN-COLL-06

Venezuela: Parliament affiliated to the IPU

Victims: 139 opposition members of parliament (100 men and 39 women)

Qualified complainant: Section I.1.(c) of the [Committee Procedure](#) (Annex I)

Submission of initial complaint: March 2017

Recent IPU decision: January 2020

IPU mission(s): - - -

Recent Committee hearings: Hearings with members of the governing and opposition parties at the 141st 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: May 2020
- Communication addressed to the authorities: Letter to the President of Venezuela (February 2020)
- Communication addressed to the complainant: May 2020

- Mr. Juan Requesens, who was arrested, invoking *in flagrante delicto*, on 7 August 2018 on accusations of involvement in the alleged assassination attempt on President Maduro three days earlier;
- Mr. Gilber Caro, who was arrested on 26 April 2019 without notifying his lawyers and family of his place of detention and the reasons for his arrest. He was released on 17 June 2019 but detained again on 20 December 2019;
- Mr. Ismael León, who was arrested on 22 January 2020. He was reportedly denied the right to be assisted by a lawyer of his choice during a preliminary hearing, after which he was placed under house arrest. To date, all charges against Mr. León remain unknown and his lawyer has been unable to access the file;
- Mr. Renzo Prieto, who was arrested on 10 March 2020 and held in an unknown place for the first 48 hours of detention. He has been held incommunicado since 13 March. His next hearing is scheduled for 20 July 2020, which appears to be related to legal proceedings that have been pending since 2014. Mr Prieto is reportedly in poor health and requires specialized medical treatment;
- Mr. Antonio Geara, who was arrested on 15 March 2020. He was charged with the offences of possession of explosives, arms trafficking and money laundering. Mr. Geara is reportedly in poor health and requires specialized medical treatment.

On 10 March 2020, after a peaceful demonstration called by Mr. Juan Guaidó, officials of the *Fuerzas de Acción Especial* (Special Action Force of Venezuela's National Police – FAES) entered the hotel where several members of parliament were staying in Caracas and arrested two alternate members of the National Assembly, Mr. Angel Torres and Ms. Zandra Castillo. According to the complainant, both parliamentarians remained in custody for several hours at FAES headquarters in San Martín and were then released, without being informed of the reasons and grounds for their detention and in violation of their parliamentary immunity. Ms. Castillo, whose case is being examined by the Committee on the Human Rights of Parliamentarians for the first time, alleged that FAES officials had touched her private parts and forced her to urinate in the presence of male agents while in detention.

At least 18 titular and alternate members of the National Assembly, including Mr. Carlos Andrés González, Mr. Carlos Michelangeli and Mr. César Alonso, whose cases are being examined by the Committee for the first time, were threatened through intimidating graffiti attacks on their homes between 28 and 30 March 2020. The graffiti were signed by the “Bolivarian Fury” and appeared in several states in the country after President Maduro's call on national television to identify and punish “mercenary groups” in Venezuela. President Maduro ended his message by saying “We are the Bolivarian Fury”.

On 30 March 2020 and the following days, Ms. Delsa Solórzano received new death threats and intimidating messages via instant messaging. Ms. Solórzano has been targeted with harassment and threats since 2017 due to her political opinions and her work as a parliamentarian. On 24 December 2019, the Inter-American Commission on Human Rights granted precautionary protection measures, which are still in force, in favour of Ms. Solórzano, considering that she could be at serious and urgent risk of suffering irreparable harm to her human rights.

On 26 May 2020, the Supreme Court adopted a ruling, considered as deeply flawed by the complainant, in which it considered Mr. Luis Parra and the rest of his Bureau, who are all said to be aligned with President Maduro's Government, to be the legitimate presiding officers of the National Assembly instead of Mr. Juan Guaidó and his Bureau. The ruling also states that any public or private person who lends or gives space for the installation of a “parallel or virtual parliament” will be held in contempt and that any act performed as such will be null and void.

Long-standing efforts since 2013 to send a delegation of the Committee on the Human Rights of Parliamentarians 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 Committee on the Human Rights of Parliamentarians and focusing on both the larger political matters at stake in the Venezuelan crisis and the specific concerns expressed by the Committee on the Human Rights of Parliamentarians.

On 26 April 2020, the complainant submitted new information, including a list of opposition parliamentarians who had started collaborating with the Government and were therefore no longer victims of harassment. The complainant formally requested the closure of their cases.

B. Decision

Pursuant to Rule 12(4) of its Rules and Practices, the Committee on the Human Rights of Parliamentarians

1. *Declares itself* competent to examine the new complaints regarding the titular and alternate members of parliament, Ms. Zandra Castillo, Mr. Marco Aurelio Quiñones, Mr. Carlos Andrés González, Mr. Carlos Michelangeli and Mr. César Alonso, considering that they: (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 to the Rules and Practices of the Committee on the Human Rights of Parliamentarians); (ii) relate to alleged threats and acts of intimidation and violations of the right to freedom of expression and impunity, allegations that clearly fall within the competence of the Committee; and (iii) concern incumbent members and alternate members of parliament; and *recalls* in this regard its jurisprudence that it is competent to examine the case of alternate members provided that it has been assured, or has sufficient reason to believe, as in the present case, that they have exercised their mandates at one time or another in the course of the legislature;
2. *Denounces, once again*, the ongoing pattern of reprisals against parliamentarians because of their political opinions, as attested by the continuous extremely serious incidents of ill-treatment, harassment, threats and stigmatization carried out by state agents, paramilitary groups and violent groups of government supporters in a climate of impunity; and *recalls* that members of parliament must be free to seek, receive and impart information and ideas without fear of reprisal, and that parliament can fulfil its democratic role only if its members enjoy the right to freedom of expression and are able to speak on behalf of the people they represent;
3. *Remains deeply concerned* that the ultimate goal of this intimidation is to prevent the parliamentarians from simply doing their work and to undermine the integrity and independence of the National Assembly elected in 2015; *notes in this regard with great concern* the allegations that, since 5 January 2020, the MUD members of parliament have not been allowed to freely access parliament and effectively perform their functions; *is deeply concerned* in this regard about the ruling of the Supreme Court of 26 May 2020, which further undermines the free exercise of the parliamentary mandate by democratically elected members of the National Assembly and could subject them to additional reprisals for merely carrying out their work;
4. *Urges, once again*, the authorities to put an immediate end to all forms of harassment against members of the National Assembly, to ensure that all relevant state authorities respect their human rights and parliamentary immunity, to fully investigate and establish accountability for reported violations of their rights, and to allow the National Assembly and all its members to carry out their constitutional functions in full;
5. *Remains deeply concerned* about the continued detention of Mr. Juan Requesens, the renewed arrests of Mr. Gilber Caro and Mr. Renzo Prieto and the arrests of Mr. Ismael León and Mr. Antonio Geara, in light of the serious reports that they have been deprived of their liberty in total disregard for their parliamentary immunity, the very serious concerns regarding respect for due process and their treatment in detention; *urges* the authorities to release them immediately, particularly in the context of the current COVID-19 pandemic, which makes people in prison and other confined places of detention more vulnerable to the disease;
6. *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; *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 the COVID-19 pandemic-related travel restrictions are

lifted, on the basis of a written official communication on their part guaranteeing that such a mission can take place under the conditions required for it to be effective;

7. *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;
8. *Decides* to close the individual cases relating to the situation of Mr. Franklyn Duarte, Mr. José Brito, Mr. José Gregorio Noriega, Mr. Kerrins Mavares and Mr. Luis Loaiza in accordance with section IX.25.(c) of Annex I to its Procedure for the examination and treatment of complaints, considering that the complainant stated that further action by the Committee was no longer useful given that the individuals concerned were now cooperating with the Venezuelan Government;
9. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
10. *Decides to* continue examining this case.

Turkey

Decision adopted by the Committee on the Human Rights of Parliamentarians under Rule 12(4) of its Rules and Practices (29 May 2020)



A supporter of the pro-Kurdish Peoples' Democratic Party (HDP) holds pictures of jailed former party leader Selahattin Demirtaş during a 'Peace and Justice' rally in Istanbul on February 3, 2019. Yasin AKGUL / AFP

- | | |
|---------------------------------------|-----------------------------------|
| TUR-69 - Gülser Yıldırım (Ms.) | TUR-100 - Ayhan Bilgen |
| TUR-70 - Selma Irmak (Ms.) | TUR-101 - Behçet Yıldırım |
| TUR-71 - Faysal Sariyıldız | TUR-102 - Berdan Öztürk |
| TUR-73 - Kemal Aktas | TUR-105 - Erol Dora |
| TUR-75 - Bedia Özgökçe Ertan (Ms.) | TUR-106 - Ertuğrul Kürkcü |
| TUR-76 - Besime Konca (Ms.) | TUR-107 - Ferhat Encü |
| TUR-77 - Burcu Çelik Özkan (Ms.) | TUR-108 - Hişyar Özsoy |
| TUR-78 - Çağlar Demirel (Ms.) | TUR-109 - Idris Baluken |
| TUR-79 - Dilek Öcalan (Ms.) | TUR-110 - Imam Taşçier |
| TUR-80 - Dilan Dirayet Taşdemir (Ms.) | TUR-111 - Kadri Yıldırım |
| TUR-81 - Feleknaş Uca (Ms.) | TUR-112 - Lezgin Botan |
| TUR-82 - Figen Yüksekdağ (Ms.) | TUR-113 - Mehmet Ali Aslan |
| TUR-83 - Filiz Kerestecioğlu (Ms.) | TUR-114 - Mehmet Emin Adıyaman |
| TUR-84 - Hüda Kaya (Ms.) | TUR-115 - Nadir Yıldırım |
| TUR-85 - Leyla Birlik (Ms.) | TUR-116 - Nihat Akdoğan |
| TUR-86 - Leyla Zana (Ms.) | TUR-118 - Osman Baydemir |
| TUR-87 - Meral Daniş Beştaş (Ms.) | TUR-119 - Selahattin Demirtaş |
| TUR-88 - Mizgin Irgat (Ms.) | TUR-120 - Sirri Süreyya Önder |
| TUR-89 - Nursel Aydoğan (Ms.) | TUR-121 - Ziya Pir |
| TUR-90 - Pervin Buldan (Ms.) | TUR-122 - Mithat Sancar |
| TUR-91 - Saadet Becerikli (Ms.) | TUR-123 - Mahmut Toğrul |
| TUR-92 - Sibel Yiğitalp (Ms.) | TUR-124 - Aycan Irmez (Ms.) |
| TUR-93 - Tuğba Hezer Öztürk (Ms.) | TUR-125 - Ayşe Acar Başaran (Ms.) |
| TUR-94 - Abdullah Zeydan | TUR-126 - Garo Paylan |
| TUR-95 - Adem Geveri | TUR-128 - Aysel Tuğluk (Ms.) |
| TUR-96 - Ahmet Yıldırım | TUR-129 - Sebahat Tuncel (Ms.) |
| TUR-97 - Ali Atalan | TUR-130 - Leyla Guven (Ms.) |
| TUR-98 - Alican Önlü | TUR-131 - Ayşe Sürücü (Ms.) |
| TUR-99 - Altan Tan | |

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

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. Since 4 November 2016, 16 current and former parliamentarians have been detained. Seven of them are currently still in prison, 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 opinion and 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.

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

Case TUR-COLL-02

Turkey: Parliament affiliated to the IPU

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

Qualified complainant: Section I.1.(c) of the [Committee Procedure](#) (Annex I)

Submission of complaint: June 2016

Recent IPU decision: October 2019

IPU mission: 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 (January 2020)
- Communication from the complainant: May 2020
- Communication addressed to the authorities: Letter to the President of the Turkish IPU Group (March 2020)
- Communications to the complainant: April and May 2020

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 unpredictable. 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; 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.

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.

Since the mission, most recently in January 2020, the Turkish authorities provided further extensive information on the legal status of criminal proceedings against current and former HDP parliamentarians. The complainant considers, however, that this information is often not complete and points out that several of the individuals concerned are in addition subject to other criminal actions, including the filing of a "summary of proceedings" (*fezleke*), which is a formal request by a prosecutor that briefly summarizes the alleged crime and the charges raised and requests parliament to lift immunity. However, even where parliament does not discuss – or rejects – the request for lifting immunity, the complainant points out that when a parliamentarian's mandate ends, along with his/her immunity, almost all of the "summary of proceedings" actions turn into legal investigations and then court cases. The complainant emphasizes that a "summary of proceedings" action is tantamount to an investigation suspended until the end of the parliamentary mandate, after which the individuals concerned have to respond to dozens of court cases for activities carried out and words spoken while in parliamentary office.

On 14 April 2020, the Turkish Parliament adopted Law No. 7242 amending Law No. 5275 on the Execution of Penal and Security Measures. The amendments reportedly include provisions aimed at reducing the prison population in general and, in response to COVID-19, a temporary release provision for convicts that are serving or have the right to serve time in a minimum-security institution and those under supervised release. Law No. 7242 amends the supervised freedom and parole provisions of Law No. 5275 by reducing the amount of time a convict must serve in a correctional institution before being considered for supervised freedom or parole. However, persons convicted of certain crimes, such as terrorism-related charges, are excluded from these amendments. In the belief that the amendments are discriminatory, a petition challenging their lawfulness is currently before the Constitutional Court.

B. Decision

Pursuant to Rule 12(4) of its Rules and Practices, the Committee on the Human Rights of Parliamentarians

1. *Thanks* the Turkish authorities for their cooperation and extensive reply; *is concerned*, however, that, according to the complainant, several of the individuals concerned are said to be subject to many other criminal actions, in particular investigations that – although suspended now – can be reactivated in the future; and *wishes* to receive the official views on this serious allegation along with specific information on any such legal procedures that may exist;
2. *Also wishes* to receive official information on the facts that support pending and past charges – primarily presented as terrorism-related offences – against current and former HDP parliamentarians; *notes with regret* in this regard that, although the Turkish authorities' recent reply includes abundant information on the legal status of the criminal actions against these individuals, it does not provide – despite previous requests – any concrete information on the facts justifying the charges;
3. *Reaffirms its view* that the information it has thus far been able to obtain over the years – 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; and *remains convinced* that this situation is largely the result – as spelt out in the report of the IPU mission to Turkey in June 2019 – of the systematic and sweeping 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;
4. *Remains convinced*, bearing in mind also the recommendations made in the IPU mission report, 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 opinion and 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; and *looks forward to* hearing about concrete steps taken to this end;
5. *Remains concerned*, in light of the aforesaid considerations and in view of the COVID-19 pandemic – which makes people in prison and other confined places of detention more vulnerable to the disease – about the continued detention of seven current and former HDP parliamentarians, including the two former HDP co-chairs; *calls on* the authorities to give serious consideration to the possibility of releasing them when reviewing prisoner release; *also eagerly awaits* in this regard the ruling of the Constitutional Court on the petition challenging the amendments contained in Law No. 7242;
6. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainant and any third party likely to be in a position to supply relevant information;
7. *Decides* to continue examining these cases.

Egypt

Decision adopted by the Committee on the Human Rights of Parliamentarians under Rule 12(4) of its Rules and Practices (29 May 2020)



Mostafa al-Nagar © Photo courtesy of Belady U.S. An Island for Humanity

EGY-07 – Mostafa al-Nagar

Alleged human rights violations

- ✓ Enforced disappearance
- ✓ Threats, acts of intimidation
- ✓ Violation of freedom of opinion and expression
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

A. Summary of the case

Mr. Mostafa al-Nagar allegedly disappeared in the southern governorate of Aswan on 27 September 2018. His family and lawyers have been unable to contact him or obtain information on his whereabouts. They fear that he might have been arbitrarily arrested and held incommunicado.

The complainants allege that Mr. al-Nagar was a symbol of the 2011 revolution and a vocal critic of the Egyptian Government during his parliamentary term, which lasted from 23 January to 14 July 2012, when the Egyptian Parliament was dissolved. In December 2017, he was fined and sentenced to three years in prison for "insulting the judiciary" in a speech he reportedly delivered during a parliamentary sitting in 2012. In its ruling of 30 December 2017, the Cairo Criminal Court found that Mr. al-Nagar's statements at a parliamentary sitting in 2012 had been intended to defame and harm the judiciary and judges, and disregarded his parliamentary

Case EGY-07

Egypt: Parliament affiliated to the IPU

Victim: male, independent member of the House of Representatives

Qualified complainants: Section I.1.(a) and (d) of the [Committee Procedure](#) (Annex I)

Submission of complaint: February 2020

Recent IPU decision(s): - - -

Recent IPU Mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication(s) from the authorities: - - -
- Communication from the complainant: May 2020
- Communication addressed to the authorities: Letter addressed to the Speaker of the House of Representatives (May 2020)
- Communication addressed to the complainants: May 2020

immunity. Mr. al-Nagar has not served his time in prison as he remained in hiding, although it was clear to his family members where he was. He disappeared a few days before his appeal trial, which took place on 15 October 2018.

The complainants reported that, on 10 October 2018, Mr. al-Nagar's family received an anonymous telephone call informing it that he was in police custody at Aswan's Central Security Forces Al-Shallal camp. Despite Mr. al-Nagar's lawyer's request to the Egyptian authorities for an official response concerning his client's alleged detention in the Al-Shallal camp, no information was provided in this regard. Egypt's State Information Service denied playing a role in Mr. al-Nagar's disappearance and said, in an official statement issued on 18 October 2018, that he had wilfully disappeared to avoid serving his prison sentence, accusing him of being a fugitive.

The Egyptian Court of Cassation adopted a decision on 15 October 2018, in which the Court allegedly declared Mr. al-Nagar's appeal inadmissible and upheld the sentence against him *in absentia* because he had not been present at the proceedings and had not complied with a 2017 imprisonment order. In its decision, the Court of Cassation also found that it was not competent to examine the appeal, since the appealed decision was not final, as it had not been handed down by a "last degree" court. According to the Court of Cassation, it was still possible to challenge the 2017 decision before the Court of Appeal.

On 29 July 2019, the complainants filed a complaint at the Cairo Court of Administrative Justice against the Egyptian Ministry of the Interior for failing to disclose Mr. al-Nagar's whereabouts and failing to make serious efforts to locate him. In its decision handed down on 18 January 2020, the Cairo Court of Administrative Justice recalled the State's responsibility, and indicated that the State Information Service statement was insufficient. The Court noted that the State had a duty to locate disappeared individuals, especially when a complaint had been filed about their disappearance. The complainants indicated that the Egyptian authorities had not yet responded to the ruling of 18 January 2020.

B. Decision

Pursuant to Rule 12(4) of its Rules and Practices, the Committee on the Human Rights of Parliamentarians

1. *Notes* that the communication was submitted in due form by qualified complainants under section I.1.(a) and (d) of the Procedure for the examination and treatment of complaints (Annex I to the Rules and Practices of the Committee on the Human Rights of Parliamentarians);
2. *Notes* that the communication concerns a member of parliament at the time when his parliamentary immunity and right to freedom of expression were allegedly violated, and that his trial, and possibly his disappearance, are directly related to these alleged violations and his work in parliament;
3. *Notes* that the communication concerns allegations about enforced disappearance, failure to respect parliamentary immunity, the alleged violation of freedom of expression, and threats and acts of intimidation, allegations which fall within the competence of the Committee;
4. *Considers*, therefore, that the communication is admissible under its Procedure for the examination and treatment of complaints and *declares itself* competent to examine the case.

Libya

Decision adopted by the Committee on the Human Rights of Parliamentarians under Rule 12(4) of its Rules and Practices (29 May 2020)



Seham Sergiwa © Courtesy of the Sergiwa Family

LBY-01 – Seham Sergiwa

Alleged human rights violations

- ✓ Abduction
- ✓ Threats, acts of intimidation
- ✓ Failure to respect parliamentary immunity
- ✓ Impunity

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 since her abduction, in the absence of any signs that she is still alive.

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

Case LBY-01

Libya: Parliament affiliated to the IPU

Victim: female, independent member of the House of Representatives

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

Submission of complaint: July 2019

Recent IPU decision: October 2019

Recent IPU Mission(s): - - -

Recent Committee hearing: Hearing with the Libyan delegation to the 141st IPU 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: May 2020
- Communication addressed to the authorities: Letter addressed to the Speaker of the House of Representatives (October 2019)
- Communication addressed to the complainant: May 2020

that terrorist groups might 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.

In a statement delivered by video to the United Nations Security Council on 5 May 2020 regarding the situation of Libya, the Prosecutor of the International Criminal Court indicated that “her Office has obtained recent information which may point to those responsible for Ms. Sergiwa’s disappearance”.

B. Decision

Pursuant to Rule 12(4) of its Rules and Practices, the Committee on the Human Rights of Parliamentarians

1. *Remains deeply shocked* at the brutal abduction of Ms. Sergiwa from her home close to a year ago;
2. *Points out* that, since then, the authorities have provided no information on the progress achieved in the investigation into the disappearance of Ms. Sergiwa or on any serious measures taken to shed light on her attackers, despite several leads pointing to their identity;
3. *Reiterates* that the abduction of Ms. Sergiwa, a member of parliament, allegedly for exercising her parliamentary mandate and freedom of expression, poses a serious threat not only to parliamentarians but also to the people they represent, and affects the integrity of parliament as a whole; *reaffirms* in this regard that, particularly if left unpunished, crimes of this nature against vocal figures of parliament send a chilling message to other critical voices in society and can only encourage perpetration of further serious human rights violations;
4. *Urges* the authorities, in particular the Ministry of the Interior and the House of Representatives, to ramp up efforts to locate Ms. Sergiwa without delay, as this is a matter of life and death; *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; and *wishes* to receive information in this respect;
5. *Is aware of* the formidable security challenges faced by the Libyan authorities; *stresses* nevertheless the legitimate right of Ms. Sergiwa’s relatives to know about her fate; and *considers* that the State of Libya is duty-bound to do everything possible to find her and to ensure that the perpetrators of this attack will be held to account;
6. *Calls on* all IPU Member Parliaments to take concrete actions in support of the urgent resolution of this case in a manner consistent with democratic and human rights values; and *hopes* to be able to rely on the assistance of all relevant regional and international organizations to this effect;
7. *Requests* the Secretary General to convey this decision to the parliamentary authorities, the complainant and any third party likely to be in a position to supply relevant information;
8. *Decides to* continue examining this case.

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* *